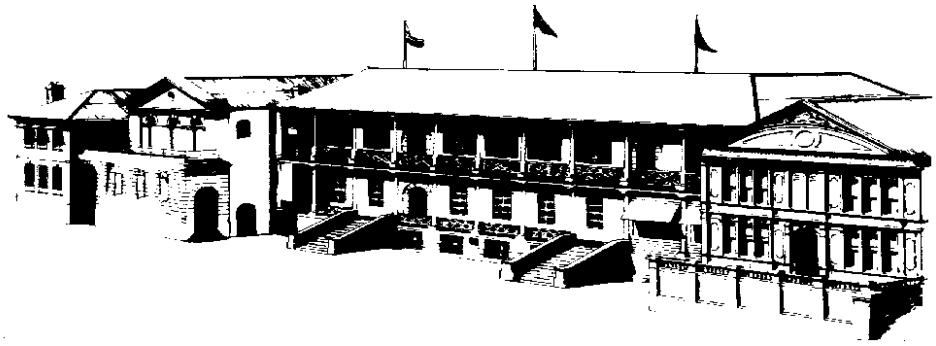
NEW SOUTH WALES



Legislative Council

PARLIAMENTARY DEBATES

(HANSARD)

FIFTY-FIRST PARLIAMENT
SECOND SESSION

OFFICIAL HANSARD

Wednesday, 28 October 1998

AUTHORISED BY
THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

Wednesday, 28 October 1998

The President (The Hon. Virginia Chadwick) took the chair at 11.00 a.m.

The President offered the Prayers.

RESIDENTIAL TENANCIES AMENDMENT (SOCIAL HOUSING) BILL

COMMISSION FOR CHILDREN AND YOUNG PEOPLE BILL (No 2)

CHILD PROTECTION (PROHIBITED EMPLOYMENT) BILL (No 3)

OMBUDSMAN AMENDMENT (CHILD PROTECTION AND COMMUNITY SERVICES) BILL (No 3)

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

Suspension of standing orders agreed to.

UNANSWERED QUESTIONS

The PRESIDENT: The sessional orders adopted on 17 September 1997 require Ministers to lodge answers to questions upon notice and questions without notice within 35 calendar days. Several answers in both categories are due to be lodged today by the Treasurer, Minister for State Development, and Vice-President of the Executive Council. As the Minister was suspended from the service of the House on Tuesday, 20 October, until the adjournment of the House today, I will allow him until the next sitting day to lodge those answers.

COMMUNITY SERVICES COMMISSIONER REAPPOINTMENT

Suspension of standing orders agreed to.

The Hon. PATRICIA FORSYTHE [11.08 a.m.]: I move:

That this House:

1. Condemns the Carr Government's handling of the advertising of the position of Community Services Commissioner of New South Wales.

2. Calls upon the Government and the Minister to withdraw misleading statements about this position made in the media.

Oppositions do not move motions condemning the actions of governments very often, but the actions of the Carr Government in the past few days deserve the condemnation of this House. I shall quote the words of the honourable member for Heffron in the other place because I believe they sum up the feeling of so many people. She said:

> His demise has sent a bad message to potential candidates: be careful; toe the line; otherwise you may not survive.

When I talk about community anger about the way the Carr Government handled the advertising of the position of Commissioner of the Community Services Commission and the way it dealt with the commissioner, I do so with the certain knowledge that I have the support of people across the community who have, for whatever reason, come into contact with Roger West.

A number of interest groups—including the Council of Social Service of New South Wales, children's welfare agencies and disability services groups—have expressed nothing but outrage and anger at the Carr Government's treatment of the community services commissioner. That anger is shared not only by my coalition colleagues but by crossbench members and Government members. Government members have said to me, "Say the right thing; get it on the record; express the anger; we are with you." However, not many Government members are listed to speak in the debate today. I suspect that Government members are embarrassed and are not game to defend the Government's position on this matter.

The Hon. Franca Arena: You couldn't.

The Hon. PATRICIA FORSYTHE: As the Hon. Franca Arena has said, no-one could defend its position. I shall refer to what has happened in the past few days. Last Friday we became aware, through a number of channels, that the position of community services commissioner was to be advertised. First, I received a number of angry phone calls from interest groups and advocates in the community. I was then able to confirm that there

was to be a change of commissioner when I saw a press release from the Minister. The Minister's press release praised the outstanding work of Roger West—and I do not suggest that she has been anything but truthful in her support and praise for him. However, the Government deserves to be condemned because of its actions during the past few days.

The Minister praised Roger West and said she regretted that he would not be seeking reappointment to the position. She gave the impression that he did not want to be community services commissioner, that perhaps he had had enough, that perhaps it was time for him to move on and that perhaps his work had been done. The Minister allowed the impression to be created that the Government was advertising the position because Roger West, the community services commissioner, had a desire to move on, a desire not to seek reappointment to the position. She acknowledged that she was disappointed but that she understood the reasons he had given.

I was fascinated to know his reasons for not seeking reappointment. I know Roger West to be dedicated and to have an absolute commitment to his role as community services commissioner. He knows that as commissioner he is in a position to make a difference to the lives of many people in New South Wales. He has made a difference since his appointment in 1994. I judged him to be a humanitarian, a person who believed in people and the good of people, and who worked to improve the lot of disadvantaged people. I was surprised that he was seeking to move on. I was curious as to his reasons for doing so. It did not fit with my impression of the community services commissioner.

The community was of the impression—an impression the Minister had allowed to be created—that the Government was about to advertise the position of community services commissioner because the incumbent, Roger West, did not want to be reappointed. The community was of the impression that had he wanted to be reappointed things would have been different, but that he thought it was time to move on when his position expired in January. It was as if we were turning over the next page in a book. Although the media release may not have been inaccurate it gave people the impression that Roger West's actions, motives or views were different to those he held. The commissioner issued a statement confirming that he would not be an applicant. However, it did not confirm that he would not like to be an applicant. The opening lines of the press release interested me. The press release stated:

> I have been advised today by [the] Minister . . . that the government is calling for applications for the position of Commissioner for Community Services after the expiration of my current term.

The commissioner was advised that the Government was going to advertise the position. I did not have all the facts at that stage. I knew that the Government was advertising the position, that the commissioner was confirming that he was not going to apply and that the Minister was regretting that he was not seeking reappointment. I started to wonder about the sequence of events: who told whom and when? Had the commissioner advised the Minister that he was not seeking reappointment and, therefore, the Government was advertising the position? Or had the Government told the commissioner that it was advertising the position and put him in a somewhat difficult situation? I believe that the Government expressed its no confidence in the commissioner by advertising his position.

The Government could have undertaken a performance review of the commissioner. If the Government had wanted to reappoint the commissioner it could have put in train a process by which the Premier's Department undertakes a performance review. The results of such a review are generally available to the Government and to the incumbent six months prior to the expiry of the term. The Government showed its lack of confidence in the commissioner merely by advertising his position, despite the positive words of the Minister. As I said earlier, I do not doubt the Minister's confidence in or high regard for Roger West. However, I believe that the Minister's position has been somewhat compromised by the actions of the Government. Indeed, she has been undermined by the Premier's Department.

The Hon. Franca Arena: She did not stand up to Carr.

The Hon. PATRICIA FORSYTHE: The Hon. Franca Arena has made a good point. The Minister said that she would have liked the commissioner to remain in the position. However, that situation has not been achieved because of the action, or inaction, of the Premier's Department. Last Friday the Government said that the position was to be advertised and that it regretted that Roger West would not be reappointed; the commissioner said that he would not be an applicant for the position when it was advertised.

What happened after that? The commissioner said that he was advised by the Minister that the Government was calling for applicants. The

sequence of events is not clear. I received phone calls early last Friday afternoon from a number of interest groups, all of whom seemed to have some knowledge of this matter. They all told me that a junior bureaucrat had told Roger West that the position was to be advertised. I would like the Government to try to deny that. In the wake of comments in the newspapers, Roger West issued a statement dated 24 October. One paragraph said:

> I received no response to this letter—

and I shall refer to that later—

> until an officer of the Premier's Department telephoned my office asking for information to accompany an advertisement for my position, to be advertised in the weekend papers.

In other words, someone from the Premier's Department phoned Mr West to seek details about his position so that the position could be advertised. It is no wonder that the commissioner was moved to issue a statement on Friday that he would not be an applicant for the position. What a great vote of confidence the Carr Government demonstrated towards the commissioner for community services. The best that the Government could do was have a bureaucrat from the Premier's Department—at whatever level but clearly not the Minister—call Roger West to ask him to run through details of his position, how much he was paid, his terms of reference and the section of the Act under which he was appointed. What a great vote of confidence in the work Mr West has put in. Roger West in his statement said that he received a telephone call from an officer of the Premier's Department seeking information.

That background puts into better perspective statements made the previous day in which the Minister said that she regretted that Mr West would not be an applicant for the position and that he had confirmed that he would not be an applicant. The newspapers of last Saturday morning made it clear that all was not well and that all was not as it seemed with this appointment. The Government allowed the community to gain the impression that Roger West did not want to stay on as commissioner. Last Friday afternoon Minister Lo Po', in comments made on the Mike Carlton show, gave the clear impression that it was not that the Government did not want Roger West, it was that Roger West did not want the job. The Minister said:

> [He is] A man who is held in the highest regard by me. Whose request to discontinue is now being treated as though he's an unsatisfactory employee.

I shall refer to the so-called request to discontinue. On the 2UE five o'clock news the Minister said:

> Absolutely, it [was my] wish that Roger would stay on for a second term. Roger has chosen not to do that.

The impression given was that the matter was all in the hands of the community services commissioner. It is useful to consider the sequence of events. Yesterday the Minister said in answer to a question asked in the other place:

> His appointment needed to be ticked off by a review panel set up in the Premier's Department. That process was set in train to achieve the outcome.

That is the issue. The Minister might say that the process has been set in train, but there is no evidence that that ever occurred. What is the process that was allegedly set in train? Certainly Roger West was not made aware of it. Certainly Roger West was not invited to speak to a review panel. Certainly no action took place of which any of us could be aware. In my view, despite the Minister's strongest desires that Roger West be retained in the position, she was undermined by the Premier's Department. No process was set in train to achieve the so-called outcome. I shall return to the Minister's answer a little later.

Last Saturday Roger West referred to "confusing publicity", and that confusing publicity is the reason for this motion. The Government allowed a message to be received in the community that was not accurate and reflected poorly on Roger West's motives. Mr West said that in the light of confusing publicity he should make a clarifying statement. He spoke about the positive relationship he had with the Minister. Roger West said:

> In May this year I was asked by the Minister if I would make myself available for a second term . . .

It is known that in May the Minister's desire was for the commissioner to stay. It was necessary for her to speak to Roger West about the issue in May because if a performance review is to be undertaken then it is necessary that the process be under way at least six months before the expiry of the term. That is necessary for logical reasons. After all, if someone does not meet the performance requirements of his position then he has to have knowledge of that in order that he has the opportunity to seek other employment. A period of six months is fair on all parties. It was obvious that the Minister wanted Roger West to stay in the position. Roger West said also:

> Government procedures state that this requires a performance review to be conducted "at least 6 months prior to the end of the contract period . . .

In May Roger West gained the impression that the Minister would like him to stay and that he could

expect a performance review, presumably some time between May and the end of July. Roger West said:

> . . . the decision should be conveyed to the officer in a timely manner". Mrs Lo Po' told me that my re-appointment had her support and that she would arrange for the Premier's Department to progress the matter.

It is that action that did not occur. The Government is to be condemned on this matter because it did not do what the Minister had requested. Mr West said:

> Despite oral and written requests for a resolution since that time, I could get none.

Roger West could not get agreement from the Government. The Minister said that she would like him to stay. However, despite oral and written requests for a resolution, nothing happened. What a difficult position in which the Government has placed this fine individual. From May of this year he sought oral and written requests for something to be done. The way that the Government has treated Mr West is appalling. Any credibility the Government has of having the interests and needs of the community at heart is torn apart on inspection of this matter. Mr West waited 4½ months to find out about his future. He said:

> On 15 October, after waiting four and a half months, I advised the Minister that this uncertainty and a number of other matters in the portfolio had led me to the conclusion that the government resolve was in doubt—

that is a reasonable conclusion that a reasonable person would make—

> and that I was no longer prepared to make myself available for a further term.

Mr West started to think about his future. He needed to know if the Government did not want him to remain in the position. One presumes that he would need to look for another position. Mr West said:

> The Minister then asked me if I would reconsider my position in the light of certain matters she put to me.

We do not know what those matters are. Mr West continued:

> On Monday last (19 October) I wrote to her saying I would be prepared to remain on certain conditions regarding the proper resourcing of the commission and if the matter of my reappointment was resolved within two weeks.

It was at that point that Roger West received the phone call from the Premier's Department advising him that his position was to be advertised. The Premier's Department gave Mr West a clear message that he was not really wanted, that his position was to be advertised. It certainly was not a message that the department felt he had done a good job and was about to undertake a performance review, tardy as that may be. The Premier's Department indicated its desire to advertise the position. There was no indication that the Minister had requested the department to undertake a performance review because she wanted to retain Roger West.

The only message that can be taken is that the department gave the indication, "Thank you, Minister, but we want to advertise the position. We want him out." That is why the community is so angry. The Government has turned the matter back on Roger West and has implied that he wanted to go and that the Government has merely agreed to a request of his. It is clear that Roger West wanted to remain in his position. He spent 4½ months waiting for a follow-up from the Minister's request that he stay and for a performance review to be undertaken. The Premier's Department let the Minister down and it let the community services commissioner down.

The Premier's Department had no intention of seeking to keep Mr West. It had no intention of undertaking a performance review. No process was set in train beyond, one presumes, the Minister contacting the department, the Premier or the Cabinet Office and requesting that it happen. Nothing followed; there was never an intention to retain Mr West. The Government has allowed the community to think that Roger West wanted to go. Last Monday morning we had the classic "man bites dog" story. The Minister, having decided that Roger West was no longer a person to be held in the highest regard, turned her praise to attack.

The Minister's action on Monday followed the report in Sunday's papers of a financial feud. Reports revealed that Mr West had sought an additional $500,000 for the commission's budget so that the work of the commission could be done appropriately. Basically, the Minister said it all yesterday, even if she did not intend to. She really got the matter right in her answer to the Legislative Assembly, and she should be given 10 points for her comment. In answer to the question about the failure to reappoint the commissioner, she said in part that Roger West had sought $500,000 and that he would like to know about his appointment within 14 days. She said:

> I could not agree to that. I explained to Roger West that I would not gut resources from programs related to child abuse, disability services and family services in order to give him half a million dollars so that he could—

and this is the important part—

> conduct inquiries that might demonstrate that child abuse, disability services and family support were in need of funds.

In other words, the Government does not want to know if the department is underresourced. The Minister saw the option as $500,000 dollars being taken out of her program rather than the Government saying it believes in the work of the community services commissioner, it knows he has done a good job, and asking the Treasurer for additional funding because his work is so important. I will not have time to go through all of the answers given in the last couple of years to questions about community services funding, but there is no doubt that this Government has tried to give the impression that it has been supportive of the work of the commission and that it deserves a gold star for increasing the resources of the department.

The Minister said on Monday that the $500,000 was an outrageous demand for additional funding, and the media referred to a comparison with Kerry Packer. I do not suggest that the Minister made that comparison, but she was quoted in Monday's press as referring to outrageous demands. Roger West made some enlightening statements in the last few days. He referred to the Minister's statement that his demands were outrageous and over the top, and to her claim that the budget had increased from $2.1 million in 1994 to $3.9 million this year.

To summarise his explanation for that increase, the 1994-95 budget applied to the setting up of the Community Services Commission; it had not been in operation for a full year. The Premier was shamed into topping up funding to the commission as a result of a review in 1996, but much of the additional funding for the Community Services Commission has gone into the enhanced role of the community visitors program. The Hon. R. D. Dyer, then Minister for Community Services, made much of the fact that under the Carr Government the number of community visitors had increased from five, which were the appointments made by the coalition Government, to 35. In other words the Government acknowledged the importance of the role of community visitors, and I certainly do not disagree with that. Therefore, much of the funding increase—in fact $500,000—has been used for community visitors.

In regard to the suggestion that Roger West's request was "outrageous and over the top", and the Minister's statement about the amount of money that had gone into the commission, Mr West said it was an unreal comparison; 1994 was the year the commission was set up, it had not been established for a full year, and much of the additional funding related to the appointment of 35 community visitors. The Government must correct the misleading statements that have been given to the media, a point that the second part of my motion addresses. The Government must make it clear that Mr West's decision not to seek reappointment related to factors for which the Government must answer about the role of the Premier's Department in this matter. I want the Government to admit that the Premier, the Premier's Department or the Cabinet Office did not want Roger West to be reappointed and that they undermined the power of the Minister by not fulfilling her request for a performance review.

The Government has allowed Roger West, a decent individual who has done an outstanding job, to be put in the position last Friday of having to give the impression that he would not want to serve as community services commissioner. I believe nothing could be further from the truth. His request for additional funding has to be seen in light of the fact that in July 1996 the commission had to suspend all but urgent inquiries because it simply did not have the funds. The real reason behind the Government's actions this year in relation to the commissioner is that the Minister could not possibly provide more funds because that might enable it to commission an inquiry that would reveal that the Government needs more funds to carry out its work with regard to child abuse and disability services.

The Minister wants to reappoint Mr West but has been undermined by the Premier's Department. That department did not implement her request for his reappointment. The advertisement of the position last week was a deliberate, clear message. To use the colloquial expression that my daughter would use: "In your face, Roger West. We do not want you, and we are about to advertise this position."

I can assure the Government that if it does not want Roger West, all the advocacy groups and peak agencies do. The Council of Social Service of New South Wales, NCOSS—the umbrella organisation for all the peak groups that have an interest or involvement with the department—sent a letter to the Minister calling on the Government to not only provide additional funds to the commission but to rethink its position and reappoint Roger West to his position. The Government has gone out on a limb on this issue. It will take many people in the community a long time to get over its treatment of Mr West.

The Hon. D. F. Moppett: What impact has it had on the staff of the Department of Community Services?

The Hon. PATRICIA FORSYTHE: I can imagine the impact it has had on the staff of the Department of Community Services. Roger West is held in high regard, although my impression was that the previous Minister saw him as the enemy. He has been a valuable source of support and guidance for the department in overcoming some of its problems. The Minister obviously agrees with me that his reports have been outstanding, because she appointed him to chair the recovery task force. It will be interesting to find out whether he will attend a meeting of that task force next Monday in his role as chairman. The Minister clearly shares the community's confidence in Roger West. She got this one right. But she has been let down and her authority has been undermined by the Premier's Department.

Opposition members and crossbenchers do not lightly move motions that condemn the Government, but the Government's action deserves the condemnation of this House as it has had the condemnation of the community. In moving the motion I condemn the Government's action in advertising the position. The Government should change the misleading statements that have been made about the position of community services commissioner. Roger West should not be seen as not wanting the job. The Government should come clean and admit that it does not want him. It must change that misleading perception in the community.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [11.39 a.m.]: The Government opposes the motion. I would urge the House to look at the matter dispassionately and put aside the political rhetoric, the emotive words, and focus on whether it is true that the Government's handling of the advertising of the position is in some way blameworthy or whether it is true that misleading statements have been made that ought to be withdrawn. On analysis, a case has not been made out that the advertising of the position has been mishandled or that misleading statements have been made and should be withdrawn. From my experience I can emphasise that there is absolutely nothing unusual about the advertising of a statutory position when the term has expired—I understand it is the norm.

Recently I advertised an important position within the Attorney General's Department, and as a result the incumbent officer was reappointed; there is nothing unusual about that. Sometimes someone other than the incumbent officer may be appointed. The advertisement of a position upon the expiry of a term of office of a statutory officer is a perfectly legitimate, respectable and ordinary process of government. It is true that there is an alternative process: the review of the performance, which can lead to the incumbent being reappointed without the need for advertisement. There is no reason to believe that it must be done or that there is an obligation for it to be done.

Mr West's five-year term expires on 31 January 1999. Earlier this year, in a regular meeting between the Minister for Community Services and the commissioner, the expiry of his contract was discussed. Mr West indicated that he would be interested in seeking reappointment. The Minister told him she would support him and would consider recommending his reappointment without advertising, in accordance with the Premier's Department guidelines. Advice was then sought from the Director-General of the Premier's Department, and action was initiated to set up a review panel, in accordance with the guidelines.

The Hon. Patricia Forsythe was sceptical about whether that process was invoked and she queried whether there was any evidence of it. There is no doubt that the procedure was invoked, and there is formal evidence of it. The Acting Director-General of the Premier's Department, Mr Roger Wilkins, wrote to the Minister on 8 October. According to the receipt stamp the letter was received on 15 October 1998. The letter stated:

> I write regarding the contract of Mr Roger West, Commissioner, Community Services Commission that is due to expire on 31 January 1999.
>
> According to Section 78, *Community Services (Complaints, Appeals and Monitoring) Act 1993*, the Commissioner is appointed by the Governor on the recommendation of the Minister following consultation with the Review Council.
>
> Premier's Department Circular 98-18 (copy enclosed), prescribes the method to reappoint chief executive officers without advertising. To proceed with reappointment of Mr West it is necessary to establish a review panel. Review panels should be comprised of the relevant portfolio Minister, the Director-General, Premier's Department and an independent external to the agency who is knowledgeable about the agency's role, objectives and customer expectations. I suggest Ms Robyn Henderson, Director General, Department for Women be considered as the independent panel member.
>
> With your agreement to the process described above, Tricia Dewar, Policy Officer, from my Department will take the appropriate steps to arrange for the review to be conducted as soon as possible. Should you wish to discuss the matter further, please do not hesitate to contact either myself or Ian Peters, Acting Assistant Director-General, Public Sector Management Office on telephone 9228 4201.

It seems incontrovertible that the process was invoked in accordance with the advice given by the Director-General of the Premier's Department. I am

informed that on the day of receipt of that letter the Minister met with Mr West, who indicated that he had changed his mind and no longer wished to be considered for reappointment. The Minister expressed concern and disappointment and urged him to reconsider. Mr West said that he would think about it. On 19 October Mr West faxed a letter to the Minister in which he signified that he would reconsider if the Minister made an extra $500,000 available to the commission immediately and confirmed his reappointment within two weeks. The Minister was unable and unwilling to comply with those conditions and took steps to advertise the job.

Mr West was informed of that decision on Friday, 23 October. The Minister considered that, as a statement of the support for the future work of the commission, it was important to select a permanent replacement before the expiry of Mr West's term. I repeat, Mr West decided not to seek reappointment as the Commissioner of the Community Services Commission after his contract expires on 31 January 1999. The Government cannot compel him to remain. The commission has been well funded by the Government to carry out its important work. In November 1996 the Premier stated in the Legislative Assembly that the Government would be "increasing funding to the Community Services Commission in line with its increased workload".

In the 1997-98 budget the commission received an additional $250,000. The Community Services Commission has received more than a 60 per cent increase in funding from 1994-95 to 1998-99. That represents a generous enhancement under this Government. The Minister explained to Mr West that she was not prepared to take half a million dollars from elsewhere in her portfolio to give extra funding to the commissioner. She explained that this would mean taking resources out of programs such as child abuse, disability or family support services so that Mr West could conduct inquiries that might well conclude that child abuse, disability and family support services were in need of those additional funds.

The Minister takes the view that her prime clients are disadvantaged families and that priority will be given to funding direct services. There was nothing deceptive or dishonourable about the way in which the Government went about advertising Mr West's position. Action had to be taken without delay to ensure a smooth transition by 31 January 1999, when Mr West's contract expires. The Government has nothing to apologise for. If any blame is to be laid it could well be upon Mr West for the uncertainty caused by his change of mind about whether he wished to continue in the job. Neither the Government nor the Minister have made any misleading statements in the media about Mr West's position.

Some disputes have been raised about budget figures, but no matter how one looks at the figures for the commission's budget in its short and very productive life, one fact emerges: it has been appropriately funded. The Government makes no apologies for the level of funding to the commission. It is not as high as Mr West might like it to be, but these days those who spend public money must recognise that there are upper limits to what can be made available. In spite of that, considerably increased funding has been made to the commission since 1994-95. I would be pleased to see additional resources flow to the commission, as I am sure my ministerial colleagues would be pleased to see additional funds channelled to vital areas under their administration.

I am sure that my colleague the Minister for Police could make very good use of an additional $500,000 to put additional police officers on the beat in troubled areas. I could certainly put $500,000 to good use to provide additional legal aid to litigants. I know the Minister for Health would find an excellent use for $500,000 to provide dental services for pensioners. The Minister for Community Services said that if she had an additional $500,000 it would not go to the Community Services Commission, deserving though the commission is. Those statements are about rational allocation and balance. If the Minister for Community Services had an extra $500,000 it would go towards providing additional resources in one of the front-line services—for people with disabilities, the frail aged, young people in trouble, or neglected or abused babies.

Many excellent heads of statutory bodies are carrying out important work and could probably use an extra $500,000. However, governments are not in the privileged position of being able to make funds materialise whenever a demand is made upon them. The coalition certainly could not do so when it was in government. It would be unrealistic to believe that they could make non-negotiable demands on government for more money. I understand that the Minister sympathises with Roger West's position. Mr West needs to reflect on whether his demand for more resources as a precondition for reappointment was reasonable. He knew that the only way the Minister could have met his demand would have been by depriving other vulnerable people of proper care and protection.

The guarantee of care and protection for the needy and deprived is the very basis for the existence of the Community Services Commission. The Hon. Patricia Forsythe questioned the fact that the Minister, it was said, did not in her press statement give the reasons that Mr West did not wish to continue in his position. The Minister took the view, understandably enough, that it was not up to her in her press release to give the reasons that Mr West was not reapplying, that that was for Mr West to say and, I gather, that originally he did not do so.

Some incorrect speculation arose from that. People in the sector jumped in eagerly and inaccurately suggested that Mr West had been sacked. Nothing could be further from the truth, as the chronology I have recounted demonstrates eloquently. The Premier played no part. To suggest that he played some role is simply fantasy and there is not a single fact to support it. The Government opposes the motion.

The Hon. Franca ARENA [11.51 a.m.]: Listening to the last remarks of the esteemed Attorney, I remind him that the buck stops with the Premier. I commend the Hon. Patricia Forsythe for this very important motion, which I support wholeheartedly. This morning the meeting of crossbenchers discussed the Public Accounts Committee. When Frank Sartor, whom the Government now supports so vehemently, was an officer of the Public Accounts Committee and started to probe into areas that the Government did not like, it sacked him. The Government upgraded and readvertised Frank Sartor's position so that he could not get the job, so in effect it sacked him. That is how it works. When someone stands up to the Government it does not like it; it wants to muzzle people.

The Hon. D. F. Moppett: It has ways of dealing with them.

The Hon. Franca ARENA: The Hon. D. F. Moppett is right: it has ways of dealing with them. It is an elegant way. The Government did not sack Roger West; it made it impossible for him to reapply. Every time the Government finds a dedicated, honest, hard-working, fearless man totally committed to children it sacks him. First, the Government ensures that his budget is well under the amount required; second, it ensures, in one way or another, that he cannot reapply for his job; then it insults people's intelligence. I was absolutely flabbergasted by some of the statements of Minister Lo Po' that Roger West made Packer-like claims. The *Sun-Herald* of 25 October said:

> Mrs Lo Po' said: "This was a Kerry Packer type claim and Roger knew that I could not, and would not, deliver.

I feel embarrassed that a Minister could come out with stuff like that. Half a million dollars is required to protect our children by inquiring into their abuse and she calls it a Packer-type claim! I had more respect for Mrs Lo Po'. Since this issue has arisen it is an insult to people's intelligence that she could even say something like that. There is something that worries me very much about this Government. Honourable members should remember that $70 million was spent on the Wood royal commission.

The Hon. J. F. Ryan: $70 million?

The Hon. Franca ARENA: $70 million.

The Hon. J. F. Ryan: One hundred and forty times half a million dollars.

The Hon. FRANCA ARENA: Was there an inquiry into paedophilia? No, because it would take too long; it would be too costly. There was a wonderful opportunity, but there was no inquiry because the Premier did not think it was appropriate. He changed the caucus motion to make it a lukewarm motion; that is something I will never forget. Many people think that I bear grudges. I do not, but I will never forgive those who stopped a full inquiry into paedophilia.

The next thing will be the children's commission, about which I will not comment because the House will discuss it early next week. The Government will not give the children's commission authority to start an inquiry. It has to have the Minister's approval so that the Government can continuously keep the lid on things it does not like, to stop people coming out with things about which it is embarrassed or in which its mates might be involved. It is a shocking shame. I support the call of the Hon. Patricia Forsythe for full funding of the commission and, if the Government has nothing to hide, for the reappointment of Mr West. I will bet that the next appointment to the children's commission will be a Labor woman. Carmel Niland will apply for and get the job because, as a Labor woman, she can keep the lid on. I am absolutely outraged.

I listened carefully to the Attorney. With all due respect to him, I was not impressed by his argument. He said that Mrs Lo Po' would have had to take $500,000 from her budget and that he could certainly do with it. That shows the commitment of this Government to the children of this State. Next week, or the week after, when the House looks at

the Appropriation Bill there will be a real kafuffle about the millions of dollars that government departments have overspent without the authorisation of Parliament.

Yet the Government tries to tell me that it could not make available $500,000 extra to ensure that the commission can act properly. The Government finds money for all sorts of things. The people of New South Wales were so happy when we won the Olympics. I wonder how many are still happy. The Olympics is a bottomless pit into which money goes. It will create bigger and bigger deficits, which the Government will find the money to fund though it could not find $500,000 for the Community Services Commission. Shame on it.

The Hon. D. F. Moppett: It was not looking.

The Hon. FRANCA ARENA: Exactly, it was not looking. I will not go through the budget figures as they have been ably dealt with by the Hon. Patricia Forsythe, but I commend to honourable members who are not sure how to vote on this issue the statements issued by Roger West on 24 and 26 October, which I obtained from the Parliamentary Library. The Premier in his speech to Parliament said, with a forked tongue, that he commended the commission for its work. On one hand he pretends to commend the commission and, on the other, he takes away the funding.

Mrs Lo Po' does not have the intestinal fortitude to stand up to the Premier, yet she told Mr West that he had a Kerry Packer-type claim. Mr Packer could lose half a million dollars on one bet at the casino. I was pleased that NCOSS, the Council of Social Service of New South Wales, one of the most respected organisations in this State—which may be a thorn in the side to both Labor and Liberal governments and, for that reason, an immensely valuable organisation—in its press release of 26 October asked Mrs Lo Po' to recommend immediately to Cabinet that Mr Roger West be reappointed as Community Services Commissioner. Gary Moore of NCOSS said:

> Far from doing a Kerry Packer on the Government, as Mrs Lo Po' suggested yesterday, Mr West, in his letter of 19 October, indicated he was prepared to be extended as Commissioner so long as the Government fulfilled its previous commitments.
>
> Children, vulnerable young people and people with disabilities cannot afford to have this unfortunate series of events cloud the role and credibility of the work of the Community Services Commission.

As I said, it is sad to be discussing this motion. It is sad also that the Government has acted in such a deceitful and unfair way towards a man who has earned the respect of the community and then could not find $500,000 to supplement the Community Services Commission budget.

The same thing will happen with the children's commission and the other structure that will be set up. It will be just be a public relations exercise, with no money to do effective work. I do not know whether I will be here after the next election, but I assure honourable members that there will be hell to pay from me—inside the Parliament or outside it if I am employed in a community organisation—if the children's commission is not funded effectively. There will be hell to pay if the Government, whether Labor or coalition, does not ensure that children's services are properly funded.

The Hon. I. COHEN [12.01 p.m.]: I am greatly concerned about the matters raised today by honourable members. I have spoken to various groups with an interest in this issue, and I attempted to follow the Government's perspective on it. Clearly, the work of Roger West as Community Services Commissioner has touched the public and become a public issue. In a letter to the editor of the *Sydney Morning Herald* on 27 October, Mr John Jacobsen stated:

> Roger West's work as Community Services Commissioner will long live on. West approached the job with intelligence, integrity, care and tenacity. Inevitably, the commission revealed what those who fought for its existence have long known was hidden in both disability and children's services. And government doesn't like it . . .
>
> That's the real reason those at the centre want West gone. It costs money to fix the system, and the Carr Government apparently sees the welfare of the most disadvantaged as a low priority.

I take the point of that letter and I acknowledge the Hon. Franca Arena's passionate defence of Mr West. Clearly, the Government must remedy the issues raised by the Hon. Patricia Forsythe. It should accept the advice of advocacy groups in the community—the main advocacy group is the Council of Social Service of New South Wales—which as one voice have called for the reinstatement of Mr West as the Community Services Commissioner. In a report entitled "The First 4 Years" the Community Services Commission stated:

> . . . in December 1996, the Premier's Department carried out a review of the Commissioner's performance at the request of the then Minister. It concluded:
>
> > The review found the achievements of the Commission in the two years since its establishment commendable. The Commission has in place transparent decision making processes, clear lines of accountability and reporting,

> comprehensive operational policies and procedures and effective support systems.

In relation to achievements the report stated:

> We have provided benefits to consumers through the swift, efficient, and largely informal resolution of complaints, the effective monitoring of services through the community visitors' scheme and the conduct of investigations, reviews and inquiries with recommendations of it that have demonstrably made services safer and more able to meet consumer needs.
>
> We have also provided benefits to service providers (including the government service provider, DOCS) by informal resolution of numerous otherwise disruptive, time and money-consuming consumer disputes; by providing training and advice in good consumer service and effective complaints handling: and by making recommendations that assist them to improve their services.
>
> We can also show that we have provided direct benefits to government by providing "early warnings" on major problems in community services and making constructive recommendations for addressing them. Many were problems that were capable of causing significant political embarrassment and potentially costly litigation if left unaddressed.
>
> We have provided credible, independent advice to government and a place to refer matters when consumers or the media have shown a lack of confidence in services to competently and impartially investigate or fix problems.

That clearly shows that the request of the Government and the Minister to provide $500,000 to enable Mr West to continue as Community Services Commissioner is justified. The report further stated:

- Over 75% of complaints resolved swiftly and informally . . .
- Community Visitors regularly monitor 845 accommodation services for children, young people and people of all ages with disabilities . . .
- Reducing deaths of babies

> After a spate of tragic and politically embarrassing deaths of young babies where it was alleged that DOCS had previous warnings that the child was at risk, the (then) Minister asked us to inquire into the circumstances surrounding the death of Jordan Dwyer.

I believe that the department undertook that investigation appropriately. The report further stated:

- Unlawful solitary confinement of people with disabilities outlawed

> Following the Commission's revelations in the Lachlan report, the unlawful and inhumane practice of dealing with disturbed outbursts by some people with intellectual disabilities by locking them in a "cell", sometimes for many hours and on a daily basis, has all but disappeared.

The Community Services Commission has investigated the negligent policy and procedural vacuum for people with disabilities, the plan to close disability institutions and improve standards of care in the meantime, the closure of the unsafe Hall for Children, the poor nutrition and life-threatening mealtime practices, staff recruitment and screening and cost-effective complaints handling in community service agencies, as well as support and recognition for the commission. Clearly, there is a strong argument for Mr West continuing his exemplary work as Community Services Commissioner. A media release of 26 October 1998 from the Council of Social Service of New South Wales, signed by Gary Moore, stated:

> The Council of Social Service of NSW (NCOSS) has written to Community Services Minister Faye Lo Po', asking her to immediately recommend to Cabinet that Mr Roger West be reappointed as Community Services Commissioner . . .
>
> In 1996, the Premier's Department conducted a review of the Community Services Commission's operations and concluded that an additional $890,000 was justified to enable the Commission to meet client demands and perform its tasks . . .
>
> We have asked the Minister to seek Government approval for Mr West's extension, for at least six months after his term expires on 31 January 1999, so that the leadership of the Commission does not become an election issue.

That seems to be a reasonable request by NCOSS and the House should support it. In a letter to the Minister for Community Services NCOSS stated:

> within two months, commit to provide additional assistance to the Commission based on an assessment of previous reports and the Commission's current demands and responsibilities.

In a media release dated 23 October 1998 NCOSS stated:

> The Council of Social Service of NSW (NCOSS), The Association of Children's Welfare Agencies (ACWA), the Youth Action and Policy Association (YAPA), the Family Support Services Association (FSSA) and the State Network of Young People in Care (SNYPIC) have today condemned the NSW Government's failure to reappoint Community Services Commissioner, Roger West, for a further term.
>
> Since its inception in 1993, the Commission, under Mr West, has developed into a forceful and highly credible agent to improve the services for vulnerable children, young people and people with disabilities in NSW, said NCOSS Director, Gary Moore . . .
>
> Mr West has been known for some time to have been unhappy about several matters including:
>
> - the lack of independent monitoring of DOC's performance in reviewing child death cases and of DOCS and other services charged with the care of State wards;
> - closing down large institutions for people with disabilities; and
> - the lack of resourcing for the Commission and community visitors."

Clearly there is a substantial reason for the call for reinstatement of Roger West if the Government is correct. I listened with interest to the argument of the Attorney General, which, given the procedure undertaken, seemed quite convincing. I think it is reasonable that, at least, Mr West's appointment be extended until after the election. That will avoid making his position an election issue and it will help to defend the children for whom we have a responsibility.

The $500,000 requested by Mr West is a small sum by comparison with the amount of money being spent on road building and other infrastructure, and it is minute by comparison with the billions of dollars being spent on the Olympics. Surely our children should receive care through a proven adequate agency. So I ask the Government to reconsider its decision and allow Mr West to continue in his effective role.

The Hon. Dr B. P. V. PEZZUTTI [12.10 p.m.]: I was most impressed with Roger West when he was the inaugural leader of the Guardianship Board. The legislation to establish that board was introduced under Barrie Unsworth, but in the lead-up to 1988 that Government did not have the money to implement its own legislation. It subsequently fell to you, Madam President, as the incoming responsible Minister, to find the money to implement that important legislation and to appoint a great leader, Roger West, to head the board. In carrying out his duties Mr West particularly educated the medical and nursing fraternity about the need to follow the Act, to ensure the proper oversight of people who were unable to give consent for themselves, whether because of a temporary head injury or because they were disabled.

Mr West took his duties seriously, so much so that when the legislation was identified as being a little restrictive, he asked the Minister at the time, John Hannaford, to review the Act with regard to the type of person who could give consent in an urgent situation. That foresight on Mr West's part allowed best friends to give that consent, and in that respect it can be said that Mr West was well before his time. It allowed best friends in a same sex relationship to give consent for one another in urgent situations.

Mr West then left the Guardianship Board and was then appointed by Jim Longley as the Community Services Commissioner, a post in which he again served favourably. He was deeply involved in the changes to the Guardianship Act, particularly the thorny issue of giving consent for drug trials for disabled people who could not consent themselves. Many people, including Mrs Pattie Coster, who was head of the Carers of Protected Persons Action Group, have the greatest respect for his clear focus on ensuring that disabled people got a fair deal.

Mr West did not merely follow the legislation; he took up a real leadership role to ensure that people who were unable to make decisions and care for themselves were properly represented. Their interests were at the forefront of his mind, and he did a sterling job. It is a disgrace that the Government has treated so shabbily a faithful servant of the people that he was asked to serve. I am saddened and disappointed with what is happening to Roger West. He has my best wishes and I am sure the best wishes of all disabled people. I commend the Hon. Patricia Forsythe for bringing this matter to the attention of the Parliament and the people.

The Hon. A. G. CORBETT, [12.14 p.m.]: To attain a position such as Commissioner Roger West has, and, furthermore, to maintain that position and his reputation in the contentious area within which he moves and works is no small feat. Roger West certainly has the reputation of being a credible person, one who is straight down the line and is honest in his opinion. He has done a great deal for the children and the families of this State. I am disappointed therefore with the circumstances that have led to this motion being moved. One thing I have learned throughout my life is that there is no black and white, that things are not always as they seem to be.

Regardless of what has happened or apparently happened in the past few days, this House should send a clear message to the community sector and all the hard-working people at the coal face who deal with the trauma, tragedies and misery that some people experience that the work of the Community Services Commissioner is respected by this House and that we have confidence in him. Hence, I move:

> That the question be amended by omitting all words after "House", and inserting instead:
>
> > "confirms its confidence in the current New South Wales Community Services Commissioner."

The Hon. J. F. RYAN [12.16 p.m.]: I am somewhat surprised by the amendment moved by the Hon. A. G. Corbett. The issue in the public domain is whether this House supports the Community Services Commissioner. I suggest that the only way honourable members can appropriately support the commissioner is for them to condemn the Carr Government for the way it has handled his departure. It is entirely appropriate that we should

move a motion dealing with the services of Roger West, given that his appointment is coming to an end. If ever a public servant deserves to have his appointment recognised, Roger West does. He was not just a Community Services Commissioner; he was the very first such commissioner.

He had the job of setting up the commission and making it work—and make it work he has. I remind honourable members that the Community Services Commission was set up in 1993 by the coalition Government as part of a package of reforms designed to improve and completely revolutionise community services, and particularly disability services. Any improvement we may have seen in the provision of disability services, juvenile justice and Department of Community Services functions has its origins primarily in the work of the Community Services Commission as it was driven by Roger West.

I am concerned particularly that in introducing his amendment the Hon. A. G. Corbett said that "things are not always what they seem to be". The suggestion is that Roger West is somehow to blame for the manner in which he has been treated. I specifically point out that he bears no such blame. One of the issues about the manner in which he has been treated is the funding of the commission. I believe that Mr West has appropriately explained why the commission needs more funding. In addition, Mr West was promised by no less than the Premier—in statements in the Parliament and to the media—that he would be funded, but that promise has not been delivered. If there is any reason to condemn a government for its failure to deliver on a specific, cast iron promise given by the Premier, we should condemn this Government.

The Hon. A. G. Corbett: I support the commissioner.

The Hon. J. F. RYAN: The Hon. A. G. Corbett should condemn the Government for its outrageous performance against the commissioner. Anything less than that, I contend, is gutless and a refusal to acknowledge his duty. The honourable member has unfortunately distinguished himself by the manner in which he consistently supports the Government, almost regardless. On this occasion I agree with the Hon. A. G. Corbett that an appropriate addition to the motion would be to express our confidence in Roger West. But if any members suggest that this House should not condemn the Government for its failure to give Roger West the resources he needs, they are barking up the wrong tree. I remind the honourable member that the Minister accused Roger West of making over-the-top requests for funding.

The Hon. Franca Arena: Packer style.

The Hon. J. F. RYAN: Yes, Packer-style funding. It is an offensive metaphor to link Roger West in any way with a person who fritters away half a million dollars in an afternoon at the races. The problem could have been solved by a phone call to Roger West, not by conducting a brawl through the *Sydney Morning Herald* and *Daily Telegraph*. The Minister could have said, "Roger, I understand you are interested in having your job back. Here it is." Instead, the Government went to the media and humiliated Roger West.

The Hon. A. G. Corbett claims to stand up for children, but he is not prepared to make a strong statement against the Government for humiliating Roger West by not providing the resources it promised and for not reappointing him as Community Services Commissioner. What more does he need before he is willing to condemn the Government? I should like to quote what the Premier said about a review of the Community Services Commission and the appropriateness of its funding.

The Hon. Patricia Forsythe: The review was conducted by the Premier's Department.

The Hon. J. F. RYAN: That is correct. The review concluded that the Community Services Commission was underfunded by $890,000. After tabling the review in the Legislative Assembly, the Premier said in a press release:

> The report commends the commission for its considerable achievements and makes clear recommendations on the funds the commission requires. Having read the report, I am pleased to announce that the Government will be increasing the commission in line with its increased workload.

The Premier promised that the funding would be delivered, but it was not. Indeed, the request for increased funding has now been offensively labelled as a Packer-style claim! I agree with Roger West when he said that this episode was about broken promises and the effective independent monitoring of community services for the safety of children and people with disabilities; not about Packer-type claims, as the Minister suggested. A mealy-mouthed amendment about having confidence in Roger West means nothing. If we do not support him we admit that there is even a skerrick or scintilla of truth in the Government's case. I do not believe there is any truth in that case. Roger West is a fine public servant who has done a magnificent job for the people of New South Wales. At least four reports come to mind—

The Hon. A. G. Corbett: Why don't you listen to what he had to say?

The Hon. J. F. RYAN: I ask the Hon. A. G. Corbett to tell me, when he gets the chance, which probably will not be during this debate, why he is not prepared to condemn the Carr Government for its outrageous behaviour. By deleting the words of the motion he is deleting the condemnation of the Government. What would have happened to residential facilities for disabled people if it were not for Roger West's incredible report entitled "Who Cares? Protecting people in residential care"? The report outlined a regime to screen staff and supervise them appropriately. How many people living in residential care facilities would today be locked away in solitary confinement if it were not for Roger West's 1995 Lachlan report?

The hall to accommodate children in the Blue Mountains, only blocks from where the Hon. A. G. Corbett lives, would still be operating if it had not been for Roger West's report entitled "Suffer the Children—the Hall for Children". What would have happened to foster children? The State is the carer of foster children but without Roger West's report "Turning victims into criminals" those children would have a bleak future. That report must not gather dust; its recommendations must be implemented. Unless the Community Services Commission has the power and resources to write reports and is able to ensure that appropriate monitoring is undertaken, those recommendations will not be carried out.

What would have resulted if the Department of Community Services had not addressed the reporting of deaths and the mistreatment of babies? People like Jordan Dwyer in the Tweed region, on whom the report was based, and others are calling out to this House to do its duty today and support Roger West. Of course we should express confidence in him and I certainly do not object to the amendment being added to the motion. Honourable members should stand up today to condemn the wrongs of this Government. This is a judgment call that would apply to any government, Labor or coalition.

People like Roger West are employed to independently give the Government advice it frequently does not want to receive. That advice is usually about things like improving performance to help those who are severely disadvantaged. I call on this House to support the motion of the Hon. Patricia Forsythe and to stand up for what is right, decent and true. Roger West's reports contain much of what is right, decent and true. Either we stand up with him and be counted or we simply allow those reports to gather dust.

The Hon. Dr A. CHESTERFIELD-EVANS [12.26 p.m.]: The Australian Democrats certainly view with concern the fuss over the treatment of Roger West, who, it seems, is almost universally acknowledged to have done a good job as Community Services Commissioner. The activities of the Department of Community Services is a matter of concern. Its problems are due to economic rationalist policies some years ago that basically removed many experienced officers, and the department has been trying to catch up ever since. As the workload increased at the frontline, scandalous remarks emerged about cases not being addressed.

The loss of experienced staff and the small number of overworked remaining staff mean that not all cases can be addressed. It is all very well to criticise the few people who are left for not addressing the insurmountable problems, but the reality is that the department is in a mess. Roger West was doing a good job and I do not believe Faye Lo Po' was doing a bad job. The spat between those two became acute only after Roger West was dismissed. I do not believe either of them was the driving force in the dismissal, but those outside the immediate loop can only speculate about that.

With the emphasis on a punitive approach to crime and the rising unemployment rate, particularly among youth, the Australian Democrats believe that family support is critical and that the Opposition must take those things into account. Society must pay for equal opportunity, and putting victims of society in gaol when they become criminals is not the solution. This issue requires more than rhetoric; humane policies must be developed to help create employment.

The Hon. D. F. Moppett: You are heading in the right direction anyway.

The Hon. Dr A. CHESTERFIELD-EVANS: I hope we are looking in the right direction. It is fine to support Roger West, but when push comes to shove, funding these proposals should not be sneered at as a bleeding-heart approach. We should accept that real people need help to return to a decent lifestyle, and we must help disadvantaged children. Criminals should be given equal education opportunities to help them become useful members of society and feel that they are making a contribution to society. The Coroner is now investigating the death of children in institutions. That inquiry resulted from a report into Cram House, an institution for disabled children. According to the *Sydney Morning Herald* of 21 January, the report concluded:

> Cram House . . . "systematically failed to provide for the medical, social, developmental or physical needs of the children in its care".

That article was quoting a report by the Community Services Commission, of which Roger West was the head. Again the Department of Community Services was not out of the woods. An article in the *Sydney Morning Herald* of 21 October stated:

> The Minister . . . was forced to admit yesterday that two workers from the Department of Community Services were facing almost 30 charges of suspected child . . . abuse.

Again, according to the *Sydney Morning Herald*, the Community Services Commissioner, Roger West, was sticking up for people who may have been inadvertently caught by anti-paedophile legislation. Obviously it is important to balance the rights of workers with the rights of the children, and that was being addressed by Roger West. That was also referred to in the *Daily Telegraph* of 11 August. The problem of disabled people in State-run institutions was raised by the Council for Intellectual Disability. An article in the *Sydney Morning Herald* of 12 May commented:

> . . . mounting concern among disabled groups—

and the intervention of the Community Services Commissioner, Roger West—

> has prompted the State Government to investigate establishing a review of all deaths of disabled people in care.

These are examples of real, important advocacy roles. Obviously, Roger West was concerned that the new legislation relating to the children's commission does not allow an advocacy role. Now, after asking for a relatively small amount of money to increase his funding when there is clearly a great need in his area, Roger West is not being reappointed. A number of people, such as Gary Moore, the Director of the Council of Social Service of New South Wales, and Phillip French, the Acting General Manager of People with Disabilities (New South Wales), have endorsed the work of Roger West. Society must be willing to have advocates who stick their necks out, who speak out fearlessly and who are not muzzled by government. If we are going to progress socially we have to be able to tolerate dissent.

Ministers must accept that they will be told that they have to do the job, that they have to bite the bullet and spend more money. This is part of the process of government and the discussion of issues in society. We have to accept advocates, even if they are inconvenient, and governments have to be more mature in their approach to this problem. We are concerned that the problem that appears to be nobbling Roger West is creeping into the children's commission—the notion that, yes, it can be a children's commission but that, no, it cannot do advocacy because it might embarrass someone. That is not good enough.

We do not know all the details but it seems that the Community Services Commission was doing a very good job. The commissioner asked for more money to continue doing that job and for some reason—although he does not appear to have had any previous problems with the Minister—he lost his job. Obviously, this is worrying to the process of open government, which the Australian Democrats support.

The Hon. D. F. MOPPETT [12.33 p.m.]: This is a grave issue. I support the motion moved by the Hon. Patricia Forsythe which condemns the Government for the way in which it handled the Roger West incident. This motion is important not because the Government is manifesting the signs of dilapidation, is in terminal decay and is about to disintegrate; it is important because the coalition is concerned about this area of government policy.

The Department of Community Services is not a big-ticket budget item. It does not have the universality of the Department of Education and Training—everyone receives some sort of education—or the Department of Health. Fortunately, not everyone is a client of the Department of Community Services but everyone benefits from the department's activities. DOCS provides a range of services and intervenes to prevent difficult situations from becoming worse. The Department of Community Services also works through various organisations to enrich our community.

Sadly, the work of the Department of Community Services has suffered greatly in recent years because of a lack of public confidence and all sorts of contradictions imposed on it by its ministerial leadership. All sorts of fiascos have been perpetrated on the department, and they have had a profound effect on the public's confidence in the work of the department. Coalition members welcome the development of the Community Services Commission as a sheet anchor to restore that confidence. Therefore, we will not rely only on ministerial statements. Honourable members understand the pressures placed on Ministers and the difficulties they sometimes have penetrating the fog of bureaucracy.

However, we hoped that with the establishment of the Community Services Commission, with a person of integrity in charge—such as Roger West—these sorts of difficulties and problems would evaporate and public confidence would gradually be restored, thus suffusing all the activities of the department. Instead, what have we seen? Early in the life of the commission, the commissioner, in my words, has been dismissed.

The commissioner has tried to excuse the actions of the Government. What was the commissioner's cardinal sin? Why did the Minister and this very fine public servant part company? He made the same mistake as Oliver Twist—he asked for more. He asked for $500,000. That is a lot of money to me but when the Government cannot keep track of $3 billion one would think it is almost petty cash. That amount of money would be considered petty cash in the budgets of the Department of Education and Training, and the Health Department.

Members often ask Ministers Dorothy Dix questions about what they are doing for this or for that. However, Ministers are never asked about core issue such as this, an issue that affects every citizen of New South Wales. People's rights are being trampled on by this Minister, who has utterly disregarded the sensitivity of the relationship between employer and employee. I did not intend to make more than a few passing remarks in this important debate—my colleague the Hon. Patricia Forsythe has put the points so well. However, I have been stimulated to speak at greater length because of the absolutely vacuous amendment moved by the Hon. A. G. Corbett.

If all we want to say at the end of this significant debate is contained in the words of the Hon. A. G. Corbett, I suggest that the debate be interrupted and that we all go away and write Roger West a little personal note saying, "We still have confidence in you even though you are out of a job. We are not prepared to do anything about the scandal surrounding your failure to be reappointed. We are not going to say anything on behalf of the people of New South Wales about our disappointment in the way the work of the commission has been downgraded and diminished in the eyes of the public by this high-handed action of the Minister. We are simply going to confirm our confidence in the New South Wales community services commissioner."

I am not certain who that person might be at the present time—whether this refers to Roger West or not. I am adamant that it is the bound duty of members of this House, considering the gravity of the subject, to vote for the motion and to support the Hon. Patricia Forsythe in condemning the Government for this outrageous and scandalous event that has shocked the people of New South Wales.

The Hon. HELEN SHAM-HO [12.40 p.m.]: I support the amendment moved by the Hon. A. G. Corbett confirming confidence in the current Commissioner of the Community Services Commission. I had not intended to speak to this motion, although I do support it. However, I feel that I should say that the political point scoring ought to be taken out of this motion. I understand very well what the Hon. Patricia Forsythe said: that this kind of saga should not occur. I feel that it is the obligation and the duty of the Minister to clarify the whole situation, as has been said by the Hon. Patricia Forsythe.

I have read the statements made by and correspondence received from various parties, including the statement of Mr Roger West, the Community Services Commissioner. I am grateful that Mr West clarified what he referred to as "confusing publicity" surrounding the question of his reappointment for a second term. As has been pointed out, we do not know what an issue is all about until the person involved clarifies the matter. I, for one, am very supportive of the role that has been undertaken by Mr West. I express my personal strong support of Roger West for his work as the Community Services Commissioner. He has done fantastic work as a welfare watchdog. Having been a social worker for many years, I realise the difficulty of the community services portfolio.

As the previous Minister, the Hon. R. D. Dyer, and other former Ministers, including Mr Webster and the current President, would know, community services is a very difficult portfolio because it deals with human behaviour. I remember well the establishment of the Community Services Commission under Jim Longley as Minister responsible for community services. The establishment of the commission was supported by both sides of the House. There was no question about the necessity for a commission. At the time I contacted Roger West. I spoke to him directly and congratulated him on his appointment. In the past few years I have watched over his work. Certainly his reputation is impeccable.

The fact that the Council of Social Service of New South Wales—NCOSS—has supported Mr West's reappointment is a reflection of his work for youth, the disadvantaged and the disabled. I do not agree with the involvement of political point scoring

in this issue. I respect the Minister, the Hon. Faye Lo Po'. She has a difficult job and she is doing quite well in her role, being new to the portfolio. The misinformation and adverse publicity in relation to this difficult portfolio is uncalled for. I call on all honourable members, as was suggested by the Hon. D. F. Moppett, to support Commissioner Roger West. I do not know whether this could happen now, but it is my hope that Roger West could be reappointed as commissioner.

Mr West has indicated that there are certain conditions that would have to be fulfilled by the Minister before he would accept reappointment. I do not know what those conditions are. Perhaps the Government should spell out those conditions in order that the people of New South Wales may determine whether they are acceptable and whether Roger West should be reappointed. I restate my position of support for the amendment moved by the Hon. A. G. Corbett. I feel that political point scoring should not be brought into the debate.

Reverend the Hon. F. J. NILE [12.45 p.m.]: I support the motion moved by the Hon. Patricia Forsythe that the House condemns the Carr Government's handling of the advertising of the position of Commissioner of the Community Services Commission, and calls upon the Government and the Minister to withdraw the misleading statements in the media about this position. I move:

> That the question be amended by inserting after paragraph 2 a new paragraph 3 as follows:
>
> 3. Confirms its confidence in the current New South Wales Community Services Commissioner, Mr Roger West.

This kind of situation appears to arise often within governments of both political persuasions when a particular public servant—in this instance, Mr Roger West as the Community Services Commissioner—produces thorough and detailed reports. So far as can be determined, no-one has ever criticised the facts detailed in reports released by Mr West. His reports have raised very serious matters involving the abuse of disabled and handicapped people in various institutions such as the institution at the Blue Mountains. It would appear that because of the objective criticism contained in the report the Government feels that it is under attack for its policies.

It would appear that this kind of thinking was not that of the Minister for Community Services but of someone higher—perhaps within the Premier's office. A decision has been made that Mr West should not be reappointed. Perhaps the Minister for Community Services, the Hon. Faye Lo Po', was not aware of the decision.

I have a copy of the Minister's press release, which reads as a reference that Mr West could use when applying for a new position. In fact, the reference is so good that one would imagine Mrs Lo Po' should be chasing after Mr West and pleading with him to continue as the Community Services Commissioner. The press release of the Hon. Faye Lo Po', Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women, dated 23 October, reads as follows:

> **MINISTER PAYS TRIBUTE TO WORK OF DEPARTING COMMUNITY SERVICES COMMISSIONER**
>
> Minister for Community Services, Faye Lo Po' praised the outstanding contribution of Community Services Commissioner, Roger West and said she very much regretted that he would not be seeking re-appointment to his position.
>
> "Mr West's commitment to protecting vulnerable people in the community has never faltered during his five years as Commissioner. I am disappointed by his decision not to seek re-appointment but understand the reasons he has given me," Mrs Lo Po' said.
>
> "I would like to thank him for his advice while I have been Minister. I regret that we will not have the opportunity to work together for a longer period, particularly as significant changes are underway in the area of disability services and the protection of children.
>
> The value I have placed on Mr West's input in the reform process of the Department of Community Services is reflected in his appointment as chair of the DoCS expert task force, which has been instrumental in facilitating reform with the DoCS.
>
> Everyone involved in this area has enormous confidence and respect for Mr West. He will be sorely missed.
>
> Mrs Lo Po' said that the position will be advertised immediately to ensure the selection process is well underway before Mr West's departure to ensure a smooth transition.
>
> I do not want the important work of the CSC to be interrupted by any delay in the selection of a new Commissioner . . .
>
> I want to re-affirm my strong commitment to the work done by the CSC which is important not only for clients but as a catalyst for reforming DoCS and other relevant agencies.

That is more a tribute—much stronger than a reference. I have moved an amendment and placed the original words of the amendment moved by the Hon. A. G. Corbett at the end of the motion moved by the Hon. Patricia Forsythe. If honourable members agree to the Hon. A. G. Corbett's amendment it will make no sense because the Government could vote for that amendment following the Minister's warm tribute to Mr West.

That amendment does not do anything to support Mr West. It may now be possible for Mr West to be reappointed after the damage has been done in this matter, as sometimes happens when a public servant gets completely browned off and does not want to have any more involvement. I am always an optimist and I hope that has not happened to Mr West.

In view of the reference from the Minister, the Government might even say following this debate that it has reconsidered the matter and that Mr West will be reappointed for another five years so that he may continue his good work. The Christian Democratic Party has also received copies of the Council of Social Service of New South Wales media release dated 23 October headed, "NSW Government Failure to Re-appoint Roger West is Appalling". NCOSS says that it is not that Mr West does not want to be appointed but that the performance processes that were required for his appointment were not put in place, and that that could have been done on renewal of his appointment for another five-year period. The director, Gary Moore, highly recommended Mr West and said:

> Since its inception in 1993, the Commission, under Mr West, has developed into a forceful and highly credible agent to improve the services for vulnerable children, young people and people with disabilities in NSW.
>
> In the past two years, it has become apparent that some Ministers and bureaucrats have waged a campaign to obstruct the effectiveness of the Commission.
>
> Rather than honestly tackle disclosures of substandard and abusive disability and child protection services, they have now chosen to shoot the messenger . . .
>
> This is appalling treatment.

Mr Moore said that Mr West's reports have been forceful and highly credible and have upset the Government—if it was a coalition government it would have also been upset—because they were damaging. I do not believe that any of Mr West's reports were damaging, that his intentions were politically motivated or that he was trying to hurt the Government. Mr West was concerned for the welfare of vulnerable children, young people and people with disabilities under his charter and in accordance with his obligations.

Such people cannot say, "I had better not say that, it might hurt the Government", because their responsibility is for the people for whom they care—in this case vulnerable children, young people and people with disabilities. That may create tension between his role, the Government and the relevant Ministers. The advertisement on 24 October in the *Sydney Morning Herald* was in some ways a confirmation that the Government had rejected Mr West and would not reappoint him. I am not sure whether that was the first time he knew about that rejection. On 24 October Mr West stated:

> In the light of confusing publicity surrounding the question of my re-appointment for a second term as Commissioner for Community Services I wish to make the following clarifying statement.
>
> First, I emphasise that I hold the Minister for Community Services, Faye Lo Po', in high regard. Her achievements since she moved to this portfolio are to be admired. I also appreciate the public expression of confidence in my work that she has made.

Mr West is referring to the statement I made earlier. He continued:

> In May this year I was asked by Mrs Lo Po' if I would make myself available for a second term following the expiration of my current term in January 1999. Government procedures state that this requires a performance review to be conducted "at least 6 months prior to the end of the contract period" (ie, by end July) and that the "decision should be conveyed to the officer in a timely manner". Ms Lo Po' told me that my re-appointment had her support and that she would arrange with the Premier's Department to progress the matter.

Once a Minister says that a person has his or her support one would assume that a renewal of a contract would be a matter of procedure. However, Mr West continued:

> Despite oral and written requests for a resolution since that time, I could get none.

This process had been going on for some months. He continued:

> On 15 October, after waiting four and a half months, I advised the Minister that this uncertainty and a number of other matters in the portfolio had led me to the conclusion that government resolve was in doubt and that I was no longer prepared to make myself available for a further term.

In other words Mr West was willing to serve for a further term, he had no doubt that his performance review would have been positive, but because of a 4½-month delay he was getting a wink and a nod, perhaps the boot, out. Mr West was smart enough to realise that the Government had made a decision, and wondered whether he could work where he was not wanted and without the wholehearted support of the Government and the Minister. He continued:

> The Minister then asked me if I would reconsider my position in the light of certain matters she put to me. On Monday last (19 October) I wrote to her saying that I would be prepared to remain on certain conditions regarding the proper resourcing of the commission and if the matter of my reappointment was resolved within two weeks.

> I received no response to this letter until an officer of the Premier's Department telephoned my office asking for information to accompany an advertisement for my position, to be advertised in the weekend papers.

Mr West did not have to be a genius to work out what was going on, especially when the Premier's Department had taken over the responsibility for this matter. He continued:

> I have subsequently been advised by the Minister that my conditions would not be met.
>
> I wish to thank the many people and organisations who have expressed support for me and the commission since this matter arose. I have been stunned and fortified by the strength of their views. This support has come from government and non-government service providers and the unions as well as consumer groups. To me this demonstrates not only that clients of community services can see the benefits from our work, but that the very services and staff whom we monitor and investigate also clearly see our role as constructive.

Mr West said that even though his investigations may have been critical of what was happening in some services regarding some staff it was understood that his only desire was to be constructive. It appears that the Government has interpreted his actions as destructive or negative. There was a dramatic change in the Minister's attitude as reported on 26 October in the *Sydney Morning Herald* in an article headed "Lo Po's praise turns to attack", which states:

> Just two days after praising his "outstanding contribution", the Minister for Community Services, Mrs Lo Po', was yesterday criticising the Services Commissioner, Mr Roger West.
>
> Mrs Lo Po' accused the senior public servant, who was told on Friday that he would not be reappointed to the politically sensitive post, of making "outrageous" demands for additional funding for the commission.

Mrs Lo Po' is reported as saying that Mr West demanded that his budget be increased by $500,000. The press report indicated that in view of the support that Mr West received from the community, the department and the welfare sector, the Government had to try to find reasons for its decision, and desperately grasped for straws. As honourable members have said, this matter blew up in the Government's face. On 26 October Mr West issued the following statement:

> I wish to clarify an inaccuracy quoted in the Sydney Morning Herald today concerning the Community Services Commission's funding. It said that Minister Lo Po' has called my demands "outrageous" and "over the top". It says she claims our budget has gone from $2.1m in 1994/5 to $3.9m this year.
>
> This is inaccurate and misleading. The figures quoted include the Community Services Appeals Tribunal's budget in the latest year, but not in the first year, and they fail to make clear that the first year was a "set-up" year where the commission was not fully functioning and the Community Visitors scheme did not exist.
>
> The correct figures for the CAMA budget in 1994/95 and in 1998/99 are as follows:

	94/95 (actual net cost)	98/99 (projected)
Commission	$2.0M	$3.0M
Community Visitors	Nil	$0.5M
Tribunal	$0.4M	$0.4M
TOTAL	$2.4M	$3.9M

I support the motion moved by the Hon. Patricia Forsythe, to which I have moved the following amendment:

> That the motion be amended by inserting after paragraph 2 a new paragraph 3, as follows:
>
> 3. Confirms its confidence in the current New South Wales Community Services Commissioner, Mr Roger West.

[*The Deputy-President (The Hon. Dr B. P. V. Pezzutti) left the chair at 1.03 p.m. The House resumed at 2.30 p.m.*]

The Hon. R. S. L. JONES [2.30 p.m.]: We had the pleasure of meeting Roger West at a legislation meeting at 1.15 p.m.

The Hon. Dr B. P. V. Pezzutti: Is he in good spirits?

The Hon. R. S. L. JONES: I would not really say he is in good spirits.

The Hon. Dr B. P. V. Pezzutti: Is he disappointed?

The Hon. R. S. L. JONES: I would say he is disappointed. I, and I think other crossbench members, feel that he has been most effective and professional in his position as commissioner. I very much regret his treatment by the Government. It would appear that a series of misunderstandings have occurred under previous governments when someone who is due for reappointment is not advised about it. There is supposed to be a six-month lead-up to reappointment for an investigation to be carried out into the officer's performance. The time was ticking away for the commissioner, who had heard nothing. By the time he eventually heard something, he realised that time was running out.

The Hon. Franca Arena: He asked the Minister and she said she would reappoint him.

The Hon. R. S. L. JONES: He did ask the Minister. She was enthusiastic about him.

The Hon. Dr B. P. V. Pezzutti: She was white-anting him.

The Hon. R. S. L. JONES: No, I think she was genuinely enthusiastic about him, and she had every reason to be. He was clearly a very good commissioner. I do not think anyone could complain about him. It puzzles me, and I am sure it puzzles other members, why he was not automatically reappointed and why there was the great delay in informing him whether he was or was not to be reappointed. Did he eventually have to make a deadline himself? He is a highly professional man and needs to decide his career path if he is not reappointed.

The Government cannot afford to lose men of his calibre, particularly people in the position of Community Services Commissioner. It will be difficult for another person with the same professional capability to replace Mr West. These matters should be handled much more carefully. Professional people in the public service should be handled with kid gloves because the Government cannot afford to lose them to the private sector.

The Hon. D. F. Moppett: With care and integrity.

The Hon. R. S. L. JONES: I thank the Hon. D. F. Moppett. I stand corrected; with care and integrity certainly. I have seen nothing that would not warrant his reappointment. A comment was made about the $500,000 that he asked for, but I think honourable members are now well aware that that money was promised to him a couple of years ago. The amount was increased by $250,000 and he received a promise that it would be increased to $750,000 a year. He was doing a very good job about which no-one has complained, and that promise was made to him. Now the Minister for Community Services says it was a Packer-type demand. That is extremely insulting. It was not a Packer-type demand; it was a Carr promise. I am most disappointed. It is most appropriate that the Chamber is discussing the matter today. I move:

> That the question be amended by omitting all the words after "House" and inserting instead:
>
> > Confirms its confidence in the current New South Wales Community Services Commissioner, calls for his reappointment and calls on the Government to fund the commission in accordance with the findings of the review undertaken by the Premier's Department in December 1996.

My amendment is an expansion on the amendment of Reverend the Hon. F. J. Nile which confirmed confidence in the current Community Services Commissioner. I want to go a bit further than that. There is absolutely no reason why he should not be reappointed. He cannot be expected to reply to advertisements for his own job. That is absolute nonsense.

The Minister has to talk to the Premier immediately to sort out the matter, stop this nonsense and reappoint Mr West as commissioner, because everyone has confidence in him. If the coalition is elected in March I imagine that he will become commissioner again if the position is still available. I ask the House to support my amendment and I ask the Attorney General to convey to the Premier and to Cabinet our wishes that the commissioner be reappointed. The messing around should stop.

The PRESIDENT: Order! Because of the complexity and the number of amendments the Hon. R. S. L. Jones may have inadvertently said that his amendment is an amendment to Reverend the Hon. F. J. Nile's amendment.

The Hon. R. S. L. Jones: Madam President, you are right; I did inadvertently mislead the House. It is indeed an amendment to the amendment of the Hon. A. G. Corbett.

The PRESIDENT: I confirm that the amendment moved by the Hon. R. S. L. Jones is an amendment to the amendment of the Hon. A. G. Corbett. To assist the House, the amendment of the Hon. R. S. L. Jones is as follows:

> That the amendment of the Hon. A. G. Corbett be amended by the addition, at the end, of the following words:
>
> > calls for the reappointment of Mr Roger West and calls on the Government to fund the commission in accordance with the findings of the review undertaken by the Premier's Department in December 1996.

The Hon. PATRICIA FORSYTHE [2.41 p.m.], in reply: If the amendment of the Hon. R. S. L. Jones is an amendment to the Hon. A. G. Corbett's amendment it deletes all references to the Opposition's motion, and the Opposition would certainly oppose that. I should like to make that clear.

The Hon. J. H. Jobling: Madam President—

The PRESIDENT: On what basis does the Hon. J. H. Jobling seek the call?

The Hon. J. H. Jobling: I wish to speak to the motion of the Hon. Patricia Forsythe.

The PRESIDENT: The Hon. Patricia Forsythe has begun to speak in reply.

The Hon. J. H. Jobling: On a point of clarification, I believe the honourable member was seeking clarification. I also believe that she can speak a second time to a subsequent amendment without exercising her right of reply. That is an unusual debating ploy but it is normally allowed. In view of the confusion I beg your indulgence.

The Hon. J. W. Shaw: On the point of clarification. When the mover of a motion speaks on any aspect, however minor, he or she speaks in reply and closes the debate.

The PRESIDENT: Order! There was considerable confusion, but I deem the Hon. Patricia Forsythe to be speaking in reply.

The Hon. PATRICIA FORSYTHE: I shall continue my speech in reply. The confusion that arose a moment ago is what happens when the House tries to do something on the run for which notice clearly has not been given and the matter has not been discussed with honourable members. The Attorney General's contribution lacked some of the spirit he has shown in other debates. I felt that his heart was not in it as much as it has been on other occasions. The fact that other Government members did not seek to support him suggests perhaps that they agreed with what the honourable member for Heffron said last night.

I remind honourable members of a point made by the Attorney. First, he said that there was nothing unusual about advertising a statutory position when the current term expires. Indeed, there is nothing unusual about that. The Opposition was making the point—and this is the point of the motion—that the Community Services Commissioner, Roger West, in a discussion with the Minister for Community Services in May, was given to believe that the Minister had sufficient confidence in his capacity to do the job, that she wanted him to continue doing the job, and that she would move for a performance review. In May this year the commissioner understood that there would be a performance review. Indeed, in his statement he said that for 4½ months he made oral and written requests for clarification.

That is the issue; that is what is behind this whole debate. In May Commissioner Roger West was given to understand by the Minister that his performance was of such standing that she had confidence in his capacity to do the job. The Government's defence is that it got around to it in October, but by then there was a measure of unreasonable behaviour on the part of the Government. I was fascinated to hear the Attorney General say that the procedure had got under way. The first thing that struck me about the letter dated 8 October from Roger Wilkins, the head of the Cabinet Office, is that according to the date stamp it was not received in the Minister's office until 15 October. Apparently it takes a week for the Cabinet Office to convey messages to a Minister. In this day and age I should have thought that some procedure would be available and that it would take considerably less than one week for the Cabinet Office to convey a message of that importance to a Minister.

So the issue is not that the procedure got under way or that it looked like getting under way in October; but, rather, that for 4½ months Mr West was waiting to see what was happening. He could not consider his future because he had been given to believe that he was undergoing a performance review to be reappointed to his position. That is the issue at the heart of this debate. That is why I say to members on the crossbenches who are entertaining the notion of expressing confidence in the Community Services Commissioner that that is not good enough. That lets the Carr Government off the hook. If all that the Hon. A. G. Corbett, the Hon. Helen Sham-Ho and, inadvertently, the Hon. R. S. L. Jones do is express confidence in the Community Services Commissioner, they are sending the message to the Carr Government that it is all right to leave someone like the commissioner dangling for four months.

If those honourable members have confidence in the commissioner, surely they support his request for additional funding. I accept that the Hon. R. S. L. Jones is addressing that by way of his amendment, but I do not believe that the Carr Government should get off the hook not only for what it has done to this individual in the past few months but for the impression it conveyed to the community last Friday that Roger West did not want to be reappointed and that the onus of responsibility was somehow on him. Crossbench members who are thinking that way must not have heard the messages from the community or the views of the Council of Social Service of New South Wales, the Association of Child Welfare Agencies, the Forum of Non-Government Agencies, the State Network of Young People in Care, and people with disabilities, who have all said to the Government that what it has done to Mr West is not good enough and that it deserves some form of condemnation.

That is what the Opposition is doing in this motion. An individual who has been advised that he is to undergo a performance review and that he has the support of the Minister should not have to wait for 4½ months to be told that his performance is not satisfactory and that his position is to be advertised. By advertising that position without consulting the Community Services Commissioner, the Government is guilty of appalling treatment of an individual who deserves the highest respect and regard of all members of this House. That is why members of the Government have been silent on this issue.

In a most powerful address this morning the Hon. Franca Arena got it right. She spoke about a government that can find money for all sorts of things but apparently cannot get its priorities right. I was particularly taken by the comment that the Government can find money for all sorts of things, and I could not help but reflect that this Government can spend more than half a million dollars—that very amount that Roger West wants—on *Egan v Willis and Cahill* and on *Egan v Chadwick and ors* and any other frolic in the High Court that takes its fancy instead of getting on with the reality of helping young people and people with disabilities, and appropriately funding the Community Services Commission.

If members on the crossbenches do not support the Opposition's motion they will be allowing the Carr Government to get away with its appalling treatment of the Community Services Commissioner. With those words, I thank all honourable members who participated in this most interesting and spirited debate. I particularly acknowledge the speech of Reverend the Hon. F. J. Nile. In summing up the views of many of the interest groups he got it right: there is much anger in the community and members on the crossbenches who do not acknowledge that anger will do so at their peril. I am delighted to commend the motion.

Question—That the amendment of the Hon. R. S. L. Jones of the amendment of the Hon. A. G. Corbett be agreed to—put.

The House divided.

Ayes, 5

Mr Cohen
Mr Corbett
Mr Tingle
Tellers,
Mr Jones
Mrs Sham-Ho

Noes, 34

Mrs Arena
Mr Bull
Dr Burgmann
Ms Burnswoods
Dr Chesterfield-Evans
Mr Dyer
Mrs Forsythe
Mr Gallacher
Miss Gardiner
Mr Gay
Mr Hannaford
Mr Johnson
Mr Kaldis
Mr Kelly
Mr Kersten
Mr Lynn
Mr Macdonald
Mr Manson
Mr Moppett
Mrs Nile
Rev. Nile
Mr Obeid
Dr Pezzutti
Mr Primrose
Mr Ryan
Ms Saffin
Mr Samios
Mr Shaw
Mr Rowland Smith
Ms Tebbutt
Mr Vaughan
Mr Willis

Tellers,
Mrs Isaksen
Mr Jobling

Question so resolved in the negative.

Amendment of the Hon. R. S. L. Jones of the amendment of the Hon. A. G. Corbett negatived.

Question—That the amendment of the Hon. A. G. Corbett be agreed to—put.

The House divided.

Ayes, 18

Dr Burgmann
Ms Burnswoods
Mr Cohen
Mr Corbett
Mr Dyer
Mr Jones
Mr Kaldis
Mr Kelly
Mr Macdonald
Mr Obeid
Mr Primrose
Ms Saffin
Mrs Sham-Ho
Mr Shaw
Ms Tebbutt
Mr Vaughan

Tellers,
Mrs Isaksen
Mr Manson

Noes, 20

Mrs Arena
Mr Bull
Dr Chesterfield-Evans
Mrs Forsythe
Mr Gallacher
Miss Gardiner
Mr Gay
Mr Hannaford
Mr Kersten
Mr Lynn
Mrs Nile
Rev. Nile
Dr Pezzutti
Mr Ryan
Mr Samios
Mr Rowland Smith
Mr Tingle
Mr Willis

Tellers,
Mr Jobling
Mr Moppett

Pair

Mr Johnson Dr Goldsmith

Question so resolved in the negative.

Amendment of the Hon. A. G. Corbett negatived.

Amendment of Reverend the Hon. F. J. Nile agreed to.

Motion as amended agreed to.

MOTOR ACCIDENTS AMENDMENT BILL

Second Reading

Debate resumed from 27 October.

The Hon. B. H. VAUGHAN [3.10 p.m.]: The Standing Committee on Law and Justice, which I chair, welcomes the introduction of the Motor Accidents Amendment Bill. Honourable members know that over the past two years the committee has been conducting an in-depth inquiry into the motor accidents scheme. This has revealed that a number of areas of the scheme require reform.

The terms of reference of the inquiry specifically directed the committee, first, to examine and report on the role of insurers participating in the scheme; second, to examine the accountability and oversight mechanisms of insurers and the Motor Accidents Authority under the scheme; and, third, to examine the concerns of insurees, the level of claims and compensation, as well as legal fees and other such matters as the committee finds appropriate.

I am therefore very pleased that some of the key recommendations of the committee's interim reports of this inquiry have been reflected in this bill. I note in particular that the Government has taken up the challenge of improving financial accountability in the scheme. In the first year of its inquiry the committee focused on, among other things, the financial accountability mechanisms in the scheme. As the New South Wales comprehensive third party insurance scheme is funded by a compulsory levy on the motoring public of New South Wales, the question had to be asked whether the financial reporting and information available specifically in relation to the scheme was adequate, given the fundamental, social, economic and political importance of the scheme.

The committee examined a number of weaknesses and gaps in the financial reporting of the compulsory third party—CTP—scheme. The committee was frequently taken aback by the lack of accessible and objective financial information on the overall performance of the motor accidents scheme in New South Wales, given the various claims that had been made about the profitability of the scheme in 1994. Therefore, the committee came to the view in 1996:

> Objective and accessible information concerning the overall financial performance of the CTP scheme in New South Wales must be available to the New South Wales Government, members of Parliament, the media, interest and lobby groups, and to the public at large, to enable sensible and accurately informed responses to any claims made concerning the finances of the scheme, and/or the need for legislative reform.

Not surprisingly, the committee faced a great deal of resistance from the insurance industry in relation to financial accountability reform. Representatives of the CTP insurers were determined to convince the committee that the overall profitability of the scheme could not be measured in a meaningful way. This was so even though the committee was well aware that each insurer utilised notional allocations internally for the purpose of determining or predicting profit and loss levels for its own CTP business.

In addition, at the beginning of the inquiry the committee was shown a graph by John Trowbridge, an actuary, on behalf of the Institute of Actuaries of Australia, which set out the approximate financial results for the industry. These results included the estimated profit and loss in the scheme over the life of the scheme until the 1994-95 accident year. Honourable members can find this graph reproduced at page 27 of the committee's interim report. In 1995 the CTP insurance industry relied on these estimates to claim that legislative reforms were necessary to raise the threshold for access to non-economic loss under the scheme, as the CTP industry was suffering substantial losses overall.

The committee recognised the inherent difficulties in the accurate calculation of the levels of profit and loss in the scheme for a number of reasons, including the lack of certainty in long-tail insurance business in relation to liabilities incurred, the element of guesswork in calculating the provisions made for outstanding liabilities, the variable use of prudential margins between CTP insurers, fluctuation returns on investment income, and the difficulty in accurately quarantining CTP capital and investment income from the overall capital and investment income of the particular general insurer.

Nevertheless, claims were being made and are still made about the finances of the scheme, and objective information must be available to enable such claims to be properly tested and scrutinised. Therefore, the committee was very interested to learn from a leading insurance accountant that it would be possible to compile meaningful CTP financial information on an industrywide basis. Mr Leigh Minehan, a partner at Coopers and Lybrand, informed the committee in a letter dated 20 November 1996 that the underwriting result for the scheme could be calculated on the basis of information either already available to the Motor Accidents Authority or otherwise available in the marketplace. Mr Minehan stated:

> The Motor Accidents Authority has sufficient information from the licensed CTP insurers to determine the industry's earned premium pool for any particular period. Similarly, the MAA receives considerable statistical data on claims to allow the valuation of outstanding claims on an industry wide claims expense. An advantage of calculating an outstanding claims provision on an industry wide basis is that it will take out any inherent inconsistencies which occur between the actuarial claims valuation assumptions and methodologies employed by the respective licensed insurers.

In his letter to the committee Mr Minehan continued to detail how methodologies could be employed to overcome some of the difficulties inherent in calculating the overall profitability of the scheme. He noted that an industrywide prudential margin could be agreed upon based on the whole scheme's claims experience. He noted also that investment income over the whole scheme could be determined in a meaningful way, by applying risk-free rates, as represented by yields on government and semi-government bonds, to the average balance of technical provisions, that is, unearned premiums and outstanding claims over the relevant period.

In its interim report of December 1996 the committee therefore recommended that the Motor Accidents Authority and the Insurance Council of Australia investigate the best option of collating an industrywide analysis of the financial performance of the scheme, which would be tabled before Parliament in a CTP annual review. In this regard the committee recognised in the recommendations that the industrywide analysis was to be treated as public interest information only and it should be consulted as the best guide to the overall financial performance of the scheme at a particular point.

Further, in the course of examining the financial accountability of the scheme, the committee was somewhat surprised to discover that sections 112 to 115 of the Motor Accidents Act were substantially misleading as to the powers and practices of the Motor Accidents Authority in relation to the supervision of licensed insurers. For example, section 112 refers to an insurer's investment of third party funds. The committee received correspondence dated 15 October from Mr Dallas Booth, the immediate former general manager of the authority, stating, "There are no specific CTP funds because CTP premiums are not distinguished in any way from other general insurance funds." Further, section 113 provides that a licensed insurer shall lodge with the authority quarterly returns in relation to the business or financial position of the insurer. It also enables the authority to make publicly available a copy of any return.

In the same correspondence Mr Booth noted that this section does not apply as "there are no prescribed quarterly returns under section 113 . . . the MAA monitors insurer insolvency using copies of the Insurance and Superannuation Commission insurance returns". Finally, given the serious nature of claims made about the finances of the scheme, the committee was shocked to learn that sections 114 and 115 had never been utilised by the authority. Section 114 provides the authority's board of directors with the power to appoint an independent auditor to inspect and report to the board on records relating to the business or financial position of a licensed insurer. The section also refers erroneously to third party funds.

Section 115 provides the authority with further powers in relation to the disclosure by insurers of financial information. Mr Booth in correspondence noted, "To date, the MAA has not exercised its powers to appoint auditors or inspectors. Sections 114 and 115 might be regarded as reserve powers of the MAA, for use in the case of real concern as to the financial position of licensed insurers." As Chairman of the Standing Committee on Law and Justice, I welcome the strengthening of section 115 under this bill. Honourable members will note the extension of the authority's powers to the collection of information about the costs of claims handling and about the settlement of matters as well as to the collection of information for the specific purpose of consideration by the authority of premiums filed.

However, I emphasise the committee's concerns that further reforms are needed in relation to sections 112 to 115 to establish accurately and clearly the powers of the MAA. The powers of the authority in relation to the disclosure of financial and related information are crucial if financial accountability and monitoring is to be a meaningful exercise under this legislation. The provisions currently establishing the authority's powers in this regard are either misleading or incorrect or they are not being properly utilised by the authority. I

encourage the Government to further examine the accuracy and clarity of those sections as well as seriously consider the potential for the preparation of information in the public interest on the overall finances and profitability of the scheme on an annual basis.

The Standing Committee on Law and Justice strongly welcomes and supports the provisions under the bill that will empower the MAA to expose inappropriate behaviour by insurers in the scheme. The capacity for such exposure is clearly in line with the philosophy and particular recommendations of the committee's interim report for this inquiry, particularly in the areas of general accountability, insurer compliance with obligations under the Act and the proper treatment of claimants under the scheme. For example, recommendation 25 of the committee's interim report of December 1996 in relation to the complaints handling mechanisms in the scheme states:

> The Motor Accidents Authority be given specific powers to collect information and statistics (in relation to the scheme as a whole as well as in relation to the individual licensed CTP insurers) on the number of complaints and their resolution under the internal and external dispute resolution mechanisms. These statistics should be published by the Motor Accidents Authority in the CTP annual review.

New section 132C will broadly empower the authority to report to the Minister in relation to insurer compliance with any requirements under the Act, the code of practice for claims handling prepared under the Act, and any conditions of licences granted under the Act, and about complaints made about insurers. I strongly welcome also the proposed power of the authority to recommend the tabling of a report in the Parliament.

I believe that this section will have the capacity—if fully and properly implemented by the authority—to effect a significant rebalance of power in the scheme between insurers and claimants in favour of the proper treatment of claimants. Such proper treatment includes the speedy, sensitive and competent handling of claims and the speedy, fair and reasonable provision of interim payments for medical and rehabilitation services as required under section 45 for a seriously injured motor accident victim before final settlement is reached.

I address specifically the very important issue of section 45 of the Motor Accidents Act, which this bill proposes to amend. I have previously spoken at length in the House on the Stubbs case. That case exposed deficiencies in the process for the proper and fair provision of interim payments for motor accident victims when liability has been admitted and before a final settlement or determination is reached. The Attorney General in his second reading speech referred to the minor amendment that clarifies that section 45 payments extend to attendant care. I welcome this amendment, and note that in the view of the committee it is certainly not a minor amendment.

In public hearings recently conducted by the committee evidence was put forward that section 45 was originally drafted to exclude specifically interim payments for attendant care. However, the provision of funding for the attendant care needs of a seriously injured motor accident victim is absolutely essential for that person's rehabilitation. In the case of a seriously injured infant or child such as Jackson Stubbs—who was several months old—section 45 funding may be required for many years, as the final compensation amount cannot be properly determined until the child has matured and it is clear how extensive and serious the injuries are.

The committee welcomes the provision in the bill for the arbitration of section 45 disputes. In the course of the inquiry into the motor accidents scheme the committee considered the issue of the resolution of section 45 disputes. The decision of the New South Wales Court of Appeal in the Stubbs case made it clear that a motor accident victim has no private access to the courts for the purpose of enforcing an insurer to meet properly its statutory duty under section 45. This was essentially a result of section 118A of the Act, which states that no proceedings may be taken against a licensed insurer for failure to comply with the terms of the insurer's licence or the Act, except by the authority.

The decision in the Stubbs case has effectively left motor accident victims at the mercy of the insurer's discretion as to what constitutes reasonable and necessary payments for the medical and rehabilitation care needs of the victim, with no method for review of such a decision. This is clearly not a satisfactory situation. Indeed, it is well known that the three justices of the Court of Appeal in the Stubbs case found this situation to be unjust and worthy of the Government's immediate attention.

Therefore, in the second interim report for the inquiry of December 1997, in the wake of the decision of the Court of Appeal about Stubbs, the committee recommended that the Motor Accidents Authority give urgent consideration to the development of means by which disputes about what constitutes reasonable and necessary services or payments under section 37 or section 45 of the Motor Accidents Act may be quickly and finally resolved. The Motor Accidents Authority has

responded by establishing an interim procedure for the resolution of section 45 disputes. However, a permanent and objective forum for the ultimate resolution of such disputes is clearly warranted.

Given the importance of section 45 to seriously injured motor accident victims, at this stage I would like to put the House on notice that the committee will be considering section 45 in further detail in its final report for the inquiry into the Motor Accidents Authority. This report will be tabled in the House in November. It is planned that the committee will be considering an alternative process for the resolution of section 45 disputes that is more closely aligned to the expert and objective assessment of the victim's needs at first instance before arbitration is even considered. Such a process could provide a quicker, fairer, more accurate and less costly method of determining what is "reasonable and necessary" under section 45. In this sense, the committee has been inspired by the model for the assessment of such needs which is in place in Ontario, Canada.

This is a matter specifically examined by Reverend the Hon. F. J. Nile, the Hon. Helen Sham-Ho, Ms Vicki Mullen and me last year. This model is known as the scheme of designated assessment centres which involves recognised centres of expertise in the assessment of a motor accident victim's medical, rehabilitation and attendant care needs. In recent hearings before the committee both the Motor Accidents Authority and the NRMA have indicated their preliminary support for such a model, and both organisations are currently considering in detail the potential application of the designated assessment centres model in the New South Wales Motor Accidents Authority.

Further information about the Ontario designated assessment centres is attached as appendix 3 to the committee's second interim report for this inquiry of December 1997. I note that such assessment centres could even have a role in the efficient and less costly provision of expert assessments relevant to the final determination of the quantum of damages in a motor accident case. In this regard, the House is well aware of the cost and difficulties associated with the provision of expert medical evidence in the adversarial setting of the courtroom, particularly where non-demonstrable injuries such as whiplash are involved.

I would now like to address the issue of the early settlement of motor accident claims, and the role of alternative dispute resolution, for which the bill makes detailed provisions. As honourable members may be aware, the main reason for the delay in the preparation of our final report for its inquiry into the motor accidents scheme has been the focus of the final phase of the inquiry on the issue of legal costs in the scheme. This issue has obviously generated a level of controversy over the last 18 months. The committee has waited for the release of important empirical research in this area that has been conducted by Professor Ted Wright and his team at the Justice Research Centre.

The report of this research was publicly released and tabled before the committee on 11 August 1988. During a public hearing on that day, the committee gave all of the key interest groups the opportunity to address the findings of the report. I do not propose to cover the detail of the report or the hearing at this moment. However, I note that one of the key directions that arose out of the report was the need to focus less on the actual legal fees being charged within the context of the scheme and to focus instead on the levels of legal activity within the scheme.

In this sense there was a clear and general consensus at the public hearings of the committee on 11 and 12 August that the litigation rates in the scheme must fall. There is a clear need for more cases to be settled early, and I emphasise that they need to be settled before the commencement of litigation. One of the most fascinating findings in the report of the Justice Research Centre was that average legal costs in claims in which litigation is commenced are more than 10 times the average costs in claims in which disputes are resolved without litigation, and that a reduction in the current litigation rate of 50 per cent and 40 per cent could result in substantial savings in legal costs of anything up to $20 million statewide.

For this reason the committee applauds the clauses in the bill that provide for mandatory offers of settlement to be made by both parties before conciliation and/or litigation can be commenced. These offers are to be made based on a written notice of particulars provided by the claimant to the insurer. Under the bill this notice is required to provide sufficient detail to enable the insurer to make a proper assessment of the claimant's full entitlement to damages. I note that in the event of mutual rejection of offers of settlement the bill provides for the compulsory conciliation of a matter if a determination is made by the motor accidents claims assessment unit that the matter is suitable for conciliation.

I welcome the clauses in the bill that link the allocation for the burden of legal costs to the relevant decisions of either party to reject what

prove to be reasonable offers of settlement or the reasonable assessment of a conciliator. The current situation is that if a motor accidents case is judicially determined, and a plaintiff receives a judgment for damages, a costs order will normally be made in favour of the plaintiff according to the costs indemnity principle, irrespective of any offer of settlement. The model for the allocation of legal costs between the parties under this bill represents a substantial departure from the costs indemnity principle, and it will therefore provide a particular incentive for the plaintiff and his or her lawyer to seriously consider accepting reasonable offers of settlement or the assessment of the conciliator if agreement is not reached at a conciliation conference.

In this regard I note that the terminology in this bill relating to conciliation may be somewhat misleading, given that it is proposed that conciliators will have the power to make an assessment of the case and to specify an amount of damages in the absence of agreement at the conciliation conference. I also note that the increased costs incentive for the plaintiff and his or her lawyer to accept reasonable offers of settlement or assessments made by a conciliator is somewhat balanced by the provisions in the bill that provide for the disclosure by the individual insurers of information to the Motor Accidents Authority concerning the settlement of claims by the insurer. I also note that the bill proposes to give the Motor Accidents Authority the power to make it a condition of an insurer's licence that it meets specified levels of early resolution of claims.

I am sure that the combination of the above proposals should provide for a higher pre-litigation settlement rate in the motor accidents scheme. This outcome would be a particularly positive development in the scheme. It obviously has the potential to reduce the costs of the scheme. It also has the potential to make the assessment and the determination of motor accident disputes less stressful and traumatic on victims and their families. The House will be well aware of how stressful the process of litigation can be, particularly where a victim and his or her family are already suffering from severe stress and grief.

However, I wish to express some concern in relation to the proposal for compulsory conciliation. As a preliminary aside, it has been suggested to the committee that compulsory conciliation or compulsory mediation is somewhat of an oxymoron. On a more serious note, the committee is aware that the dispute resolution process can be used by determined insurers in particular cases to wear a plaintiff down, exhaust their patience and their financial reserves, and thereby force the plaintiff to accept an unreasonable offer.

As the model for the allocation of legal costs under this bill provides no further costs incentive for insurers to resolve claims early, I would encourage the Government to examine the issue of a more lengthy dispute resolution process being used as a powerful bargaining weapon against a plaintiff. In this sense the use of the resolution process with the added stages of assessment and conciliation could substantially add to the cost of a particular claim if the insurer is determined to have a matter go to court. It is well known that it is standard practice for some insurers to resist all chances of early settlement and litigate the majority of their claims.

I congratulate the Government on this bill and encourage all honourable members to maintain a close interest in future developments in the motor accidents scheme. The compulsory third party scheme plays a vital and sensitive role in our society. The scheme not only protects individual citizens from the potentially disastrous financial consequences of being the unsuccessful defendant in a serious claim; it also provides compensation for the needs of those insured on our roads, with a particular emphasis on the ongoing needs of the seriously injured. I have been comforted today by the presence of Miss Vicki Mullen, the senior project officer of the committee, and by a distinguished representative of the Insurance Council of Australia.

The Hon. Dr B. P. V. PEZZUTTI [3.41 p.m.]: I listened carefully to the erudite contribution of my colleague the Hon. B. H. Vaughan, who has had access to the resources of the entire committee of which he is chair. He has done much good work in this area. I was disappointed that he did not take the opportunity to mention the good work that has been done by the Motor Accidents Authority in trying to improve the quality of medical and other treatments. I know that that is part of the report, because I have read it carefully. The contribution by Professor Nick Bogduk from the University of Newcastle was heavily funded by the MAA and the work done by him and his team was outstanding.

As a result of their work the pain and suffering of a large number of people may be reduced and their quality of life may be substantially improved, particularly with whiplash injuries—therefore, the costs of this scheme will drop. The costs of the scheme will be reduced by the investment of the MAA more than it will following this legislation. The previous Government had faced

a market failure of the former CTP scheme; that scheme was $1.5 billion in debt. The scheme introduced by the previous Government is now going through a second series of amendments. Earlier the MAA had to borrow $1 billion from Treasury, and that loan is currently being serviced by a $43 levy on vehicle registrations. The legislation will scrap that levy.

How will that $1.5 billion be paid off? How will that money be recouped? CTP insurance has increased from $239 under the previous Government to a minimum of $430, and the premiums are not equitably spread. The average cost of a claim is now $42,000 and there are $250 million in claims outstanding. This legislation will not necessarily improve the health of the scheme, but it may improve its operation. I am encouraged by the approach to alternative dispute resolution which has been taken by the Government. It is not an oxymoron, but it is a contradiction in terms to have compulsory conciliation. It is a reasonable attempt to help people understand that it is far better to have early settlement than to go through the disabling process of court action.

However, the insurance companies have their own means of discretion in setting the rates that apply to an individual for compulsory third party insurance. The main reason for my contribution is my concern about the enormous gap between the premiums extorted from the people in western Sydney and that paid by people in the inner city. My research officer approached the MAA and AAMI and gave the example of a 27-year-old female living in Lemongrove who drives a 1985 Toyota Camry. The quote for CTP by AAMI was $538, the base premium being $467. In contrast, a 32-year-old female living in Surry Hills, postcode 2010, driving a 1994 Daewoo, who held other insurance with that company, was quoted $397.

That is a difference of $167, almost 50 per cent, between one insurance company and another on the same base premium of $467. My research officer, to whom I am indebted, also said it is impossible to shop around for insurance in western Sydney because there is no insurance company agency in western Sydney. They do not want the business! Once people get insurance with that company they happily stay with that company and renew each year by post. My research officer ascertained that AAMI is the cheapest insurance company for CTP, and the most expensive was Mercantile Mutual. The difference in premiums for a 27-year-old female from the western suburbs driving an aged car and a 32-year-old female from the inner city driving a newer car is 50 per cent—an enormous difference!

Under the legislation insurance companies are entitled to have a gap of 15 per cent, plus or minus, and they use it. Worse examples involve young males. We have a long way to go to achieve an equitable system under which a person who is injured or involved in an accident will receive some compensation, and have certainty in the system. I am pleased that that certainty will remain, but I am concerned about the inequity of the system toward people who need to have the cheapest premiums—and they are not getting cheap premiums. More importantly, I am distressed by the dishonesty of the Government. It trumpeted this legislation as offering cheaper third party premiums. What a cruel hoax on the people of western Sydney, on young people and on taxpayers.

The Government knows that this legislation will not even cause a pause in the rising cost of third party insurance, unless we get better treatment or have fewer accidents. Although we now have fewer accidents and the number of claims is lower we still experience a rising cost of the scheme. The Government has not looked seriously at other ways of reducing costs. I appreciate the imposition on the Independent Pricing and Regulatory Tribunal of having to investigate what insurance companies are doing and how they estimate their cost rises. However, the process is not equitable or fair. At the end of the day this legislation will not lead to cheaper insurance rates. The Government should be condemned for the huge, almost double, costs experienced since 1995. The legislation will not put a serious dent in the continuing rise of insurance unless the Government takes further steps.

Reverend the Hon. F. J. NILE [3.50 p.m.]: The Christian Democratic Party supports the Motor Accidents Amendment Bill, which will amend the Motor Accidents Act 1988 so as to rationalise the objects of the Act, by incorporating a number of amendments, but particularly to revise the procedures to be observed in dealing with claims for damages in respect of the death of or injury to a person caused by the fault of the owner or driver of a motor vehicle, particularly in the areas of initial handling of claims, referral of disputes about claims to conciliation, and commencement of court proceedings in connection with claims.

Object (e) of the bill is to provide for payment of conciliation and court fees as determined under regulations; and object (f) is to establish a motor accidents claims assessment unit, which is to include a conciliation service comprising conciliators. The Christian Democratic Party supports that objective, even though, as the Hon. B. H. Vaughan said, the inquiry into legal costs did not damn the legal profession as much as many people expected.

However, legal costs remain a major factor in cases involving motor car accidents.

The Australian Plaintiff Lawyers Association acknowledges that legal fees make up $48 of an average premium of $400, or 13 per cent of the cost of a green slip. That figure does not comprise legal costs only but includes insurers' administrative and investigation costs and payments for medical reports. The increases cannot, therefore, all be blamed on legal costs. However, 13 per cent is not a small percentage. There is concern also about whether some payments for medical reports are excessive and costs are higher than they should be because some people might consider their claims just another insurance claim. The Christian Democratic Party supports that objective of the bill that makes provision for conciliation and pre-conciliation procedures, which must reduce legal costs if availed of prior to litigation. Schedule 1[21] will insert a new division 3A into part 5 to provide a new procedure for conciliation of claims where liability is admitted. The explanatory note to the bill sets out the procedure as follows:

(a) The insurer is under a duty to make an offer of settlement within 3 months after the notice of particulars is given under proposed section 44C.

(b) The claimant is under a duty to accept the offer, or make a counter-offer, within 4 weeks.

The time limit means that both the insurer and the claimant will have to act promptly in the matter. The explanatory note continues:

(c) The insurer is under a duty to accept or reject the counter-offer within 4 weeks.

(d) If the counter-offer is rejected, either party may refer the dispute to the Motor Accidents Claims Assessment Unit for conciliation.

That unit then plays its role. The explanatory note continues:

(e) The Unit is to screen the dispute and either refer it for conciliation, or issue a certificate if it decides that the dispute is not suitable for conciliation (enabling court proceedings to be commenced).

That is when the heavy expenditure will occur. Thirteen per cent of $400 adds up to millions of dollars in legal expenses on the whole of the green slip costing. The explanatory note continues:

(f) A matter referred to conciliation is to be the subject of an assessment by a conciliator.

(g) If the conciliator's assessment is rejected by either party, the conciliator is to issue a certificate that the conciliation has failed (enabling court proceedings to be commenced).

(h) The matter can be settled at any stage during this procedure.

The new division adopts some of the concerns expressed by the Law and Justice Committee, of which I am a member, in its interim report, "Motor Accidents Scheme Compulsory Third Party Insurance", Report No. 3, which was ordered to be printed on 9 December 1996. The committee is pleased that the Government has taken note of the recommendations from that part of the inquiry, which has been an ongoing one. Now that some authoritative material has been received on legal costs it would appear that, although major, they are not as large a factor as some had thought. I note that the Government is confident in the statements it has issued about the bill that there will be some lowering of green slip costs. However, in a letter dated 15 October 1998, Alan Mason, Chief Executive of the Insurance Council of Australia Ltd, wrote to me:

> You will be aware that the Premier and the Attorney-General have foreshadowed amendments to the Motor Accidents Act aimed at reducing the cost of Greenslips in NSW.
>
> The proposed changes were not discussed with the insurance industry prior to the public announcement, and based on a last minute briefing, it is difficult to see these changes having anything but a marginal impact on CTP premiums. The ICA's media release is attached.
>
> Of most concern to CTP insurers is a proposal to give the Motor Accidents Authority greater regulatory powers and greater access to financial information about insurers in determining whether to accept or reject a premium. It is difficult to know what information is not already available.
>
> The MAA already receives comprehensive actuarial, statistical and financial information to assist it in determining if an insurer's premium filing is reasonable. It must ensure that any profit is not excessive and that the cost of claims is fully funded, something which did not happen when CTP was a government-run monopoly and which left taxpayers with a huge debt.

Honourable members know all about the massive debt from the GIO, and many citizens of New South Wales still have a surcharge of $45 on their registration to cover it. My concern is that nothing should be done that jeopardises the scheme so the Government is forced to take on the scheme if the private insurers feel it is unworkable because, from their point of view, it would not provide profits and could cause the companies great losses. No company would be prepared to take that risk; each would have to consider whether it should continue as a CTP scheme insurer. I think that some insurers remain because they wish to provide a comprehensive range of services to clients.

To companies like the NRMA, which covers many areas of insurance and has two million or more members, CTP insurance is a major factor. It would not wish to be placed in a position where it could not provide that insurance cover. But it is carrying a big load at present and, with the pressures to always be financially viable, it could be under pressure to consider its future role in CTP insurance. The Insurance Council of Australia Ltd went on to say in its letter of 15 October:

> As you know, the process for review of CTP premiums has been scrutinised by the Legislative Council's Standing Committee on Law and Justice and the Committee has recommended that the process is appropriate and should continue.
>
> If these amendments mean that the Government is moving back towards political interference in the pricing mechanism, which would not allow insurers the freedom to price the product to cover claims, administrative costs and a reasonable profit, then the viability of the scheme would be under threat.

That is the point I was making. The letter concluded:

> The Insurance Council has asked to see the detail of the bill as soon as possible. If our concerns are not allayed, I will be seeking to discuss the matter further with you.
>
> If you have any further questions . . .

The letter seems to contain some criticism of the Government. According to the second paragraph, as at the date of the letter the ICA had not seen the detail of the bill. I believe that the Government has to have extensive consultation with the insurance industry to secure the viability of CTP insurance. The Australian Plaintiff Lawyers Association, which supports the bill, expressed a concern that I share in a letter dated October 23, which it sent to me, and I assume other crossbench members. One of its strong points is:

> **What is both costly and unwelcome is the unwillingness of insurers to reduce their huge reserves and to settle claims realistically.**
>
> Since 1995, the level of premiums annually has been greater than insurer annual costs. An estimate of total premium receipts of $1.4 billion as against total liabilities of $600 million was made for one year.

This maintains one of the greater myths associated with the compulsory third party scheme. Critics of insurance companies continue to look at the premium and output figures for one year although they are irrelevant. Insurance companies must take into account that premiums for one year are not paid out for accidents in that year; it may take another year, five years or even 10 years to pay out premiums, especially for accidents involving children. Expert insurance assessors must try to calculate what amount will be paid out in claims in two years, five years or 10 years. If the premium and payout figures for one year were the same, the scheme would be bankrupt because there would be no reserves for payouts in future years.

Pursuant to sessional orders business interrupted.

DISTINGUISHED VISITOR

The PRESIDENT: I acknowledge the presence in my gallery of David McNeil, the Clerk of the Legislative Assembly, Alberta, Canada.

QUESTIONS WITHOUT NOTICE

SUPREME COURT BACKLOG TRANSFER

The Hon. J. P. HANNAFORD: My question is directed to the Attorney General. Is it a fact that the transfer of matters from the Supreme Court to the District Court which occurred under recent legislative reforms has not been fully funded? Given the continued crisis throughout the court system and the threatened decline in rural justice services, what action will the Attorney take to rectify the situation?

The Hon. J. W. SHAW: I do not accept that the transfer of civil matters from the Supreme Court to the District Court has not been fully funded. Indeed, my advice from the Chief Judge of the District Court is that the backlog of those matters is being dealt with expeditiously and properly, and there are adequate resources to deal with the backlog. This is a historic achievement. It means that cases that have been languishing in Supreme Court lists for years are now being dealt with. The Law Society is very happy. In a letter to me the Law Society stated that it supports the acting judge program because for the first time in decades clients' cases are being heard promptly.

The Hon. Dr B. P. V. Pezzutti: They are not being finalised.

The Hon. J. W. SHAW: They are being finalised—that is the point. As at 1 August 1998, 3,055 matters had been transferred from the Supreme Court to the District Court following the District Court Amendment Act 1997. Of that number, 1,074, or 35 per cent, have been finalised and 693, or 23 per cent, have been listed for hearing before either the court or an arbitrator before the end of this year. It is interesting to note that 504 of the

matters transferred have been listed for directions hearings. This means that 16 per cent of the transferred matters were not ready to proceed to a hearing, despite having been called over twice by a registrar of the court.

The Chief Judge has allocated sittings on the basis of seven judges per week dealing specifically with transferred matters for the remainder of the year. Listing dates for this year have not yet been exhausted. Arrangements have been made to accommodate the hearing of complex matters which require daily transcripts. That is good news. The Government has achieved a massive reduction of the backlog in civil lists. For the first time in my memory of the legal system in New South Wales action is being taken to have old cases dealt with either through settlement or a trial.

INTERNATIONAL YEAR OF OLDER PERSONS

The Hon. DOROTHY ISAKSEN: I direct my question without notice to the Acting Leader of the Government. Can the Minister give details on how the International Year of Older Persons will be promoted throughout New South Wales?

The Hon. R. D. DYER: I thank the honourable member for her interest in this issue, despite her comparative youth. At the beginning of the month Premier Bob Carr announced the appointment of 10 ambassadors to promote the International Year of Older Persons. They include the aviator Nancy Bird Walton, the conservationist Vincent Serventy and the Aboriginal activist Chicka Dixon. The Premier also announced the release of the New South Wales healthy ageing framework aimed at long-term change to improve the lives of older people.

The Hon. Franca Arena: Who are the other ambassadors?

The Hon. R. D. DYER: The honourable member should be patient because I will enumerate the other ambassadors. They will be out in the community telling everyone about the great contribution seniors have made, and continue to make, to our society. Older people make an enormous contribution to the development of New South Wales. Participation in the International Year of Older Persons will help change attitudes and look at long-term change for older people. Highlights of events for the year include an extended seniors week from 17 to 30 March 1999.

The Hon. Franca Arena: Is that because of the State election?

The Hon. R. D. DYER: It has nothing to do with the election; it is for the International Year of Older Persons. Clearly, it is appropriate in a special year to celebrate and recognise the contribution of older people with an extended seniors week. The Premier's seniors achievement awards will be held on 21 July next year, and a grey mardi gras, that is, a street parade and other events, will be held on 1 October next year.

The Hon. Dr B. P. V. Pezzutti: Beryl Evans is a living treasure. Why wasn't she appointed?

The Hon. R. D. DYER: I respect Beryl Evans. Obviously, she is welcome to participate in the grey mardi gras and other activities. Another event is the meeting of generations, which is a national conference at Darling Harbour on 15 and 16 November next year. The Hon. Franca Arena asked me about all the ambassadors. I shall now enlighten the House in that regard. Margaret Bell is recognised as a world leader in the field of volunteering—I am sure she will be well known to Madam President—and recognised in the area of citizen action generally. Recently she retired from her position as executive director of the volunteer centre in New South Wales. Nancy Bird Walton is a popular pioneer aviatrix in Australia—

The Hon. Dr B. P. V. Pezzutti: She's an aviator.

The Hon. R. D. DYER: I do not want to be sexist. Nancy Bird Walton is an aviator, an author and a seniors activist. Betty Churcher, who recently retired from her position as Director of the National Gallery of Australia, is an art critic and television presenter. Chicka Dixon has been instrumental in establishing many of the organisations dedicated to Aboriginal social justice and advancement throughout Australia. Professor Fred Ehrlich is an orthopaedic surgeon with extensive involvement in gerontology and geriatric services. Justice Elizabeth Evatt is a prominent barrister and member of the United Nations Human Rights Commission. She was awarded a human rights medal in 1995 and is an active campaigner for women's rights.

Bruce Harris is the brother and manager of Rolf Harris and is actively involved in the arts. He was instrumental in setting up the New South Wales schools spectacular and talent development schemes. Beryl Ingold has lived and worked in Cootamundra since she was eight months old, and has played a major role in agricultural education and development. Vincent Serventy is a conservationist and a member of the Australian Heritage Commission. Last but by no means least is the Reverend Sir Alan Walker, Methodist leader and

international peace activist. I am sure the House will join with me in wishing these 10 ambassadors all the best as they work to dispel the incorrect perception of older people as people beyond their prime.

RICE INDUSTRY

The Hon. R. T. M. BULL: I address my question without notice to the Minister for Public Works and Services, representing the Minister for Agriculture, and Minister for Land and Water Conservation. Further to my question last week regarding the vesting powers of the rice industry in an emergency meeting that occurred between Minister Amery and rice industry representatives, will the Minister guarantee that the vesting powers of the Rice Board will be maintained for the next five years?

The Hon. R. D. DYER: I addressed this matter in detail during question time recently and I pointed out that this Parliament has actual legislation to give effect to the vesting powers that the Deputy Leader of the National Party spoke of in the rice industry. Much to the discomfiture of the Opposition, I referred also to the fact that under the national competition policy guidelines, New South Wales is likely to incur what might be described as a financial penalty in the sum of $10 million. The plain fact is that this Parliament has legislated in the direction that the honourable member mentions. It is secure, but the Government has a concern that it should not be visited with a penalty as a result of acting in favour of the rice industry as it has done.

COURT SECURITY

The Hon. JANELLE SAFFIN: I direct my question without notice to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Minister advise the House what action the Attorney General's Department is taking to improve security within New South Wales courts?

The Hon. J. W. SHAW: Over the past few years court security has been regarded as a priority for the Government. There are some matters that I would not want to disclose publicly about court security, for obvious reasons that I am sure honourable members would appreciate, but I can say that the Government continues to take seriously the issue of court security. I earlier advised the House that a comprehensive review of the management of court security services in New South Wales was conducted in 1996. That review was undertaken in consultation with the judiciary, justice agencies, court administrators and peak court user groups such as the domestic violence court support schemes.

Honourable members may also recall that while that review found that substantial progress had been made in a number of key areas, it also identified a number of areas for further improvement. On the basis of those recommendations the Government has provided significant additional resources for these purposes as part of a three-year program. Those additional resources amounted to some $2.9 million in 1997-98 and a further $2.7 million this financial year. Those funds are being used to deliver a range of improvements.

A few examples of these improvements will serve to illustrate the breadth of the program now under way. More than $1 million has been provided to deliver an immediate increase in the number of uniformed sheriffs officers in courts across the State. A total of 22 new officers are now on duty, providing a uniformed presence in an additional 33 court locations. Priority has been given to those courts with the highest domestic violence case loads. Additional walk-through scanners and hand-held metal detectors have been deployed in 12 major locations. New security standards are being adopted as courthouses are either refurbished, extended or new constructions commenced, with 20 major locations having significant building improvements, 11 receiving closed-circuit television facilities and 16 courts receiving new or upgraded alarm systems.

A new incident reporting system has been implemented to provide better information on the levels of risk in our courts. A peak security co-ordination and advisory body has been established between the Attorney General's Department, the Police Service, the Department of Corrective Services and other relevant agencies. These improvements have been achieved in the first year of the Government's program. Further work is proceeding over the next two years. These measures, together with that further action, will go a long way towards making our justice system safer for all those who participate in it.

UNION REPRESENTATION

The Hon. J. M. SAMIOS: I ask the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading a question without notice. As Minister for Industrial Relations, does he support the right of workers to be represented by the union of their choice? If so, what steps will the Minister take to ensure that miners at the soon to be reopened CSA mine at Cobar will be represented by their own

union, such as the Rural Workers Union, rather than the Australian Workers Union, which does not have a single member at that mine but is trying to claim coverage?

The Hon. J. W. SHAW: I do not support a complete and free open market in relation to union membership. I support a system of registered organisations that, according to law, have certain constitutional powers to enrol and represent workers, just as I support the appropriateness of registered bodies of employers who have certain powers to enrol and represent their affiliate members and support them within the system. I do not believe one would find too many employers who supported a free and unregulated system of workers joining literally any union they wanted.

There must be a capacity to superintend that system and to say sometimes unions are appropriate to represent certain workers and sometimes they are inappropriate. Those decisions must be undertaken by independent tribunals and they must be adjudicated fairly in accordance with law. For example, currently in the Federal jurisdiction there is a significant debate between the Construction, Forestry, Mining and Energy Union, the Construction Workers Union, and the Australian Workers Union representing a miscellany of workers as to who should have constitutional coverage in the area of civil construction and allied areas. That hearing is being battled out before the Australian Industrial Relations Commission and I believe that is the way these issues ought to be determined.

It would be chaotic if individual employees had the right to join and be represented by any trade union. Individual workers and groups of workers might want to join a union which objectively may be totally inappropriate, perhaps because they have never been involved in that industry. These matters have to be regulated in accordance with law. Laws are passed in this State which provide a regime of regulations as to which union would be determined to be appropriate for a particular sphere of industry or enterprise. As far as I am aware, those laws are working well and ought to be left.

CHILD SEX OFFENDER SENTENCING

The Hon. Franca ARENA: Did the Attorney General see the latest report of the New South Wales Bureau of Crime Statistics and Research which found that fewer than half of those convicted in New South Wales courts of sexual offences against children are gaoled? Is the Attorney concerned that the gaol sentences were given in 153 cases of the 346 in 1997, and that the vast majority of those were for less than a year, while others were sentenced to periodic detention, community service orders or bonds? Is the Attorney concerned also that where child sex offenders were fined, almost all the penalties were less than $1,000? Is there anything the Government can do to ensure that the children of our State are protected not only by legislation but also by the courts?

The Hon. J. W. SHAW: The point raised by the honourable member is the reason the Government will introduce legislation seeking to have referred to the courts in appropriate cases the making of guidelines for penalties with respect to criminal offences. No doubt this House will debate that legislation in due course. The rational solution, consistent with appropriate legal principle, is to have the courts make a series of systematic guidelines when there is community concern about sentencing in a particular area.

SABRE TECHNOLOGY SOLUTIONS SYDNEY REGIONAL HEADQUARTERS

The Hon P. T. PRIMROSE: My question is to the Acting Leader of the Government, and Minister for Public Works and Services. Would the Minister give the House details of the latest company to select Sydney as its Asia-Pacific regional headquarters?

The Hon. R. D. DYER: I thank the Hon. P. T. Primrose for this most pertinent and relevant question. Earlier this month the Premier announced the arrival in Sydney of one of the world's leading information and technology companies. The Sabre group, based in Fort Worth, Texas, has selected Sydney as home for the Asia-Pacific regional headquarters of its information technology division, Sabre Technology Solutions. Sabre specialises in computer technology for the travel-aviation industry.

After a competitive tendering process Sydney was selected ahead of Hong Kong, Singapore and Melbourne. This is another great win for Sydney. Regardless of what today's newspapers may say, Sydney is now recognised as the information technology and telecommunications powerhouse of Australia and of the Asia-Pacific region. New South Wales is home also to almost half the businesses involved in Australia's $70 billion information technology and telecommunications industry.

Major international companies in their droves are selecting Sydney as the base for their regional headquarters. In the past three years more than 130 regional headquarters have been established in New South Wales cities and regions. Sydney is home to

approximately 64 per cent of the 408 regional headquarters in New South Wales. Of the 130 Asia-Pacific regional call centres in our region, 65 are in Sydney, 30 in Victoria, 10 in Queensland, four in South Australia, one in Western Australia, 10 in Singapore and 10 in the rest of Asia. More than half of all international call centres in the Asia-Pacific region are headquartered in Sydney.

These companies do not establish headquarters in Sydney just for their health. The owners and operators know that Sydney has the best work force and best business infrastructure, and that it is the safest, cheapest and cleanest in the Asia-Pacific region. The Sabre group is the latest to testify to this reputation. Mr Peter Von Moltke, senior vice-president of Sabre's Asia-Pacific division, said that the Sabre group selected Sydney for a number of reasons, some of which were the diverse multilingual work force, the availability of qualified information technology and resources, close proximity to major clients and the significantly lower costs that Sydney offers.

The company plans to hire 70 staff and expects to expand that staff to 250 by the year 2004. It will inject approximately $10 million into the New South Wales economy. Sabre is the world's largest supplier of computer reservation systems for the travel and transport industry with 1997 revenue of $US1.8 billion and approximately 10,000 employees worldwide. Sabre has a worldwide reach with airline ticketing links to more than 180,000 terminals in some 40,000 travel agencies throughout 105 countries.

Last December the company signed a 10-year multibillion dollar outsourcing deal with United States Airways to handle all that airline's information technology functions. Other Sabre clients include Cathay Pacific Airways, Air New Zealand, China Southern Air, the Hyatt chain of hotels and American Airlines. Overall it provides more than 200 products and services to the airline, airline cargo, rail, tour operator, hotel, car rental, financial and health-related industries. It gives me great pleasure to welcome Sabre to Sydney.

MAITLAND CITY COUNCIL ADMINISTRATOR

The Hon. D. J. GAY: My question is to the Acting Deputy Leader of the Government, and Attorney General, representing the Minister for Local Government. Since the appointment of an administrator at Maitland City Council is the Minister aware of the progress that has been made to ensure that similar problems evidenced by the public inquiry will not recur when council returns to elected representation in less than 12 months time? How many days per week does the administrator attend Maitland City Council? What is the annual financial remuneration for the administrator? Does this figure include costs for accommodation and meals and the provision of a motor vehicle? Is the administrator required to provide a pecuniary declaration in the council register? If not, why not, given that he is making major decisions concerning Maitland?

The Hon. J. W. SHAW: The question seems to acknowledge as common ground that problems existed in the council that justified ministerial intervention. The remainder of the question is quite detailed, and I advise that I do not have that information available to me as presently instructed. I undertake to obtain what information I can from the Minister for Local Government and supply it in due course.

BUSHFIRE BACK-BURN PROTECTION

The Hon. ELAINE NILE: I direct my question without notice to the Attorney General, representing the Minister for Emergency Services. Is it a fact that since January many problems have arisen and much heartache suffered because of bushfire mismanagement in New South Wales? I refer particularly to the fires between Parkes and Manildra that burnt out 8,000 hectares of national park and grazing land. Is the Minister aware of the back-burning operation that went out of control in the Blue Mountains National Park and about the fires at La Perouse that threatened 100 homes and the Prince Henry Hospital with destruction? Will the Minister ensure that back-burning is carried out in spite of these setbacks in light of comments by Commissioner Koperberg that New South Wales could be in for another deadly season because of insufficient back-burning during the wet season?

The Hon. J. W. SHAW: I would not like silence on my part to be an acceptance of the suggestion of mismanagement of these matters. Obviously these situations are difficult to manage. I will refer the honourable member's question to the relevant Minister and obtain a detailed response for her.

TRADE MEASUREMENT SERVICE

The Hon. J. KALDIS: My question without notice is directed to the Minister for Fair Trading. Can the Minister inform the House how the work of the department's Trade Measurement Service can assist New South Wales consumers?

The Hon. J. W. SHAW: Good trade measurement principles and practice are the basis for all consumer protection. Ensuring the fairness and accuracy of weights and measures is as old as trade itself. As American President John Quincy Adams said more than 175 years ago, weights and measures "may be ranked among the necessaries of life . . . and enter into the daily concern of every family". Today this holds true for consumers whether they are purchasing petrol for their cars or buying food for the dinner table.

The Hon. D. F. Moppett: This is certainly a matter of some gravity.

The Hon. J. W. SHAW: The Hon. D. F. Moppett, who has an interest in literary flair and historical allusion, would appreciate the importance of this matter, even though those less interested in such intellectual enterprises may deride and scorn it and may not have the same capacity for mental focus as that possessed by the honourable member. Fair Trading's Trade Measurement Service gives strong protection to New South Wales consumers. For example, trade measurement inspectors regularly check prepackaged goods in supermarkets—the places where most of us shop for the necessities of life. If the inspector finds the actual weight on a prepacked food item is less than is marked on the package, it means that the customer is being overcharged and getting less than he or she has paid for.

I assure the House that the Carr Government will not tolerate customers receiving short measures of food and other goods, whether they are packaged or in bulk. Through the work of the Department of Fair Trading, those who are responsible for New South Wales families being overcharged on food will face the consequences. Fair Trading has the power under the Trade Measurement Act to prosecute retailers who are lax in this regard. This year the Department of Fair Trading has successfully prosecuted 10 traders for trade measurement offences, with fines totalling almost $27,000. In the most recent case Fair Trading prosecuted a Jewel food store on the central coast. This store was fined $7,000 for selling underweight prepacked meat. Proceedings were initiated when Fair Trading inspectors found weight discrepancies in five packs of corned silverside during a random check at the Umina Jewel Country Fresh store. The weight discrepancies meant that consumers were being overcharged between 10¢ and 16¢ for each item.

While the overcharging of five items may seem a relatively minor matter, this discrepancy could easily be multiplied by many times in supermarkets across the State. Jewel Food Stores pleaded guilty in Woy Woy Local Court and was fined a total of $7,000—one of the heaviest fines imposed in a trade measurement matter in recent years. It is a crucial fair trading principle that one gets what one pays for, whether it is at the butcher's shop, the pub or the supermarket. The Department of Fair Trading is determined that this principle is observed. The Department of Fair Trading has 30 inspectors across New South Wales who carry out hundreds of checks each year in stores, testing the accuracy of weighing and measuring equipment and randomly sampling prepackaged items.

However, food is not Fair Trading's only trade measurement focus. Last year the department launched a blitz on liquor measurement accuracy to ensure that pubs, clubs and restaurants complied with the national standards for liquor dispensing equipment. Trade measurement laws are designed to give everyone a fair deal. Retailers have a serious responsibility to make sure their weighing, measuring and pricing equipment and their procedures for weighing and pricing prepacked goods are in order.

TELETRAK STRAIGHT LINE RACING PROPOSAL

The Hon. M. R. KERSTEN: I address my question without notice to the Minister for Public Works and Services. How does the Minister explain the letter of 24 April, which was signed by the Minister, to the Murray Shire Council in which he referred to TeleTrak straight line racing, when during debate on the issue yesterday he stated that he had not previously heard of TeleTrak? Further, how does the Minister explain his statement that the TeleTrak issue was not raised until yesterday, when he clearly acknowledged in this correspondence that the matter had previously been raised with him?

The Hon. R. D. DYER: I am sure that members know that I do not have a great interest in gambling. It may have some relationship to my religious background. I must confess, I sign many letters. However, I assure honourable members that I read them all carefully. I doubt that any member opposite would remember everything he or she read in every letter he or she signed, let alone in the many more letters that Ministers are required to sign. It is my sincere belief that I had not previously heard of this TeleTrak concept.

The Hon. M. R. Kersten: You commended them for the concept. You signed the letter.

The Hon. R. D. DYER: Yesterday I was speaking on behalf of my colleague in another place and I was telling the House what the Government's

policy is regarding the TeleTrak concept. That remains the position. The fact remains that the Government has a determined policy regarding TeleTrak so far as the gaming and racing industry is concerned, and I articulated that policy when I was speaking on the bill yesterday.

GLENDELL MINE DEVELOPMENT PROPERTY ACQUISITIONS

The Hon. I. COHEN: I ask the Minister representing the Minister for Energy to explain why the properties identified in the Glendell mine development approval have not been acquired. Is the company not abiding by the acquisition clause in its development approval? If this is the case, what action will the Minister take to ensure the landowner is appropriately compensated according to clause 25?

The Hon. R. D. DYER: I will obtain a response to that important question and convey it to the honourable member.

NATIONAL CONSUMER DAY

The Hon. A. B. MANSON: My question without notice is to the Minister for Fair Trading. Will the Minister inform the House what his department is doing to mark tomorrow's National Consumer Day?

The Hon. J. W. SHAW: I am very glad that tomorrow is National Consumer Day. I will enjoy the day immensely. It is an important occasion. In the past 12 months the Department of Fair Trading has received tens of thousands of complaints from consumers. The complaints have reflected consumer experiences with motor vehicles, buildings and general goods and services. It would be fair to say that most of these complaints can be attributed to poor levels of consumer service. As a result, New South Wales Fair Trading has, in conjunction with fair trading and consumer agencies in other States, produced a booklet for National Consumer Day entitled "Customer Service Guidelines". Tomorrow is National Consumer Day. I will not be in the House tomorrow—I will be in Adelaide attending a meeting of the Standing Committee of Attorneys-General—so I take this opportunity to speak on the most important consumer day on the calendar.

The customer service guidelines booklet, which will be released tomorrow, sets out the facts about the standards of customer service in Australia and the risks of poor performance. For instance, on average 26 per cent of customers encounter poor customer service in Australia, while 65 per cent of overseas visitors find customer service below what they expect at some point in their stay. Moreover, it is estimated that a person with a complaint will tell as many as nine other individuals of his or her experience, naming the business concerned. In producing the customer service guidelines, New South Wales has taken the lead in the improvement of customer service as a means of better customer protection—a crucial development in the lead-up to the 2000 Olympics.

The booklet provides small to medium-size businesses with handy and affordable pointers for providing better customer service as part of their everyday operations. Points include the ideas that satisfied customers are loyal clients, that loyal customers mean bigger margins, that good service pays dividends, and the like. The customer service guidelines booklet is an important new reference work for customer service in Australia. It is available free from the Department of Fair Trading at all of the department's many centres throughout New South Wales. To make sure that as many traders as possible get the good service message, the department will be actively promoting the booklet with other customer service and consumer protection initiatives in the coming year and beyond.

BEN CHIFLEY DAM

The Hon. JENNIFER GARDINER: I ask a question of the Minister for Public Works and Services in his own capacity and as the representative of the Minister for Agriculture, and Minister for Land and Water Conservation. What is the latest in the saga of the $8 million blow-out in the cost of raising the wall of Ben Chifley Dam, that dam having been built by the Minister's department? Does the Minister agree with the mayor of Bathurst that the recent flooding and subsequent safety scare at Ben Chifley Dam, and the fact that in the past Bathurst City has had to impose water restrictions, show that the dam wall needs to be raised? Why did the Cabinet meeting in Bathurst on 3 August last not alert the Bathurst City Council to the dramatic rise in the cost? How much will Bathurst City Council have to contribute to the project compared to the Government's contribution?

The Hon. R. D. DYER: This question raises an important matter regarding the upgrading of the Ben Chifley Dam for the water supply of Bathurst. The Ben Chifley Dam meets present demands for the Bathurst water supply. The Bathurst City Council, however, is proposing to raise the dam wall, primarily for safety works but also to provide for future growth in the Bathurst and surrounding region. Design work is well advanced and an

environmental impact statement has been published. The Bathurst City Council program is for tenders to be called in October this year, with construction starting early next year.

The estimated cost of the work is $24.4 million, which comprises works to make the dam safe, costing $15.2 million; a variable intake structure to control quality of water released, costing $4.7 million; and works to increase the dam's capacity, costing $4.4 million. The estimate has recently been revised, as designs are nearing completion. The estimate shows an increase of about $8 million over the previous estimate. Detailed designs have included geotechnical investigations, which reveal the need for increased foundation work. Additional costs are involved in meeting dam safety committee requirements to enable rapid draw-down of the storage, if needed.

The estimate includes an allowance of $500,000 for reassessment of hydrologic and spillway aspects following the recent major flooding. The Department of Land and Water Conservation, which, as the honourable member will realise, is the responsibility of my colleague the Hon. R. S. Amery, has requested an independent review of the estimate, but this will not hold up the works that are urgently required for safety reasons. The dam safety works are backlogged and, subject to council meeting usual eligibility requirements, will attract 50 per cent government assistance. The water supply intake structure is also likely to qualify for government financial assistance.

By adopting appropriate user-pays strategies such as setting appropriate developer contributions, council can fund works for growth without increased charges on the existing ratepayers. Works for growth are not eligible for government financial assistance under the policy announced by the Government in June 1996, which directs assistance to backlog works. The Minister expects to consider the amount of government assistance available for the project later this month. Total government-council expenditure in 1998-99 is anticipated to amount to $2 million.

An allocation of $1 million government funding has been provided in the 1998-99 budget. However, as the honourable member would expect, further funds are planned for subsequent years. As in previous years, the 1998-99 allocation is indicative only and represents the government contribution for the year, not over the life of the project. The final allocation will be determined according to a program agreed with the council.

CANNABIS THERAPEUTIC PROPERTIES

The Hon. R. S. L. JONES: I ask a question of the Minister for Public Works and Services, representing the Minister for Health. Is the Minister aware that biologist Aidan Hampson at the United States of America National Institute of Mental Health in Maryland has discovered that two active compounds of cannabis, THC and cannabidiol, act to prevent the chemical reaction suffered by stroke that starves the brain cells of glucose and oxygen? Will the Minister investigate the use of cannabis for the treatment of stroke and other disorders such as Parkinson's disease and Alzheimer's disease?

The Hon. R. D. DYER: I do not have the technical knowledge to enable me to respond to this question in detail. However, I am sure that the Minister for Health does have this knowledge. I shall obtain a response from him and convey it to the Hon. R. S. L. Jones.

VIOLENCE AGAINST WOMEN

The Hon. Dr MEREDITH BURGMANN: My question is directed to the Attorney General. What action is the Government taking to reduce violence against women in New South Wales?

The Hon. J. W. SHAW: A specialist Violence Against Women Unit has been established within the crime prevention division of my department to emphasise that violence against women is a crime and a serious social problem. Its location in the crime prevention division will ensure that strategies to reduce violence against women are developed and implemented. The unit is responsible for the recruitment, induction, training, supervision and evaluation of 17 regional specialist positions. The unit will also provide secretariat support to the New South Wales Council on Violence Against Women. The 17 regional specialist positions are the focal point for the promotion of a co-ordinated response by government and non-government service providers to all forms of violence against women. They are employees of my department and will work closely with regional communities.

By putting these workers throughout regional New South Wales, the Government is ensuring that the needs of local communities will be reflected in local planning and in statewide responses to violence against women. The regional specialists have developed and published regional action plans that highlight a number of projects that will be implemented in the coming year. The New South Wales Council on Violence Against Women is

advising me and the Minister for Women on issues concerning violence against women. The council, which is chaired by Reverend Dorothy McRae-McMahon, is made up of nine community representatives and senior departmental representatives from the Health Department, the Police Service, the Department of Community Services, the Department for Women and my department.

The strategy is funded by four government departments, the Health Department, the Police Service, the Department of Community Services and my department. It represents an innovative way of improving service co-ordination to facilitate access for women who are experiencing or have experienced violence. I attended the initial training program for the 17 regional specialist positions and I was impressed by the commitment and the capacity of those who attended the training program. It was good to meet them, and it has been even more pleasing to receive the positive feedback about their work in local communities.

I attended a women's advisory council a week or so ago and received glowing reports about what the regional specialist positions are achieving in close collaboration with community groups. The program has been most positive. I am looking forward to meeting with this group again when the 17 specialists come back to Sydney, as they do periodically, to exchange information and reconsider their strategic approaches to this important social problem.

FRUIT BAT MENANGLE VIRUS TRANSMISSION

The Hon. Dr B. P. V. PEZZUTTI: My question is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for the Environment. Is the Minister aware of an outbreak in a piggery of Menangle virus, which was discovered by the Elizabeth Macarthur Agricultural Institute at Menangle? Is the Minister aware of the virus being transmitted to two workers at the piggery? Is the Minister also aware that fruit bats which roost 200 metres from the piggery are thought by the research institute to be the source of that infection? Given that bat viruses can attack humans in this way, what will the Minister do about the bat colony roosting in the grounds of the Maclean High School?

The Hon. J. W. SHAW: The honourable member's question seems to raise serious questions that ought to be the subject of proper attention. I will undertake to refer it to the Minister for the Environment and obtain a response.

DROWNING PREVENTION

Reverend the Hon. F. J. NILE: I ask the Minister for Public Works and Services, representing the Minister for Sport and Recreation, a question. Has the number of drownings jumped by 26 per cent to a total of 116 in the year to June 1998? Has the Royal Life Saving Society attributed 50 per cent of all adult drownings to alcohol consumption? Did 18 children drown in New South Wales this year, which is a 300 per cent increase on the previous year? What action, such as the "do not drink and drive" campaign, will the Government take to discourage adult males from drinking alcohol and swimming?

As beach drownings increased from 25 to 37 last year, what action will the Government take to give authorised lifesavers the power of a special constable or a park or beach ranger to stop adults under the influence of alcohol from swimming in the surf, and, where necessary, to prevent adults swimming in dangerous surf conditions? As 60 per cent of all drownings, that is 101, occurred in dams, rivers and lakes, what further action will the Government take to prevent children and adults from drowning in those places?

The Hon. R. D. DYER: Reverend the Hon. F. J. Nile has raised an important matter. However, it seems to me that the practical difficulty is that the many hundreds of thousands or millions of people who engage in swimming and water-related activities during the summer months are themselves, one would think, largely responsible for behaving in an appropriate and safe way. Public authorities will not always know whether people are intoxicated. However, it is a serious question and I will refer it to my colleague the Deputy Premier, and Minister for Health, and, if appropriate, also to the Minister for Sport and Recreation for their comments.

BEGA DAIRY INDUSTRY

The Hon. A. B. KELLY: My question without notice is to the Acting Leader of the Government. Will the Minister give details of the development of the dairy industry in the south of the State?

The Hon. R. D. DYER: I thank the Hon. A. B. Kelly for his important question and for his obvious interest in the development of industries throughout country and regional New South Wales. Last week Premier Bob Carr opened the new $20 million Bega cheese cutting and packaging plant on the south coast of the State. This plant will create 150 jobs in Bega in the next two years, and is an important part of the Government's jobs plan for New South Wales. Further indirect jobs will also be

created for Bega families as a result of this $20 million boost to the local economy. The Government helped the local Bega community secure the plant against fierce competition from Canberra. It is a terrific local success story and shows what can be achieved when government works in partnership with local communities.

The State Government got behind the Bega community and helped the "keep Bega cheese in Bega" campaign that was mounted by the chamber of commerce, the local council and the community. This new plant will secure the economic future of Bega. It means that the Bega Cheese Co-operative Society Ltd will no longer have to send its cheese to Victoria. It also has the capacity to cut and package 50,000 tonnes of cheese a year.

The Government provided assistance through loans, payroll tax concessions, funds for establishment costs, training assistance through the Bega College of TAFE, funds for the construction of north Bega reservoir and help in locating an appropriate site for the factory. I congratulate the Bega Cheese Co-operative Society Ltd, the Bega Valley Shire Council, the local chamber of commerce and the local community on their efforts on winning this new plant, and I wish them every success in the future.

WESTERN SYDNEY HOSPITALS OBSTETRIC SERVICES STRIKE

The Hon. J. F. RYAN: I ask a question of the Minister for Public Works and Services, representing the Minister for Health. Are visiting obstetricians and gynaecologists due to go on strike at Nepean, Mount Druitt and Blacktown hospitals on 1 November because of the spiralling costs of insuring themselves against compensation claims? Has the Department of Health been aware of the intending strike for more than three months but to date not resolved the matter? What alternative arrangements have been made to enable mothers to give birth at these western Sydney hospitals from that date?

The Hon. R. D. DYER: The Hon. J. F. Ryan has asked an important question. I understand from what I have been told by my colleague the Attorney General that discussions are progressing very well on this matter and that a resolution is likely in the foreseeable future.

NORTH-WEST SYDNEY PUBLIC TRANSPORT CORRIDORS

The Hon. Dr A. CHESTERFIELD-EVANS: My question without notice is to the Minister for Public Works and Services, representing the Minister for Transport, and Minister for Roads. With regard to the integrated transport strategy for the greater metropolitan region published by the Department of Transport in 1995, will the Minister please inform the House of developments regarding the planning and implementation of a public transport system for the north-west development sector? Has the department consulted with the local council about the allocation of transport corridors along Old Windsor Road and Windsor Road? If so, what kind of platform does the department intend to implement for service in the area?

The Hon. R. D. DYER: I thank the Hon. Dr A. Chesterfield-Evans for his question, to which I shall obtain a response from my colleague the Minister for Transport, and Minister for Roads.

DEPARTMENT OF PUBLIC WORKS AND SERVICES RURAL PROJECT MANAGEMENT STAFF

The Hon. I. M. MACDONALD: My question is to the Minister for Public Works and Services. Has the Department of Public Works and Services employed new project management staff in country centres this month? On what projects will the new staff be working?

The Hon. R. D. DYER: I acknowledge the Hon. I. M. Macdonald's keen interest in country issues. The Hon. I. M. Macdonald is a country resident and is renowned in this place for his commitment to country services and country jobs, so it is no surprise to honourable members that he has an interest in this matter. Yesterday I outlined some of the measures the Government was taking to increase employment in New South Wales. This has been something of a popular theme in questions in recent times, demonstrating the Government's commitment to boosting employment in this State.

I am pleased to advise that in recent times a number of new projects have been awarded through competitive tender to my department in rural centres. Several of those projects have necessitated the employment of additional project management staff. The Department of Public Works and Services normally relocates project management teams to meet regional work requirements. In these cases I am happy to say that work is exceeding supply and that additional senior projected management jobs have been created as a result. New project officer positions have been advertised this month and are being filled in Dubbo, Broken Hill, Deniliquin and Wollongong.

At Dubbo the department has won additional work for the construction of Mudgee sewerage augmentation systems worth approximately $15 million, and for Narromine sewerage works worth about $5 million. At Broken Hill, where my department presently has $50 million worth of projects under way, extra staff have been appointed to manage the acceleration of the lead remediation project for the next three years. In passing, I draw to the attention of the House that the Broken Hill office of the Department of Public Works and Services is 100 years old this year, and we wish the staff well for their centenary.

Five new water supply and sewerage projects in Deniliquin and surrounding areas have also required the employment of additional project staff, notably to assist with ongoing works on the Deniliquin levee, the construction of a dissolved air flotation plant, and upgrades to the local drinking water systems. The south coast region has a busy works program and has advertised for staff to oversee the schools maintenance program for the region as well as additional construction works associated with the Wollongong storms earlier in the year.

This extremely high level of activity in country New South Wales reflects the increased level of Government spending in regional areas. The Government not only is ensuring that country New South Wales has first-class public facilities, but is, as always, providing a boost to local economies through employment and business opportunities as these projects progress. These projects provide permanent solutions to the service needs of country towns. I commend each of those works to the House as the sort of project that country people have been crying out for and which this Government is delivering.

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

TELETRAK STRAIGHT LINE RACING PROPOSAL

The Hon. R. D. DYER: Earlier in question time the Hon. M. R. Kersten asked me a question about TeleTrak. On examining the correspondence to which the member referred, I noticed that the letter is not a substantive response affecting my department but is merely a referral of the matter to my colleague the Minister for Gaming and Racing. I also note that the term "TeleTrak" is mentioned only once in the letter, so it is not surprising that, given that the letter was written in April, in October it was not glaringly etched on my mind. To that extent I am sure that the more charitable members of the House will understand that I really would not have been thinking about TeleTrak late at night in this House.

COSTA RICA FOREST PROTECTION LEGISLATION

The Hon. R. D. DYER: On 23 September the Hon. R. S. L. Jones asked me a question without notice about the Costa Rica forest protection legislation. The Minister for Agriculture has provided the following answer:

> This question does not come under the agriculture, or land and water conservation portfolios and should be directed to the Hon. Kim Yeadon, Minister for Information Technology, Minister for Forestry, Minister for Ports, and Minister assisting the Premier on Western Sydney.

METHADONE ABUSE

The Hon. R. D. DYER: On 24 September the Hon. Elaine Nile asked me a question about methadone abuse. The Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs has provided the following answer:

> An underlying principle of the methadone program is that all patients are to have access to on-site dosing seven days a week. However, NSW Health has clear, strict policies allowing takeaway doses of methadone for stable patients in order to provide a more normalised and flexible treatment service. Takeaway policy has recently been reviewed in light of community concerns. Takeaway doses will be restricted to a maximum limit of two "takeaway"' doses per patient at any one time, and a maximum limit of four "takeaway" doses per patient per week. In providing takeaway doses prescribers must be satisfied, after careful assessment, that a patient is emotionally and psychologically stable, and will not misuse the methadone. The prescriber is required to keep detailed clinical notes of their assessment. NSW Health has funded a kids copy campaign to raise patient awareness of the dangers associated with methadone takeaway doses and children. NSW Health stipulates that takeaway doses are to be supplied in separate containers fitted with child-resistant closures, and are labelled with "keep out of reach of children" warnings. Patients are advised of the dangers of misuse of takeaways, and the toxic potential of the dose to children and non-tolerant individuals. Once in the possession of the patient, takeaway doses are then the patient's responsibility.

HOSPITAL FOOD

The Hon. R. D. DYER: On 24 September the Hon. R. S. L. Jones asked me a question concerning hospital food. The Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs has supplied the following answer:

> The New South Wales Health Department recognises that sound nutrition is a vital component of health. Promoting the supply of health food alternatives in the hospitals is as important, and in some cases more important as it is for the

community as a whole. The nutritional quality of hospital food is based on a menu which provides patients with the opportunity to select from a range of foods which contribute to nutritional adequacy, are consistent with the dietary guidelines for Australians and are acceptable. The guidelines, endorsed by the National Health and Medical Research Council, represent the official national advice for selection of a diet which will reduce the risk of diet-related diseases including some cancers. Food should be nutritious and enjoyable to eat. The acceptability of food to patients is also important. Hospitals have a wide range of patients and it is essential that the menu provides sufficient variety to meet the needs of all people. Vegetarian meals can be arranged for patients who would prefer not to eat meat just as meals containing meat may be arranged by patients staying at a hospital such as the Sydney Adventist Hospital which is administered by the Seventh Day Adventists. The emphasis is on providing patients with choice from among a range of healthy food alternatives, a choice which is consistent with that available to people in the community. The Government remains committed to the prevention and reduction of tobacco related harm in our community. The Health Department has a responsibility of promoting a healthy smoke-free image to the community. That is why the Health Department has had a policy to reduce exposure to passive smoking on Health Department property since 1984—Policy on Smoke Free Working Environment. Extensive research indicates that exposure to environmental tobacco smoke is a health issue of increasing importance. Passive smoking causes many negative health effects including coughing, headaches, lung cancer, pneumonia and respiratory illness. In 1988 the policy was updated to reflect the concerns about these health effects and to meet the requirements of the Occupational Health and Safety Act 1983. The 1988 smoking in the workplace policy in response to this prohibits smoking indoors on Health Department property and department vehicles.

CHILD ABUSE INVESTIGATION REPORTS

The Hon. J. W. SHAW: On 23 September the Hon. Patricia Forsythe asked me a question regarding child abuse investigation reports. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has supplied the following answer:

1. No.

2. The department has an obligation to investigate reports concerning the safety of all vulnerable children, whatever their age.

3. No.

HOME AND COMMUNITY CARE FORUMS

The Hon. J. W. SHAW: On 13 October the Hon. Patricia Forsythe asked me a question regarding the Ageing and Disability Department's Home and Community Care program. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has supplied the following answer:

1. The Ageing and Disability Department is introducing a new population group planning (PGP) approach to better target the needs of older people, people with disability, their families and carers. The approach is consistent with administrative responsibilities of the home and community care, disability services and ageing programs.

2. There will be a continuing role for home and community care forums within the new approach which, in fact, provides for an unprecedented level of community input into the development of regional plans. The new approach will draw on the consultative strengths of previous planning activities as well as producing much better data on supply and demand factors at local level. This model has already identified historical inequities in the distribution of funds across the State and will assist the Government in improving equity over time, as additional resources become available. My department has consulted in detail with the Home and Community Care State Advisory Committee on this approach. The committee has not only endorsed the changes but pledged its support and further input into the Statewide implementation process.

3. The needs of local communities will continue to be considered in any planning for service provision. It is insistent on my department that community recommendations on resource distribution be qualified by statistical data and information gathered at local level. The Director-General of the Ageing and Disability Department has guaranteed that this local community advice will not only continue but that its quality and transparency will improve under the new approach.

LICENSED BOARDING HOUSES

The Hon. J. W. SHAW: On 23 September the Hon. I. Cohen asked me a question regarding the status of licensed boarding houses. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has supplied the following answer:

1. The Cabinet minute proposing reforms to licensed boarding houses has now been approved by Cabinet and on 15 October I announced a major funding package to assist people with disabilities who live in licensed boarding houses.

2. Yes.

3. The responsibility for the licensing of privately operated boarding houses that accommodate people with disabilities rests with the Ageing and Disability Department, not the Department of Community Services and it will remain with the Ageing and Disability Department.

4. Currently there are a number of former residents of licensed boarding houses who have been displaced because operators have closed their facilities. These people are receiving care and assistance from government or non-government agencies so that their health and wellbeing is promoted. The needs of these people will be assessed in the implementation of the reform package.

Questions without notice concluded.

WEAPONS PROHIBITION BILL

POLICE SERVICE AMENDMENT (COMPLAINTS AND MANAGEMENT REFORM) BILL

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

Suspension of standing orders agreed to.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report: Future Employment and Business Opportunities in the Hunter Region and the Downsizing of the Rack Rite Investment Proposal.

Debate resumed from 21 October.

The Hon. A. B. KELLY [5.06 p.m.]: I continue my comments in relation to the Standing Committee on State Development inquiry into the Hunter region. I reiterate that the standing committee received more than 40 submissions and heard evidence from 80 people who represented a broad cross-section of the community.

The Hon. D. J. Gay: You had the wool pulled over your eyes on Rack Rite .

The Hon. A. B. KELLY: I will speak about that later, and give very good news on Rack Rite, thanks to the Federal Government. When the committee began its inquiry the Hunter was commonly perceived as a struggling region—a perception that stemmed from Newcastle's history. Members of the committee believe that Newcastle is a vibrant area; a view held by outsiders, with which perhaps the President would agree. The committee found the Hunter to be a strong and resilient area with opportunities for a solid infrastructure and skills base, including quality industrial land, the port of Newcastle, numerous airports, extensive rail and road networks, abundant natural resources, good quality agricultural land, a strong sense of community, committed regional organisations and highly skilled personnel.

The progressive nature of the Hunter's regional organisations is impressive. The committee commends the leadership and vision shown by the common purpose group, which pulled together numerous stakeholders to form and progress a development strategy for the Hunter. The committee heard suggestions that part of the problem in the Hunter was that there were too many different development organisations, all trying to undertake similar tasks. However, it was generally conceded by committee members that that was not necessarily a problem in the Hunter, for two reasons. First, the groups were targeting different areas; and, second, the common purpose group pulled them together to try to get 2,500 extra jobs from the Hunter Development Fund.

The committee was also impressed with the push from regional organisations and individuals to develop a cluster strategy for the Hunter. A business cluster involves a concentration of similar businesses that share infrastructure, labour markets and services, and work together to stimulate regional economies. Cluster development is an emerging regional development strategy which has been used with great success to develop the film industry in New Zealand and the multimedia, defence and advanced electronics industries in South Australia. The committee heard of a number of overseas cluster developments, including one in Spain. I do not recall its name, but perhaps if the committee had visited the area I would. We have heard of other cluster developments in Italy.

The Hon. Jennifer Gardiner: But it did not inspect them.

The Hon. A. B. KELLY: The committee has not visited and investigated those interests so far. Some new committee in some new Parliament may find that it is important to do so. The Hunter is now leading the way for cluster development in New South Wales. I should elaborate on that. When the committee went to South Australia it investigated SAGRIC, the South Australian Agricultural Corporation, which was commenced as a vehicle for cluster development for agriculture but developed into an avenue through which the South Australian Government, in conjunction, I might add, with other States and New South Wales, sold technology and expertise to overseas governments, New South Wales companies and the Department of Agriculture. SAGRIC, to which the committee alluded in its report, is an excellent example of cluster development.

The Hunter is now leading the way for cluster development in New South Wales. The organisations and individuals, in particular the Hunter Regional Development Organisation, should be commended for their ground-breaking work on cluster development. The region also shows potential for growth and innovation in energy production, high technology, tourism, agriculture and international freight services. The standing committee made 20 recommendations aimed at assisting the region to

continue its successful development activities. It is noted that action has already been taken to progress 10 of the recommendations, and it is unusual for a government to act so quickly on a committee report. That is a testament to the commitment of the Hunter community, the State Government and local government to ensuring a prosperous future for the region.

The New South Wales Government recently announced the establishment of call centres in two areas of the State, and of course call centres are another good example of cluster development. In light of the award that the United States has given to New South Wales in the past few days in recognition of this State's efforts to utilise green energy, the recommendation made in relation to the electricity industry needs to be highlighted further.

The Hunter produces about 80 per cent of the State's electricity from five coal-fired plants. Unfortunately, as I said on a previous occasion, the use of black coal, which has lower greenhouse gas emissions, is more expensive than the brown coal that is used in Victoria. The committee strongly believes, particularly following the receipt of the award, that the State Government should consider giving priority to the use of green energy rather than the use of Victorian energy. Perhaps in some departments the Government could start to use green energy in place of the cheapest energy. The emissions from Victorian brown coal have a worse greenhouse effect than New South Wales Hunter coal, but the Hunter coal is more expensive.

The committee's recommendation 16 relates to some of the challenges facing the wine industry. It concerns the establishment of a boutique glass manufacturing company in the region that would offer an alternative supply of wine bottles. ACI is the sole glass manufacturer in Australia, and that naturally limits the supply of domestically produced wine bottles and has given rise to wine producer's concerns about the price of bottles. The committee heard evidence from South Australian bottling plants that they could avail themselves of standard bottles from ACI but if they want unique bottles with a different shape or different colour, which Brian McGuigan tries to obtain, they have to import them from overseas at a much higher price. This naturally limits the supply of domestically produced wine bottles.

Because of ACI's monopoly, the Australian Competition and Consumer Commission has been monitoring ACI's price, cost and profit data. Members might recall the newspaper article last year that alerted the public to that investigation. That commission found that the company may be loading the wine bottle price to cross-subsidise other glass products because it has a monopoly. The committee found also that equivalent wine bottles overseas are 30 to 100 per cent cheaper than they are in Australia. The President of the Hunter Valley Vineyard Association, Mr Chris Barnes, who gave evidence to the committee, agreed that Australian wine bottles were abnormally priced. He told the committee:

> There is no doubt that we are paying a lot more than most other wine producing countries in the world, and a number of Australian wine makers are going to New Zealand or even Italy to get their products because they want something special.

An alternative bottle production proposal was put forward by the then Economic Development Manager of Maitland City Council, Mr Steve Edmonds, who stated:

> We are now doing a business plan stage for a boutique glass manufacturing company which will put out 60 tonnes of bottles a day. It is completely aimed at replacing imported glass bottles.

In the light of the benefits to the Hunter wine industry and the potential job and income creation that such a project would generate for the region, the committee recommended that the State Government, through the Department of State and Regional Development, facilitate the establishment of a boutique glass manufacturing company for the Hunter region.

The wine industry is also facing significant challenges in securing a reliable water supply. A feasibility study, jointly funded by the Hunter Valley Vineyard Association, Cessnock City Council, Singleton City Council and the Hunter Economic Development Corporation, was carried out to investigate the provision of a water pipeline for the wine country. At the time of the hearings the president of the vineyard association explained that the industry could develop the pipeline with private funding.

The proposal was explained to members of the committee on a visit to the property of Brian McGuigan. The committee recommended that the Assistant Director-General of Strategic Planning in the Premier's Department provide the necessary advice on meeting due process in developing water supply proposals to service the Hunter wine country. The reason for that recommendation was the log jam, in getting approvals for the pipeline. I now have advice that the pipeline project will proceed, an outcome that has been met with great excitement by the winegrowers, 250 of whom, along with tourist

operators, have banded together to form the Cessnock Water Users Association and raised $350,000 for the design of the pipeline.

Appropriate approvals have been processed through the strong co-operation of the Department of Land and Water Conservation and the Department of State and Regional Development and the Premier's Department. The industry hopes to have water flowing through the pipeline in time for the 1999 season. Just last week Brian McGuigan visited this Parliament and discussed with some members the progress of the pipeline. He was very excited. With the resolution of some minor problems, which I think were solved that night, the pipeline will become a reality. The establishment of the project is an excellent example of how industry and government working together can advance regional development.

Recommendation 18 deals with one of the major problems identified in the inquiry process: the provision of integrated public transport in the Hunter. Arguments were presented to suggest that the public transport infrastructure was not aligned with urban growth patterns and that poor co-ordination of services made it unattractive and impractical. The committee was united in its views about the deficiencies of the transport system. On behalf of the community, Newcastle City Council and the Newcastle Greens called on the State Government to develop an integrated transport strategy.

I am sure the Hon. I. Cohen will allude to the evidence of the Newcastle Greens, so I will not steal his thunder. The chair of the Hunter Economic Development Corporation, Dr Pattison, also called for the transport study. In response to his urgent request, the standing committee recommended that the Department of Transport prepare an integrated transport plan as a priority. The plan should specifically address public transport, including ferries, buses and trains; road transport; air transport; pedestrian and cycle access; freight rail transport; and any other transport issues referred to the department by the Minister for Transport.

The integrated transport plan should be developed in conjunction with the Hunter community and completed by 30 May 1999, and the Minister for Transport should table it within one month of its completion. Recently I was informed that the preliminary concepts for the plan have been established and the process of developing the plan is in the early stages. Importantly, the design of the plan will be driven from the local perspective and, therefore, should prove a good fit for community transport needs. The final recommendation that I note is recommendation 19, which states:

> . . . that the Hunter Economic Development Corporation continue to make the attraction of the call centre industry a priority.

This recommendation concerns the rise of the call centre cluster industry in the region. Call centres are an ideal industry for boosting regional development. They provide telephone customer services such as banking, bill payment, service and information requests, et cetera. As I said earlier, only this week the Government announced that two call centres will be established in New South Wales with 240 employees. Call centres are used by other businesses to conduct marketing or research functions. They are a huge growth industry and generate significant employment, yet they do not need to be located near the actual market they service.

A number of call centres already operate in the Hunter, and the Hunter Economic Development Corporation is attempting to attract more call centres by facilitating a centre for excellence in education and training for the industry. In response to the recommendation, the Hunter Economic Development Corporation has given an assurance that the call centre industry will continue to be a high priority. The Premier's Department supports that. Several bids and negotiations are currently under way and the corporation hopes to secure a new venture in the not too distant future.

I turn now to the Rack Rite proposal, which was a supplementary reference to the committee by the Minister for Regional Development, the Hon. Harry Woods. On 6 February, when the Hunter inquiry was well under way, the Minister for Regional Development instructed the standing committee to inquire into matters relating to the downsizing of the Rack Rite investment proposal in the Hunter. The committee received two submissions and took evidence from two witnesses at a public hearing on 9 April. The background to that inquiry is that in April 1996 Mr Mel Lahner, owner of Rack Rite Pty Ltd, indicated that he would be building a 600-job factory in the Maitland area. Rack Rite manufactures shelving for supermarkets and hypermarkets—a phenomenon that has not yet arrived in Australia but is prolific in Europe—and is the largest private steel user in South Africa. Mr Lahner is South African.

In early 1998 Mr Lahner confirmed rumours that the proposed factory operations had been downsized, from 600 employees to 100 employees, representing a loss of 500 potential jobs to the city of Maitland in the Hunter region. In the words of

Maitland City Council, Maitland was "the city most affected by the withdrawal of BHP from steel operations in the Hunter region". The council believed that Maitland had the highest proportion of residents employed at the BHP steelworks of any local government area, so the loss of the Rack Rite proposal was a blow to the community.

The standing committee found that a number of factors contributed to Rack Rite's decision to reduce the size of its proposed factory. It believes that a major factor was the failure of the Federal Department of Immigration and Multicultural Affairs to detect the business nature of the immigration application by the owner of Rack Rite, Mr Melvyn Lahner, leading to delays in processing the application. The standing committee has urged the Federal Minister for Immigration and Multicultural Affairs to review departmental administrative processes to prevent the loss of any future international investment proposals to New South Wales. The committee also found that, despite the fact that Mr Lahner requested assistance with his immigration application from the member for the Federal electorate of Paterson, Mr Bob Baldwin, in April 1997—

The Hon. J. R. Johnson: Former member.

The Hon. A. B. KELLY: The Hon. J. R. Johnson rightly says, "former member". Perhaps one of the 500 potential jobs lost from the Rack Rite proposal was that of Mr Baldwin. He did not bring this matter to the attention of immigration officials until September 1997. Earlier action by Mr Baldwin would have reduced the delay in processing Mr Lahner's application and may have produced a more favourable outcome for Maitland. As I have lauded the New South Wales Government for adopting 10 of the 20 recommendations, I should give credit to the Federal Government. I acknowledge that two weeks before the Federal election the Federal Government accepted the standing committee's recommendation on the Rack Rite proposal. In a letter to the Hon. Harry Woods the Federal Government stated that it agreed to the recommendation and that a review of its processes in relation to migrant visas would be undertaken by the department.

The Hon. J. R. Johnson: Was it a core promise?

The Hon. A. B. KELLY: It was set out in a letter. Hopefully, the situation relating to Mr Lahner, which was a comedy of errors, will not occur in the future and jobs will not be lost to New South Wales or to any other State. I understand that Mr Lahner went to Ireland. Although Mr Lahner will still use New South Wales as his centre of distributing shelving throughout the Pacific rim as he intended, the items will be manufactured in Ireland and shipped to Maitland for distribution. The committee's report did not aim to be a comprehensive analysis of the Hunter; rather, it is a reflection of some of the major issues raised by individuals and organisations in the Hunter.

The departmental response to the committee's recommendations has been extremely positive and shows the New South Wales Government's commitment to assisting the Hunter to continue its successful regional development activities. Many of the most promising initiatives have been developed by the community itself, which is testament to the existence of solid social capital and extraordinary community spirit in the region. The $10 million allocated by the Government has already generated more than half of the 2,500 jobs projected by the Hunter Economic Development Corporation.

In conclusion, I thank the members of the committee who worked tirelessly and attended a number of hearings in the Hunter. At the end of the hearings we attended in the Hunter I think we all felt like Novocastrians. I thank also the secretariat staff who put a lot of effort into this inquiry. Anna McNicol commenced as committee director in March, taking over from Stewart Webster who had guided the early stages of the inquiry. Anna managed the final stages of the inquiry and the report-writing process. The senior project officer, Anna George, worked on the inquiry from beginning to end and was responsible for the bulk of the research and writing the report, as well as acting as director for a period.

My thanks also go to those who held a committee office position during the inquiry, including Annie Marshall, Charissa Lynne-Sanders and Matthew Scott. Finally, I express my sincere appreciation to all the individuals and organisations who contributed to the inquiry either as witnesses or through lodging submissions. The evidence received was of an exceptional standard and a credit to the Hunter. I know that every member of the committee enjoyed working on this particular reference.

The Hon. Jennifer GARDINER [5.30 p.m.]: I address the report of the Standing Committee on State Development into future employment and business opportunities in the Hunter region and the inquiry into the downsizing of the Rack Rite investment proposal for the Maitland district. Earlier drafts of the report made reference to Minister Woods in the other place instructing the standing

committee to undertake a subinquiry into the downsizing of the Rack Rite investment proposal. However, the committee agreed that it is not for a lower House Minister to instruct any committee of the Legislative Council, and it refused to incorporate such language in the body of its report.

Therefore, it was interesting to hear the chairman of the standing committee reading from his chairman's forward to the report and continuing on with the concept of a lower House Minister instructing a committee of the Legislative Council. The Rack Rite inquiry was whipped up for one reason and one reason only: it was a political stunt by ALP members, who dominated the committee numerically, to cause problems for the Liberal Party which held the Federal seat of Paterson.

The Hon. J. R. Johnson: Be nice, Jenny.

The Hon. JENNIFER GARDINER: Why? It is good to place on the record that that is what it was all about. Like other members, I enjoyed the opportunity to serve on the inquiry into future employment and business opportunities in the Hunter region. The committee held numerous public hearings and inspections in Newcastle and the Hunter Valley during the inquiry and the overlapping inquiry into the international competitiveness of agriculture, which is yet to be completed. It is possible that never before has any parliamentary committee become so familiar with the issues affecting the Hunter region. Some of us felt that it was a home away from home at times. We did get a first-hand feel for the region and for the city.

The inquiry did not focus simply on Newcastle but also took account of issues affecting other parts of the Hunter, including the upper Hunter. The inquiry focused on the region defined as the Hunter. The committee defined it as that area traversing 13 local government areas from the Murrurundi shire and the Liverpool range down to the capital of the Hunter, the impressive and likable city of Newcastle. The Hunter is home to 2.5 million people and is possessed of many natural attributes which are probably not truly appreciated by much of the rest of the State's population, although I have noted with great interest the current television advertising program on Sunday mornings on channel 9 advertising the Hunter region and trying to attract more business to the Hunter in concert with the sorts of recommendations that the committee made.

The Hunter region is, of course, a major mineral producer, manufacturing and tourism centre. The committee pointed out to some community leaders that health care is one of the biggest employers in the Hunter. It is also the headquarters of the equine industry in this State, located mainly in the fantastic upper Hunter which at this time of the year is looking superb after a wet winter and a brilliant early spring. Hunter wines, as the chairman mentioned, are justly famous and, of course, the Hunter has a great and long reputation as an agricultural region and one that is continuing to diversify. The committee found that the Hunter region earns 15 per cent of all New South Wales export income but has 9 per cent of the State's population. It produces 4.3 per cent of Australia's gross domestic product with 3 per cent of the nation's population and 80 per cent of the State's electricity is generated in the Hunter and all of the alumina.

The inquiry was triggered by the latest in a series of restructuring of the steel industry in the Hunter: the announcement that BHP's steel-making operation would conclude next year, an event which caused due concern Australia-wide. On the other hand, there are developments involving the Steel River project and the development of industrial parks in the Hunter which counter to some extent and reduce the impact of the BHP steel mill closure. The committee examined unemployment levels in the Hunter and found that as at November 1997 there was an unemployment figure of 10.2 per cent which at that time was almost 3 per cent higher than the New South Wales average of 7.4 per cent.

Despite a strong increase in the number of persons employed in the Hunter region from November 1996 to November 1997, which is very pleasing to see, there were 18,000 additional people actually seeking work which led to that overall increase in the unemployment rate. The Hunter Economic Development Corporation told the standing committee that the high unemployment rate was due to a combination of factors, a profound compositional change in the region's economic base, downsizing due to technological change, competition from low cost imports, a mismatch of skills with emerging employment opportunities and an accumulative impact of deflationary fiscal and monetary policy. The average weekly earnings in the Hunter are also $50 lower than for the average figure of $583 for the rest of the State.

One of the most worrying statistics to emerge from the inquiry was that the school retention rate in the Hunter is about 10 per cent lower than that for the rest of the State. In the mid-1980s the retention rate of students from year 7 to year 12 was only about 30 per cent and although that has improved the figure is still lower than other parts of New

South Wales. Nevertheless, it is true that the region's population is upskilling. I recall asking Dr Paradise of the Hunter Valley Research Foundation what he thought was the most important contribution that could be made to the future of the Hunter region. He gave an interesting answer. He said teaching the children of the Hunter to think critically was the most important contribution that could be made to the future of the Hunter Valley and Hunter region. The need to encourage a higher retention rate and to continue to provide excellent education facilities is perhaps of even greater importance to the Hunter region than it is to other parts of the State.

The export of coal through the port of Newcastle and the problems associated with that export cannot but fail to be noticed by anyone who visits Newcastle. One of the main features of the coastline is the long queue of ships off the port, and the committee addressed this in its first recommendation. It is interesting that since the report was tabled in the last week or so, the *Newcastle Herald* on 17 October reported "Shipping delays back up once again" featuring a photograph of the ships off the coast which everybody can see if they are in the Hunter Valley. The *Newcastle Herald* reported that coal companies are again facing huge financial penalties because of long delays loading out of the port of Newcastle. The article pointed out that long queues in the past two years led to international criticism of Newcastle from coal customers and to a big shake out of management at the coal loader.

It was interesting that the general manager of Port Waratah Coal Services, Mr David Brewer, one of our excellent witnesses at the inquiry in Newcastle, denied that Port Waratah Coal Services was to blame. He said that there were some unexpected strong demands further up the coal chain and he expects that the queue would remain for the next couple of months. He said he was meeting soon with the transport Minister, Mr Scully, over a six-month delay in building important railway infrastructure at Hexham. It is fair enough to ask of the Minister for Transport to report to the Parliament on why there is a delay in building what Mr Brewer has described as important railway infrastructure at Hexham. The same applies to our second recommendation, which calls for a task force to investigate developing a container terminal in Newcastle.

The committee examined the development of aerospace industry clustering around Williamtown airport. This was one of the many bright spots of the inquiry. Further assistance is needed to develop infrastructure around the airport. The committee recommended that the Minister for Regional Development undertake a feasibility study of the proposed rail tunnel through the Liverpool range by October and to announce the outcome of that study by December; only a few days remain for the Minister to produce that report. Some committee members were enthusiastic about that recommendation, but it is sad that the Carr Government told local government leaders in the north and north-west of New South Wales that it is not enthusiastic about such a project. That is bad news from the Carr Government for the upper Hunter and the north of the State. Next year the new coalition government will examine that issue because the Labor Government has failed to do so.

The committee received evidence from the Honeysuckle Development Corporation about the inadequacy of telecommunications infrastructure, particularly in the upper Hunter. The Honeysuckle corporation criticised the lack of adequate broadband optical fibre cabling. Obviously, the development of these projects are of immense consequence in attracting business for all regional parts of the State. The committee recommended that the Minister initiate a study of telecommunications needs in the Hunter, particularly in the upper Hunter, because the upper Hunter Business Enterprise Centre also described lack of telecommunications infrastructure in that part of the State. I trust whichever government is in office after March will give special attention to the telecommunications needs of the upper Hunter by the middle of the year, as recommended by the committee. The committee made a number of recommendations about regional development, which I will not refer to in detail.

The Hon. I. M. Macdonald: No, read them out.

The Hon. JENNIFER GARDINER: The Hon. I. M. Macdonald would like to be reminded of those recommendations. The committee asked the Hunter Economic Development Corporation to consider holding quarterly meetings with councils in the Hunter region for two-way communication purposes. This is a sensible recommendation. As the chairman mentioned, the committee examined cluster developments, to which I shall refer in a moment. Another important aspect for the committee's recommendation was multiplicity of organisations with a regional development brief in the Hunter.

Those who participated in the meeting discussed future directions of the Hunter region after the announcement in April of the BHP closure. Whilst the committee refrained from making recommendations on the number of organisations

possessed of a brief to talk about regional development in the Hunter, it heard evidence about the time it takes many organisations to communicate. Although they are all possessed of goodwill and want to do their best, so many layers of organisations are a hindrance to development in the Hunter.

The Keating Government commissioned McKinsey and Company to research regional development a few years ago. It examined the lack of success between regional cities and between communities and also the essential elements involved to enable one community to thrive and another to fail. It produced the line, "Lead Local Compete Global", which was also the title of the report. Committee members trust that leadership in the Hunter Valley will emerge from these groups for the sake of the Hunter region. Those with community leadership should focus on implementing strategies.

I mentioned earlier that the committee took particular interest in the development of business clusters. As the Hon. A. B. Kelly said, South Australia was identified as a leader in cluster development with businesses being targeted by the South Australian Government, particularly those in multimedia, defence and advance electronics, spatial information and water management. In addition, the South Australian Department of Industry and Trade identified additional potential cluster developments in agriculture and food, sport and recreation, education, tourism, wine, business software and health.

The committee inspected the Mawson Lakes development in north Adelaide, which has 40 per cent growth in electronic and information industries. Those industries employ about 1,400 people near the campus of the University of South Australia, which is part of the technological park. The committee noted also, though it did not inspect it at first hand, that New Zealand is making great strides with cluster developments, particularly with seafood, timber, aquifood, tourism, film and metal fabrications.

The Hunter region has many existing and emerging cluster developments. The committee commended the Hunter regional organisations on their work on cluster developments and supported the further encouragement of such clusters from the Government. The committee recommended also that the Government take another leaf out of the South Australian Government's book by establishing in conjunction with the Hunter Economic Development Corporation a body similar to SAGRIC International, which is an international technology transfer and technology management company wholly owned by the South Australian Government and has remained in place despite changes of government. Both sides of the South Australian Parliament consider it a body worth maintaining.

The committee recommended that the New South Wales State Government provide seed money for such an initiative. The committee examined a variety of current industries in the Hunter, including wine and wine-tourism industries. As the chairman mentioned, a number of recommendations were made to that industry. The committee examined the equine industry. Thoroughbred exports from the Hunter region are expected to reach $45 million by the year 2000. The local bloodstock is developing well and the projected exports represent a massive investment in bloodstock. In the Hunter region 90 per cent of manufacturing jobs are not in heavy industry. Manufacturers employing less than 80 employees make up that 90 per cent.

Hunter manufacturing industries are still placed to continue to record strong performances notwithstanding the closure of the BHP steel mill. The committee examined trade, tourism, coal, information technology and communications, health, education, defence, arts and culture, and aspects of economic life in the Hunter. Apart from the dissenting comments of the Hon. Dr B. P. V. Pezzutti and me about some aspects of Hunter infrastructure, I have pleasure in endorsing the committee's useful analysis and recommendations for the business opportunities and employment in the Hunter region.

In conclusion, I take this opportunity to thank the committee's secretariat. In respect to the Hunter inquiry I thank Anna McNicol, who became director of the secretariat during the inquiry, and Anna George, senior project officer, who undertook the bulk of research and draft writing for the report. I thank Matthew Scott for his quiet and assiduous background work and for his assistance to committee members. Matthew is leaving the secretariat for a position elsewhere. I wish him well in his new role.

I thank Mr Steven Carr for his work in this inquiry. Once the House rises at the end of this session he will return to his departmental position and not remain with the committee in the interim period. The Standing Committee on State Development secretariat carried a heavy workload in 1998. I thank the staff for their many courtesies to me and for their long hours of work. I wish them a

relaxing break when all honourable members leave this place to concentrate on other duties.

The Hon. I. M. MACDONALD [5.49 p.m.]: I congratulate the Hon. Jennifer Gardiner on a fine contribution both in the production of the report and in this House this afternoon. The report entitled "Future Employment and Business Opportunities in the Hunter Region and the Downsizing of the Rack Rite Investment Proposal" is one of the most important reports that the Standing Committee on State Development has placed before Parliament. As the Hon. A. B. Kelly, the chair of the committee, said, the report has had considerable impact at government level and at regional government level since its release in July this year. A number of the proposals have been adopted by the Federal Government and by the State Government in matters which related to it.

Many articles have conveyed the considerable depression that exists in the Hunter since the downsizing of many of its industries, and in particular the proposed closure of much of the steel industry in Newcastle. When the committee visited the area it discovered that whilst there was a grey cloud over the city, in effect, a great deal of optimism and many great ideas were being generated by the community to tackle the effects of the closures on long-term employment and business opportunities.

The critical and important inquiry conveyed to the people of the Hunter that they are not alone; that the Legislative Council is considering the problems being encountered by the local citizenry, and is doing something about them. We are finding out from the locals what they need from us as legislators and are seeking to address their problems at a State level. A positive aspect of the inquiry was the marshalling of all the positive developments and great ideas for the future of the Hunter.

I know, Madam President, that being a Novocastrian you have a great interest in the matters that were before this committee and I know you have listened with great interest as members of the committee rendered their perspectives of the inquiry. In the time available to me, which is fairly limited, I want to raise a few matters that specifically interested me. I assisted the committee to focus on those issues and marshalled the evidence that was needed for the committee to reach its conclusions. Specifically, I deal with item 3.3.2.1, which is entitled "Rail infrastructure servicing the Gunnedah basin."

In 1997 the mining and energy division of the Construction, Forestry, Mining and Energy Union raised with me the need to greatly alter the rail infrastructure between Muswellbrook and Gunnedah, as we needed to upgrade the servicing of the Gunnedah region to open up that region. Queensland Rail proposed at that time to, in effect, tap into the Gunnedah basin by establishing a rail service to terminate in Moree. The proposal was for a narrow gauge line to meet up with the current line at Moree and for Queensland Rail to be in a position to remove coal from the Gunnedah basin and other goods produced in that rich, Liverpool Plains region and rail them to the port of Brisbane.

The Hon. A. B. Kelly: Non-competitive.

The Hon. I. M. MACDONALD: As the Hon. A. B. Kelly says, that would be a non-competitive situation. Queensland Rail would have a monopoly because of the infrastructure problems of the rail line over the Liverpool range. Honourable members realise that the railway line was built for another era and is not capable of handling the sort of rail traffic required for a modern coal extraction industry. The committee heard evidence in regard to the Queensland Rail proposal to run a narrow gauge line to the Moree area, allowing about 200,000 tonnes of grain to be moved through the port of Brisbane.

Mr Kearney, the general manager of coal services for FreightCorp, appeared before the committee. That organisation appeared to be most concerned about this potential development. It is important for honourable members to consider the problems that will arise if infrastructure from the Gunnedah basin through to the port of Newcastle is not updated. Mr Kearney told the committee:

> In the very short term it may be of benefit to local growers in the region—

to bring the narrow gauge line down to Moree—

> We believe that in the longer term it will disadvantage that part of New South Wales because ultimately it will be difficult for FreightCorp to . . . sustain operations north of Gunnedah . . . under those circumstances . . . we are of the view in the post-Hilmer environment, [that] it would be preferable to see a standard gauge length built into the Port of Brisbane so that we at FreightCorp and any other operator that so desired could operate standard gauge trains into Brisbane. So we do not support the extension of the narrow gauge Queensland system into New South Wales.

That leaves a problem to be addressed. The maximum size train that can use the rail infrastructure over the Liverpool range is 3,000 tonnes, compared to the 8,000-tonne trains or trains

with up to 84 carriages that are used in the lower Hunter for coal extraction. There is a limitation on the development of the Gunnedah basin, which has some very rich reserves, because larger trains cannot be used to take goods out. Honourable members would be aware that there are two undeveloped coal deposits in the Gunnedah basin—the Maules Creek deposit and the Boggabri deposit.

It is believed that these two deposits, if brought on stream, would be able to produce in the order of six million tonnes per annum. To ensure that they are developed to their full potential the rail line over the Liverpool range needs to be upgraded. The committee received evidence on this issue from the mining division of the CFMEU. Mr Maitland, the president of the mining and energy division at that time, described why the CFMEU was contemplating putting its superannuation funds into the Liverpool range tunnel. He said:

> We have a number of fairly large superannuation funds, of which our members are trustees, and we have attempted to encourage our superannuation funds to look at involvement in investment in the Newcastle and Hunter region.
>
> Things that have concerned us are the transport facilities and arrangements for the coal industry, because the bulk of our members work in that industry, and we have been involved in discussions about two projects, the first being the Liverpool Range project, to allow better rail access through the Liverpool Range, and upgrade the link between Narrabri and Muswellbrook.

The largest union in this industry is keen to invest in development of better infrastructure. The Maritime Union of Australia also told the committee:

> . . . we could foresee that [the tunnel] would do a tremendous amount of good for the region—not only for Newcastle as a port, but also the Gunnedah area and the Port of Newcastle and the Hunter Valley area generally.
>
> We see that project providing a tremendous amount of opportunity in terms of job creation, not only in the short term but also in the long term because Newcastle would be linked to the national rail network, which at the moment it really is not. The project itself in terms of its construction and also the service facilities that will exist after completion of the project would provide a lot of opportunity for this area.

The proposal put forward by the Access NorthWest Consortium has been placed before the Treasurer, the Premier, the Department of State and Regional Development and the Rail Access Corporation. At this stage the consortium is to develop the financial proposals and continue engineering studies, which would mean a drilling program to examine the proposed tunnel in a more comprehensive way.

Honourable members may be interested to know that the tunnel will be of four to five kilometres in length and will be constructed at a much lower level than the current rail link over the region, allowing much larger trains to travel between the Gunnedah basin and the Hunter. I hope that the planning needed for expanding some of this country's income-earning areas can be brought to fruition with assistance from both government and regional levels. The committee's recommendation 5 states:

> The Standing Committee recommends that the Minister for Regional Development coordinate a feasibility study of the proposed rail tunnel through the Liverpool range by October 1998, and that the Minister announce the outcome of the feasibility study by December 1998.

It is to be hoped that progress will be seen in the near future. As I have said, this concept would provide an extra level of income into the Hunter region. The current port facility is limited by the demand being placed upon it. Coal-loading facilities would need to be extended, and this would provide more jobs and more business opportunity in the Hunter region. The committee hopes that this proposal can be activated in the interests of the Hunter region in particular. Probably the most controversial issue dealt with by the committee, an issue on which a great deal of evidence was presented, concerned the Newcastle railway station. Several groups have taken the view that the railway line into Newcastle should be closed down. The railway station would likewise be closed.

That proposition is put forward on the basis that the railway line tends to divide the central business district from the Honeysuckle area and the bay. The committee was very concerned about community opposition to this proposal, opposition that to the committee appeared to be sustained. Some 2,740 passengers use the Newcastle station each day, and just under 10,000 persons use that immediate rail line each day. In the year 1996-97 a total of 2.9 million passengers passed through the barriers of Newcastle, Civic, Wickham and Hamilton stations. Each working day there are a total of 172 passenger train movements at Newcastle station—86 trains each way. The committee heard controversial evidence on this matter and, in the main, took the view as expressed in recommendation 4, which states in part:

> The Standing Committee believes that the rail line into Newcastle Station provides necessary economic and social benefits and recommends that the rail link remain fully operational. However, it is apparent to the Standing Committee that accessibility between Newcastle city and the Honeysuckle/harbour area needs to be improved.
>
> The Standing Committee recommends that the Minister for Transport coordinate a consultative committee to decide how to improve accessibility between Newcastle city centre and the Honeysuckle/harbour area.

The consultative committee would draw representatives from a wide range of groups in the Newcastle area. As I have said, the committee heard a great deal of evidence in this regard. Many witnesses took a fairly hard-line view—not many people took the middle ground. If I had the time available, I would perhaps relate some of those views. I make it clear, however, that the committee by majority vote came down in favour of maintaining the rail line, with a co-ordinated program to try to develop better accessibility between the central business district and the Honeysuckle area.

Pursuant to resolution business interrupted.

MOTOR ACCIDENTS AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Reverend the Hon. F. J. NILE [6.06 p.m.]: Earlier in debate I made reference to the submission of the Australian Plaintiff Lawyers Association dated 23 October. The association has estimated total premium receipts for one year at $1.4 billion, as against total liabilities of $600 million. The association took the view that this estimate indicated a profit of $0.8 billion. It is misleading to simply deduct from premium receipts the payments and liabilities for one year. Liabilities stretch over a long period; the premiums paid in one year do not meet the claims of that particular year.

There has been a suggestion that insurance companies be forced to draw on the profits made in other areas of their business. If that were to occur, green slip insurance premiums would be subsidised by other categories of insurance, such as house insurance, leading to an increase in the premiums for those other categories of insurance. The citizens of this State would subsidise green slip insurance premiums. They would pay for green slip premiums and would also pay higher premiums for other insurance to subsidise green slip insurance.

Compulsory third party insurance must be kept separate from other company activities. If insurance companies are successful in other areas of activity, that is their business. It is not for the Motor Accidents Authority or the Parliament to know all the internal details of income and expenditure of every category of insurance. The insurance industry is very competitive, and insurance companies would rightly be concerned about a complete exposure of all business dealings, plans and activities falling into the hands of a competitor, as this could do serious damage to their business.

In report No. 3 of the Standing Committee on Law and Justice of December 1996, a great deal of time was devoted to compulsory third party premiums and liabilities. The committee held meetings and seminars with the Motor Accidents Authority, interest groups and stakeholders. At one of the seminars Mr Martin McCurrich, General Manager of the Motor Accidents Authority, said:

> The prudential regulation of premiums can be difficult for a body such as the MAA in times of great uncertainty, as exist at the present time. It is commonly known that the MAA intervened in the market to prevent the price falling below $190, and there have been calls for intervention at the present time given the high cost of Green Slips. In retrospect, it is now known that the $190 price was too low, but it is not at all clear that the current prices are too high.
>
> Because it is not possible to predict future events, especially the likely level of awards which courts will make in 4 to 6 years time, there will always be a high degree of uncertainty surrounding the required level of premium. The risk associated with this uncertainty is located in the private sector, and insurers must therefore have the ability to adjust prices to protect their shareholders' capital.
>
> It is also important to note that, historically, insurers in long tail personal injury liability insurance have found it difficult to build up adequate reserves for contingencies and to meet community expectations and standards of care at the time damages are paid. This is a result of both the competitive nature of the insurance industry in Australia, and the gradual changes that occur over time in the level of damages that are awarded for personal injury.

Because on average it can be four to six years before premiums are used to pay out awards, insurance companies find it difficult to calculate their reserves to pay those awards. It is no good if in six years time an insurance company does not have enough reserves to pay out $5 million or $10 million in lump sum payment awards, because they are required to have on hand reserves, which are not profits. It has been argued that they are earning interest on those reserves, but again that depends on the ability of the companies to make the right investments; money can be lost on investments. In 1996 the Standing Committee on Law and Justice agreed with the MAA, and stated, at point 5.6.1 on page 72 of its report:

> The Committee appreciates the difficulties involved in setting premiums which must fully fund the cost of claims which are not settled until some years into the future. The setting of such premiums will necessarily involve certain assumptions and actuarial advice based upon those assumptions . . .

Point 5.6.2 of the report states:

> Whilst aware of the difficulties in projecting claims costs into the future, the Committee is concerned about the extreme volatility in premiums over the life of the scheme . . .

As honourable members know, premiums were high, they dropped too low, and they have now increased again. Members of the public are unsettled; they feel that something is wrong. If premiums increase from $190 to $400 they are suspicious that an arrangement has been made to increase the profits of insurance companies. As honourable members know, litigation in this State is more intensive and awards are higher than those in other States. Insurance companies would have to be mind-readers or look into a crystal ball to anticipate what size awards will be made in four to six years.

I am not defending insurance companies, but this is a complex issue, and, as the Australian Plaintiff Lawyers Association said, it would be misleading and dangerous to consider premiums and payouts in one year. The Christian Democratic Party supports the bill and trusts that it will meet all the Government's objectives, in particular to try to achieve conciliation and settlement prior to expensive litigation and drawn-out court cases, which place emotional pressure on plaintiffs. Settlements are far more desirable. I agree with the committee's decision that lump sum payments should be replaced with periodical payments to allow a greater certainty in the industry in regard to green slip insurance.

The Hon. J. F. RYAN [6.16 p.m.]: The Opposition does not oppose this bill but from my experience on the Standing Committee on Law and Justice I do not, nor does the Opposition, hold great expectations that this legislation will make a significant difference to the cost of green slips. It is obvious that it will not. The Premier grandstanded and said he would recall the Parliament if this legislation is not passed, because it would stymie his attempt to cut the costs of green slips. Nothing in this legislation will dramatically cut costs. There are basically two arms to this legislation. One arm is to give greater power to the regulator, the Motor Accidents Authority, to examine and regulate premiums charged by insurance companies.

If honourable members get the chance to carefully read the excellent address presented by the Hon. B. H. Vaughan earlier in this debate I ask them to pay special attention to his comments with regard to the use by the MAA of its current powers. The MAA already has extensive powers to require information from insurance companies. It has not used some of those powers. In some respects I can sympathise with it. The premiums that we pay for our green slip insurance at the end of the day are based on a prediction of what the insurance company needs to charge in order to meet the cost of its claims.

During the short period that this scheme has been in operation, significant changes have been made to the way in which it operates. The most significant change was the decision by the Government a couple of years ago to cap certain types of claims for non-economic loss. It takes about 10 years experience working with claims to accurately predict what would be a reasonable amount of money for an insurance company to set aside in order to meet claims. There is a level of prediction or guesswork in what the MAA has been required to do and what insurance companies have been required to set aside.

The simple truth is that there is insufficient experience with this type of insurance to work out whether that guess is wildly over the mark in terms of the need for the premium to be charged to keep the scheme afloat or, alternatively, whether the premium being charged is insufficient. It is my guess that the premiums being charged for green slips are more than enough to ensure that the scheme is viable.

I questioned Mr Dallas Booth, who was then the head of the Motor Accidents Authority, and asked him whether, if premiums varied by a particular amount, he would consider them excessive. He told the committee that if a premium varied by as much as $100 from the cheapest to the most expensive he would not consider the most expensive premium to be excessive, nor would he see a reason to carry out a further inquiry. If charging 25 per cent more than the average premium is not sufficient reason to investigate whether an excessive premium has been charged, one would have to wonder at what point the Motor Accidents Authority would exercise its powers to determine whether premiums were excessive.

Another area in which this scheme impacts on the costs of green slip insurance is the reduction of costs through a period of compulsory conciliation before legal action is commenced in the courts. For all that has been said about legal costs, whether they are too high or too low, they add only $80 to the average green slip of $400. Let us imagine—and I doubt whether this will happen—that that cost could be cut in half. The scheme would then save $40 on each green slip. Bearing in mind my comments about the MAA not investigating an insurance company that charged plus or minus $100 above the average, it is obvious that the market is not particularly competitive, because every driver has to

have green slip insurance. Not many insurance companies offer this product and people tend, out of necessity, to decide reasonably quickly which company to use.

I cannot foresee this alleged crackdown on legal costs having a significant impact on green slip costs. The legal system tends to find ways around provisions which do not have desirable outcomes. If plaintiffs think that the bargaining procedure is reducing their potential payouts, or if insurers feel it is adding to the cost of the payouts, they have ways and means of getting around that regime, and ultimately that might result in more expensive insurance. I am not criticising the Government for its attempt to revise the motor accidents legislation, but I am cautious about whether that attempt will have a significant impact.

I am always concerned about lobbying by the Insurance Council of Australia, although I respect its right, and encourage the industry, to try to make good profits. However, I am suspicious, as we all should be, about its forcing the Government to introduce legislation to bear down on the potential payouts to victims as a means of containing the costs of the scheme. In calculating the premium there is a category of costs called, "claims incurred but not yet reported". These claims are expected to occur and are mathematically calculated into premiums.

I recall asking witnesses what happens if claims are not made. Funds may be held by insurance companies for up to 10 years and, as they are no doubt invested, the companies make significant profits on those funds. Profits are based on a mathematical construct by the companies' actuaries. I am sure the public would be interested to know that insurance companies obtain those calculations from Trowbridge Consulting—the only consulting firm within Australia which provides this specialised advice. Interestingly, to check whether its advice is correct, the MAA consults the same firm. It would be highly unlikely that in reviewing their estimates of the costs of the scheme for a different client, the consultants would come to a different conclusion.

It was my impression that the MAA's rigour in scrutinising the insurance companies was not altogether tight. It is difficult for the MAA to maintain tight scrutiny, given its dual requirement to make sure that premiums are not excessive and that the scheme remains liquid. It is difficult for companies to know whether they are pushing the pedal too heavily one way or another. Representations I received caused me to ask the Attorney General about the new regime, particularly about the scheme for making claims and counterclaims, and the compulsory negotiation once a claim arises. Some of the questions are technical and may not interest honourable members, but I hope the Attorney General will read *Hansard* and furnish me with an answer.

People making claims are required to provide a detailed assessment of their particulars within six months of the accident and before any action is commenced. In major claims that involve orthopaedic injuries, in all brain damage cases, and in many cases where infants are injured this scheme may well be unworkable simply because brain damage is not immediately assessable; generally it takes about two years. Sometimes it takes six months to get an appointment with a specialist to obtain a prognosis for rehabilitation. It may well be that trying to make an assessment within six months will prove difficult. The current scheme has options for claimants and insurers to split the details of the case; that is, liability can be determined at one hearing and the quantum of costs determined at another. This new regime might prevent that occurring.

It is invaluable for claimants and insurers to be able to settle those questions at different times. I ask the Attorney General to advise the House whether this new regime precludes the opportunity for separate hearings for liabilities and damages. Section 43A, section 44C or 50A, and section 48, and part 9 of the District Court rules all require the same particulars to be supplied within six months. In order to respond to those various requirements, costs may be run up unnecessarily, without any benefit. Finally, I draw attention to a question that arises from new subsection (4), which provides for the claiming of costs by the insurer and the plaintiff if the conciliator reaches conclusions with regard to what is a fair claim. The new subsection states:

> (4) If the amount of damages assessed by the conciliator is more than the amount of the insurer's offer under section 50D but less than the amount of the claimant's counter-offer under section 50E, each party is to bear its own legal costs and to pay half the prescribed conciliation fee.

In the first round of negotiations an insurance company may offer to settle a claim for $100,000. The claimant may not accept that offer and may claim $120,000. The matter will go before a conciliator, who may decide that the appropriate amount is somewhere between the two sums. In that event neither the insurer nor the claimant will be entitled to claim costs.

It may well be that that places an unfair burden on claimants, in a sense, to bargain against themselves. In those circumstances it may well be that after a period of time people grow tired of this sort of arrangement and specifically engineer the bargaining to allow them to settle their matter in court anyway. It may well be also that in the structure of awarding costs under these circumstances it will be reasonable to allow the claimant to be awarded costs when the amount paid to the claimant is nevertheless higher than the amount offered by the insurer in the first place and the conciliator agrees.

The conciliation procedure will take place at a time when the outcome of injuries will be problematic for both the insurer and the plaintiff and in those circumstances it will err on the side of caution. Far from achieving a high settlement rate, it is possible that the costs will increase as additional procedures are built into the progress of the matter. There is also the possibility of professional negligence actions arising in respect of matters settled incautiously at each point of time. Certainly a routine will need to be established by which solicitors protect themselves when settling matters prematurely or for the same cost. I hope the Attorney General will take into consideration the questions I have asked and provide some response to the House before the matter is settled in Committee.

[*The Deputy-President (The Hon. Jennifer Gardiner) left the chair at 6.31 p.m. The House resumed at 8.00 p.m.*]

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.00 p.m.], in reply: I thank honourable members for their contributions to the debate on the Motor Accidents Amendment Bill. It appears that the Opposition and members on the crossbenches do not oppose the bill. The bill reflects a commitment to trying to provide a scheme with premiums at an affordable and appropriate reasonable level whilst making certain that the needs of injured motorists, particularly seriously injured motorists, continue to be addressed appropriately by compensation. That can be achieved only by addressing a number of cost drivers inherent in the scheme.

The Leader of the Opposition asserted there was no consultation with stakeholders in the development of the bill. The Government asserts that there has been continuing and ongoing consultation with relevant players to explore the need for evolutionary change. Of course, in 1995 this Government took the step of effecting substantial changes to the scheme in order to stabilise the cost of green slips. Since the production of the bill and its presentation in this House there has been extensive consultation with the insurers and their representatives, the Law Society and the Bar Association to see precisely what ought to be done to finetune the bill.

The Government has taken a leadership position by taking the initiative to develop a bill to address the increasing cost factors. The Government decided that it ought to produce a bill and then consult the players and take on board their comments on it. The bill is the result of considerable effort by the Motor Accidents Authority and careful consideration of the recommendations to the Legislative Council Standing Committee on Law and Justice, which highlighted a number of weaknesses in the scheme, particularly in relation to financial accountability, the national competition policy, and Professor Ted Wright's report for the Justice Research Centre on legal costs within the scheme.

Following consultation with the Law Society, the Bar Association and representatives of the insurance industry, I propose to move a number of Government amendments that will streamline the proposals contained in the bill. I propose to reinstate the current objectives of the Act outlined in section 2A(2) of the Act, which deal with the application of the administration of the Act. These objectives, which refer to the need for fully funded premiums and stability of the scheme, are reinstated at the suggestion of the Insurance Council of Australia. I propose also to modify the provisions of the bill that deal with the resolution of disagreements when the MAA rejects a premium, and to clarify the appointment and qualifications required of an arbitrator.

I will move a number of amendments to improve the requirements for a claimant to give notice of particulars. The amendments will accommodate seriously injured claimants who will need further time than that currently provided by the bill in order that the true extent of the claimant's injuries can be clarified. The foreshadowed amendments also include giving the Motor Accidents Claims Assessment Unit the power to obtain additional information to assist in assessing whether a matter is suitable for conciliation.

I also propose to remove the offence in new section 99D(2) for failure to comply with a direction from the conciliator. While the clause is modelled on the workers compensation conciliation scheme, it is not consistent with other provisions in the bill that provide for cost sanctions for breach of various

duties. It is proposed that the new section be amended to provide that if a person fails to produce the information the conciliator can choose to stay proceedings until the material is presented or can decide to proceed with the conciliation on the basis of the information provided.

I will also move amendments to the cost penalty structure. The bill currently provides cost penalties when a party rejects a step in the conciliation procedure that is not justified by the subsequent court proceeding. In basic terms, the onus is on the party rejecting the offer or counter offer or conciliation assessment to achieve a better result or pay for the costs of both of the parties to finalise the matter. It has been pointed out that this is a significant shift from present circumstances, where the claimant's costs are met whenever an award of damages is made. I am now of the view that the claimant should not be faced with the prospect of meeting the insurer's legal costs and that it is sufficient penalty that claimants be required to meet their own costs when they do not accept a reasonable offer of assessment.

The foreshadowed amendments are consistent with the overall direction of the bill. A further amendment foreshadowed concerns the payment of interim damages. Motor accident claims are currently excluded from the interim damages provisions of the Supreme Court and District Court Acts. The advantages of introducing interim damages include the advantage that it would allow damages to be payable before injuries and issues are finally resolved and may assist in the speedy recovery of seriously injured people by reducing anxiety associated with financial worries. Overall the proposed amendments uphold the scheme's emphasis on directing compensation benefits to the seriously injured while ensuring that rehabilitation objectives are maintained.

I would like to respond to the matters raised yesterday by the Hon. R. S. L. Jones. New subsection (8)(b) of section 13 concerns the cancellation of a third party policy in respect of a motor vehicle whose registration is cancelled. It provides a power to create a regulation to respond to certain situations that arise when a fine is paid after cancellation of a licence and CTP insurance has lapsed. The licence is renewed and so is the insurance policy. However, if a cheque bounces, at present there is no recourse for the insurance companies to cancel the insurance cover.

The regulation power will allow for such circumstances to be regulated. As occurs currently, the registration will not be cancelled until the owner of the vehicle has been notified that the payment was dishonoured and has been given an opportunity to pay. When a payment is dishonoured but the owner rectifies that by paying when it is brought to his or her attention, he or she will still be covered by compulsory third party insurance. This provision has been developed at the request of CTP insurers.

New subsection (6) of section 15B provides a procedure for review when the Motor Accidents Authority rejects a premium filing. This will enable arbitration by the Independent Pricing and Regulatory Tribunal—IPART—in such instances, replacing the existing arbitration with an actuary under the Commercial Arbitration Act 1984. There will be no appeal from the IPART determination other than those remedies that currently exist under the Commercial Arbitration Act 1984 on questions of law. It should be noted, however, that the determination of IPART is in effect an appeal from a decision of the MAA to reject the insurer's premium filing.

New section 40B provides for a new code of practice for claims handling. A code developed under this section will have the effect of setting standards for insurance companies handling claims. This is consistent with the move towards best practice standards being adopted throughout the insurance industry. The proposal is consistent with the recommendations of the Standing Committee on Law and Justice. The code will not become part of the licence conditions. It should be noted that the MAA already has the power to impose licence conditions in broad terms pursuant to section 105 of the Act, and it may be considered appropriate to include a reference to the code in licence conditions. However, this will be subject to discussions with the insurers, the MAA and other stakeholders.

New section 45A relates to disputes about payments by insurers for reasonable medical and rehabilitation costs prior to a case being settled. It provides an interim decision procedure to deal with conflict in this area. At present the only method of enforcement is for the MAA to take an insurer to court. There is no point in providing ongoing appeal rights at this point in the procedure as it will only add greatly to costs. The decision at this point is not final. The claim itself will be determined either in conciliation or in the court, with normal appeal provisions applying.

New section 50G(2) provides for an insurer to pay the fee for conciliation. If a matter is rejected as unsuitable for conciliation it will then proceed to court. The intention is that the unit may decline to enforce payment by the insurer. However, that is

still discretionary, so an insurer cannot avoid the conciliation process by failing to pay—the conciliation can still proceed. If a matter is considered inappropriate for conciliation, the proceedings will be fast-tracked in accordance with the conciliation structure and litigation can be commenced.

New section 56 relates to guidelines. It is not appropriate for legislation to set guidelines for the amount of awards. The motor accidents scheme is still a common law scheme, and it is for the judge hearing all the facts of a case to determine the amount to be awarded in light of the evidence presented at trial. It is not the intention that the amendments to the Act should override the way the court currently deals with matters; rather, it is to reduce the number of matters litigated.

The definition of "protected information" in new section 132B(7) is modelled on the definition in the casino legislation, which is stronger than that currently available for insurers. The amendment is included to meet the Federal Insurance and Superannuation Commission's ISC requirements to pass protected legislation. I understand that this legislation meets the ICS requirements. I am advised that insurers have been consulted about this proposal. New section 132C(3) relates to the reporting of insurers. Given the nature of the motor accidents scheme and given that CTP insurance is compulsory, it is especially important that the scheme is regulated and the Minister is fully aware when insurers are not complying with licence conditions.

It is essential that the motorists of New South Wales are adequately protected. However, it is recognised that the Minister should be fully informed. It is recognised also that the insurer will be advised if a report is to be made to the Minister and will be given an opportunity to respond. The Government will accept the Hon. R. S. L. Jones' proposed amendment to new section 82D(2) in relation to the notification of costs to be paid by claimants. These reforms are not in any way aimed at disadvantaging claimants under the scheme. I trust that these responses satisfy the inquiries made by the Hon. R. S. L. Jones, and I thank the Hon. Dr A. Chesterfield-Evans for his appropriate words on this matter.

The Government is committed to reducing costs for participants in the compulsory third party scheme. This bill will not undermine the ability of insurers to set premium levels or affect the fully funded nature of the scheme. The Government will not be directing insurers to cross-subsidise the scheme by way of other areas of their business, as has been suggested in this debate. Action in this area was necessary. I believe the bill represents a balanced response to community concern. The Government has acted, and I place its proposition before the House for adjudication.

Motion agreed to.

Bill read a second time.

BILL RETURNED

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

Evidence (Audio and Audio Visual Links) Bill

CHARLES STURT UNIVERSITY AMENDMENT BILL

Bill received and read a first time.

Suspension of standing orders agreed to.

CRIMES LEGISLATION AMENDMENT (CHILD SEXUAL OFFENCES) BILL

Second Reading

Debate resumed from 20 October.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [8.17 p.m.]: The coalition does not oppose the Crimes Legislation Amendment (Child Sexual Offences) Bill, but it is considering an amendment to expand its operation. I ask the Attorney to clarify one aspect of schedule 2 to the bill. As the Attorney said in his second reading speech, this bill arises out of a recommendation by the Wood royal commission. Recommendation 82 on page 1326 of volume V of the royal commission report states:

> Creation of additional offences concerning:
>
> — persistent sexual abuse in relation to children under the age of 16 years, in accordance with the draft Model Criminal Code . . .
>
> — permitting or suffering a child under the age of 16 years to engage in an act of indecency, or sexual intercourse, in the presence of the person charged, or exposing a child to such conduct on the part of another, in either case with the intention of deriving sexual satisfaction from the presence of the child during that activity . . .
>
> — loitering by a convicted child sexual offender, without reasonable excuse, in or near defined premises regularly frequented by children and in which children are present at the time of loitering . . .

This bill addresses only the first and third parts of that recommendation. First, I shall deal with new section 11G, which creates an offence of loitering by a convicted sexual offender near premises frequented by children. I draw the attention of the Attorney to the wording of the provision, which suggests that a convicted sexual offender will be guilty of an offence if he loiters without reasonable excuse in or near a school, or in or near a public place regularly frequented by children and in which children are present at the time of the loitering.

I gained the impression from the Wood royal commission's recommendation that it was anticipated the offence should arise only when children are present at the time of the loitering. As I glean from this measure, an offence is being created if a person is near a school at any time. That would mean if it is outside school hours or school holidays, the offence will still be created. I do not think that was the intention of the Government. It was intended that a person would only be guilty if he or she were loitering at a school when children were present at the time of the loitering. I think that was the intention but that is not the way the measure has been drafted. I ask the Minister's advisers to have a closer look at that. Perhaps the typographical layout of the section can overcome the problem.

I strongly support the amendment dealing with schedule 1. At present when a person is being prosecuted for perpetrating three or more acts of indecency—if I can use a generic term to cover all issues of indecency—sexual intercourse or other activities involving a child, the court is required by High Court decisions to be satisfied as to the date or time when the offence occurred and the circumstances of the offence in order to get a conviction.

It is very difficult for young people, particularly when it is several years after the offence, to come forward and acknowledge that the offence occurred. They have great difficulty in being able to recall with particularity the circumstances of the offence. That is particularly so with very young children. Even people in their early teens may have difficulty remembering these details. Lawyers have their job to do and as the rules are such that they can get an acquittal for their client by casting doubt over the factual circumstances of the allegation, then the client will be acquitted.

This bill is aimed at avoiding the games that defendants may play. Provided the Crown is able to prove that three or more offences did occur over a defined time frame, the Crown is entitled to gain a conviction. I think that is a beneficial reform. I have indicated to the Government that I am considering moving an amendment to try to expand the operation of this provision. At the moment proposed section 66EA(1) provides that this will apply to a person who on three or more separate occasions is engaged in conduct in relation to a particular child.

If an offence involves a serial offender who might offend once or twice but in relation to several children then the existing law will still apply. They will have to be charged with the particular offences and the Crown will have to try to prove its case having regard to the current tests in relation to that particular child. I am considering circulating amendments to provide for a situation where if the prosecution were able to prove three or more separate occasions of an offence by an offender in relation to a particular child or to particular children, there would be the benefit of prosecuting under this provision. So if there was evidence of the offender committing these offences involving two or three children amounting to more than three offences within a defined period, then the Crown should be able to charge under this provision.

For example, take a family situation where there may have been several incidents but involving a couple of children or two or three children over a narrow period. Rather than have to try to prove the prosecution in respect of each of the individual children, because there may have been only a couple of offences in relation to each, the Crown could bring the whole lot of those incidents together. That is a lessening of the burden on the victims in trying to give evidence and I feel it would make it easier to pursue the prosecution. However, even this presents in itself some difficulties that I understand the Government wants to have time to consider.

The effect of my amendment will be to add the words "or particular children". Parliamentary Counsel has raised a number of matters that I will place on the record so that the House can give consideration to these issues as I understand we will not be dealing with the bill in Committee tonight. Parliamentary Counsel has advised that similar legislation as recommended and enacted in most jurisdictions is limited to the same child in respect to abuse over a period of time. The concept of adding it as applying to a number of children is in fact novel.

The amendments appear at face value to be efficacious. However, they appear to be directed at a different issue, and that is increasing the maximum penalty for repeat offenders and overcoming the ordinary rules for the protection of defendants that prevent different offences being tried together.

Under the proposed offence, as amended, there is nothing to prevent the prosecution from charging the accused in connection with different incidents involving different children where there is no doubt about the exact times and circumstances of the offences.

It may be that a different offence or different penalties and procedures should apply to address the issue. Other practical difficulties might be considered. The prosecutor must nominate a period to which the charge relates. If the accused is convicted or acquitted, the accused may not be charged in future for any specific sexual offence against the children occurring in that period. Choosing the one period for all the children to cover the three incidents may result in the exclusion from future prosecution for other offences committed against one of the children in part of the period concerned.

In addition, if there were multiple offences against all the children, there may be an implication that there is only one offence committed with respect to all children and the prosecution is unable to bring separate persistent sexual abuse charges. The double jeopardy provision has become complex in this area. I acknowledge there are problems in trying to provide an opportunity to charge a serial offender who may offend against a number of children. That is a matter that we need to think through.

I will move the amendments in Committee and it may be that honourable members will not divide on them because of this complexity. The Government may, after having a chance to consider them further, decide that it ought to try to improve this area and take the matter one additional step further to deal with people who prey on the young. With those general comments, the coalition supports the legislation. If there is an opportunity of taking it further without causing difficulties for the prosecution we ought to try to do that, but I will give the Government and the Committee the opportunity to consider those provisions.

The Hon. FRANCA ARENA [8.29 p.m.]: I am pleased to give my full support to the Crimes Legislation Amendment (Child Sexual Offences) Bill. Before talking about the objects of the bill, I place on record statistics about child abuse from the Australian Criminology Institute and the 1996 Australian Medical Journal. The statistics may be a bit dated, but I do not believe they have changed very much.

They state that one in four girls under 16 years of age has been abused; one in seven boys under 16 years of age has been abused; the average age of a child's first abuse is 10 years; 90 per cent of paedophiles are male; 41 per cent of children are abused by a relative; 75 per cent of children who report an offence do not go to court mainly because of the fear of the court system; 42 per cent of sexual assaults are on children under the age of 15 years; 10 per cent of childhood sexual assault is reported to either the police or relevant government departments—a frightening statistic; and 85 per cent of children who report abuse have been abused by someone they know.

These horrific statistics demonstrate the importance of this legislation and other legislation that the House will debate in the next few weeks to help protect the children of this State. The object of this bill is, in effect, to create two new offences: first, an offence of persistent sexual abuse of a child, attracting a maximum penalty of imprisonment for 25 years; and, second, an offence of loitering by convicted child sexual offenders near premises frequented by children, attracting a maximum penalty of 50 penalty units or imprisonment for two years or both.

I was amazed to note in the overview of the bill that the new indictable offence of persistent sexual abuse adopts the recommendation of the Wood royal commission that a new offence be created in line with the recommendation of the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General. Surely this was not the same committee that issued a discussion paper in November 1996 entitled "Sexual Offences Against the Person", which said not only that incest with consent should not be a crime and to lower the age of consent to 10 years, but also that in certain cases there be no age of consent! The conclusion in that paper stated:

> The Committee agrees that it is not the role of the criminal law to intervene in the private lives of citizens and to attempt to prohibit all kinds of sexual behaviour, no matter how objectionable or morally wrong that conduct may be. It might be fair to comment that many in the community would find incest between consenting adults repugnant. However, in the absence of sexual abuse or exploitation, the Committee is not convinced that such conduct should be the subject of a criminal offence.

The recommendation in that paper stated:

> The Model Criminal Code should not provide for an offence of incest.

In that same discussion paper this committee said that the age of consent should be lowered perhaps to 10 years of age or even that there should be no age of consent. I find it strange for that committee to make those recommendations. Perhaps it is a different committee of the same name! The committee's attitude contradicts the recommendation for this legislation. New section 66EA of the Crimes Act relates to the new offence of persistent sexual abuse of a child. I was pleased to note that new subsection (12) defines "child" as a person under the age of 18 years. However, on the next page new division 2A of the Summary Offences Act relates to the offence of loitering by convicted child sexual offenders near premises frequented by children and defines "child" to mean a person under the age of 16 years.

The Attorney's office told me that generally that offence was for the protection of smaller children. I find the different definitions incredibly inconsistent. This merely creates confusion and misunderstanding. This is important legislation and the statistics I have given to the House demonstrate the prevalence of child sexual abuse. It is unfortunate that the evidence before, during and after the Wood royal commission reveals that sexual offences are seldom and isolated occurrences. Usually the person who commits the offence is a recidivist. Legislation designed to protect children and to ensure paedophiles are put in gaol will always have my wholehearted support. I commend the Government for introducing this legislation.

The Hon. A. G. CORBETT [8.34 p.m.]: I support the Crimes Legislation Amendment (Child Sexual Offences) Bill, which will improve the handling of sexual offences against children and address the need to improve the criminal justice system to ensure better child protection from sexual offenders. As the Hon. Franca Arena alluded to, child sexual assault is a cowardly, manipulative and despicable act. It is almost always a planned event to offend against a vulnerable and defenceless child. This planning is referred to as grooming the child—a chilling description.

The Hon. D. F. Moppett: Sinister.

The Hon. A. G. CORBETT: It is very sinister. Sexual abuse against children can go unreported for a long time. Often this abuse is reported only when the child has reached adolescence or adulthood. Often in adolescence a child might be brave enough to admit to being abused as a child, but only upon learning that one of his or her younger siblings has suffered the same abuse. The abuse they suffered may have been kept silent, but there is no tolerance when younger siblings are abused. Many children will suppress their memories about sexual assault as this is a common way of dealing with a traumatic past.

As reported in the Wood royal commission paedophile inquiry, sexual encounters with children often happen on a number of occasions and involve a number of separate acts rather than a single act. It is difficult for young children to pinpoint exactly what occurred or to provide a consistent account of the abuse. Therefore, it is common that particulars of occasions when sexual abuse happened will be forgotten or distorted in the memory. These circumstances can produce an unfair advantage for a defence counsel.

The legal system must be sensitive to the emotional and other issues associated with child sexual abuse and must reflect the difficulties in proving particulars in order to substantiate a case of persistent child sexual abuse. This bill goes further towards producing a better and more protective legal system. It removes the anomaly in the present system when trials regarding sexual offences committed against children are conducted similarly to trials of sexual offences committed against adults.

Trials in relation to sexual assault offences committed against children are treated the same as trials in relation to other offences: the prosecution must prove the precise time, date and place when the alleged child sexual abuse happened. If the prosecution fails to prove these particulars, the offender is acquitted. This legal technicality contradicts the purposes of other legislation designed to protect children and was identified by the royal commission as a serious practical difficulty. Recommendations to resolve those difficulties were given by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General.

I agree with the comments of the Hon. Franca Arena about the discrepancy in ages in the definition of "child" as set out in the bill. This discrepancy must be addressed urgently. The specific benefits of the bill are that it establishes a better legal mechanism for child protection from sexual offences in two major ways: first, by creating a new offence for persistent child abuse, thereby removing the present difficulties associated with proving particulars of sexual offences; and second, by creating a new summary offence for loitering by convicted sexual offenders around areas frequented by children without reasonable excuse. These are welcome changes and, for some victims of sexual abuse, are long awaited.

Many people abused as children have lived with the emotional and physical trauma of their experience and the extra burden of not being granted proper justice because they could not prove during the trial the particulars of a persistent sexual abuse over a long period. The provisions of the bill reduce that possibility so that it will no longer be necessary to specify or prove dates or exact circumstances of the alleged offence. The offence will be proved as long as the prosecution establishes three separate offences of sexual abuse. The Wood royal commission reported also that paedophiles often loiter in areas where children gather to watch, photograph or film them or to engage in discussion with them.

It is common behaviour for paedophiles to loiter around schools, public toilets, beaches, playgrounds and other areas where children gather. Children in these areas are potentially at risk of abuse from paedophiles. This legislation moves to address this risk by creating an offence of loitering around areas where children gather. As this offence applies to convicted sexual offenders, there is the possibility of criticism from a civil libertarian perspective, that the bill impinges on the civil rights of convicted offenders who may have been rehabilitated. I would not like to argue that paedophiles cannot be reformed or rehabilitated but it is a very difficult process and one that has been acknowledged by other speakers in this debate.

There is evidence, as reported by the paedophile inquiry, that the level of recidivism by paedophiles is very high. In this context, the potential risk to children of being sexually abused must be weighed against the recidivism of sexual offenders. This bill creates a fair equilibrium between the two as it provides that a reasonable excuse may be given by the alleged offender which the prosecution must disprove beyond reasonable doubt. The safety and wellbeing of children should be the primary concern of our community and the Parliament. I support the bill on that basis.

The Hon. Dr A. CHESTERFIELD-EVANS [8.40 p.m.]: This bill creates offences that were embodied in recommendation No. 82 of the Wood royal commission. The two new offences are, first, persistent sexual abuse of a child—defined as a person under 18 years of age—which will carry a maximum penalty of 25 years; and, second, loitering by a convicted child sexual offender near premises frequented by children. This provision refers to a child under the age of 16. The maximum penalty will be 50 penalty units or imprisonment for two years or both. The offence of persistent sexual abuse refers to conduct that constitutes a sexual offence on three or more separate occasions occurring on separate days during a particular period. It will be easier to prove the offence as it will not be necessary to be exact with dates or circumstances.

This overcomes an evidentiary problem that was encountered in the High Court case of *S. v The Queen* (1989) 168 Criminal Law Reports at page 266. It is a difficult situation because the only witnesses in these cases are children. In these circumstances it is justifiable to have less stringent evidentiary standards than would normally be applied in criminal cases. A further concern with this bill is that it does not deal with the situation of a family member persistently abusing more than one child. This situation has been well documented and should be reflected in the operation of the bill. The same problems encountered in *S. v The Queen* may again arise if this issue is not addressed. I understand that the Opposition will move amendments to deal with this, and we will examine them when they are available. Similar legislative provisions are in place in all other jurisdictions in Australia. New South Wales is the odd one out, and it is only right and proper that we have similar legislation.

The second new offence can be identified as loitering for sexual gratification. I am informed that it is a common behavioural practice of paedophiles to hang around places frequented by children, such as schools, public toilets, beaches, swimming pools, sports fields, et cetera. Currently, two other States have legislation covering this situation. In South Australia a paedophile restraining order can be made under the Summary Procedure Act 1921. It refers to convicted paedophiles and people who have previously been found loitering near children but who have not been charged or convicted. Victoria has legislation under its Crimes Act also dealing with convicted offenders loitering in public places frequented by children. This is closer to the offence proposed in the bill before the House. The loitering offence will also apply to a person who has been convicted of a child sex offence in another jurisdiction. The Australian Democrats support this bill and will assess the amendment to be proposed by the Opposition.

The Hon. R. S. L. JONES [8.43 p.m.]: I fully support the legislation.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

PRIVACY AND PERSONAL INFORMATION PROTECTION BILL

In Committee

Parts 1, 2 and 3

The Hon. J. P. HANNAFORD (Leader of the Opposition) [8.50 p.m.]: I move Opposition amendment No. 1 as circulated:

No. 1 Page 3, clause 3, lines 16 to 21. Omit all words on those lines. Insert instead:

> ***public register*** means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).

The current definition of "public register" is designed not only to contain the above but also to have as a conjunctive feature that it is to be prescribed by the regulations as a public register for the purposes of the Act. The effect therefore will be that no public registers will come within part 6 until regulations have been made to include them, so it is possible that these protections will remain inoperative. In effect, part 6 relates to special information protection plans for public registers. There may be a need for more flexibility in the operation of part 6 and public interest exceptions in regard to the way they affect some registers.

Public registers should be subject to codes of practice made by the privacy commissioner under part 3 to provide that flexibility. This approach will also deal with the problem in the clause 3 definition of "public register". A register should become a public register for the purposes of part 6 when the commissioner makes a code of practice for that register. Effectively the Opposition is trying to establish privacy for public registers but public registers will not be covered by this bill unless the bureaucracy regulates to achieve them. At the moment that means we will have privacy but only when the Government decides it wants privacy. I do not believe that is appropriate. I therefore recommend the deletion of clause 3(b) in the current definition of "public register".

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.52 p.m.]: This amendment concerns public registers. The bill currently provides for public registers which are registers of personal information that are required by law to be made publicly available and which are prescribed by regulation. Part 6 of the Act outlines the responsibilities of the public sector agencies responsible for a public register. The Opposition's amendment seeks to remove the requirement that a public register be created by way of regulation.

It is not clear why the Opposition objects to the formal requirement of recognising a public register except that it means that part 6 will apply to all registers of personal information required by law to be made publicly available. That presumably means that access to such information as the electoral roll or land and titles information, which is freely available at present, will be limited by part 6 without the option of choosing to make access to it subject to part 6. Part 6 of the bill provides that personal information on a public register must not be disclosed unless the agency is satisfied that it is to be used for a purpose which relates to the purpose of the register or the Act under which the register is kept.

An agency can request a statutory declaration from the person seeking the information as to the intended use of any information obtained from the inspection of the register. The Government contends that the removal of the requirement for a public register to be prescribed by regulation will severely limit access to information that is currently readily accessible without giving the opportunity for such databases to be properly considered for inclusion as public registers. In short, the Government says that the amendment is misconceived and does not promote the spirit or the intention of the bill.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [8.54 p.m.]: I wish to reiterate that the effect of the bill is that part 6 will never be triggered as a provision applying to a public register until the Government has regulated that a particular register is a public register. As a consequence it will create an application of the privacy laws to a public register at some future time if and when the Government gets around to making a regulation to that effect. The Opposition believes that that is undesirable and that part 6 should apply to all of the existing registers the moment that there is a publicly available register of personal information. I reject the Government's suggestion that the effect of deleting this provision will delimit the operation of the legislation.

The Hon. I. COHEN [8.55 p.m.]: I will not move Greens amendment No. 1. The Opposition has covered much the same area as the Greens amendment, and I therefore support the Opposition's amendment.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [8.57 p.m.]: I move Opposition amendment No. 2:

No. 2 Page 4, clause 3, line 21. Omit all words on that line.

This bill will not apply to a State-owned corporation. The Government argues that a State-owned corporation is a commercially competitive organisation on the open market and should not be equated to a private corporation. The Government has indicated that it does not seek to apply this legislation to private organisations. The Government said that when the Federal Government applies privacy laws to private organisations they should apply also to State-owned corporations.

I understand that the Government will argue that to apply privacy laws to a State-owned corporation would render that corporation less competitive on the open market. But the Opposition takes a different approach: it says that all State-owned corporations are organs of the State even though they provide services in the community. The Opposition says that the Government should embrace the concept of privacy principles being applied to all organs of Government.

The House will recall the significant inquiry by the Independent Commission Against Corruption into the misuse of government information. Lawyers, private inquiry agents and the like were buying information from the Water Board, the Electricity Commission, and the Registry of Births, Deaths and Marriages.

It was as a result of that trade in government information that there developed a call for this legislation. Sydney Water and Hunter Water Corporation Ltd are State-owned corporations. They are a government monopoly and do not operate competitively with any other organisation. To say that a State-owned corporation should not be obliged to apply the privacy principles because it is an organisation trading in services is not appropriate. Sydney Water was criticised by the Independent Commission Against Corruption, yet this legislation will allow it to do whatever it was doing before and not be bound by the legislation.

Let honourable members have clear in their minds the consequence of this legislation. If a person wanted to take proceedings in respect of a breach of the legislation, that person could possibly obtain damages against the organisation. If Sydney Water trades in private information, why should it not face liability? Under this legislation it will not. Another set of organisations criticised during the ICAC inquiries were the electricity agencies. Yes, New South Wales does have State-owned corporations—electricity trading organisations—and, yes, they do in some areas compete with the Victorian privately owned generators, which are not at present bound by any privacy legislation.

The Government might have an argument that by imposing a duty on the New South Wales distribution agencies—not the generators but the distributors, those that are retailing electricity—our organisations might be at some disadvantage in retailing compared with interstate retailers. The Government might have an argument in that regard, but I and the Opposition take the view that as a government agency the Government should be setting a standard of behaviour for those agencies, which have possession of significant amounts of private data, and that is why the Opposition wants to apply this legislation to State-owned corporations.

Taking electricity as an example, the Government might say that requiring New South Wales electricity retailers to apply privacy principles to their activities might reduce their trading competitiveness and, therefore, reduce their competitive value when it is time to privatise the agencies. I do not know why the Government might be interested in that. It tells us it will not privatise. However, that is not a matter of concern for the coalition, which will pursue that competitive approach.

Reverend the Hon. F. J. Nile: You are going to privatise it?

The Hon. J. P. HANNAFORD: The coalition will pursue privatisation. At the time they are privatised, if there is no legislation applying to private organisations, this privacy legislation will no longer apply to them because they are not operating in the competitive market. But whilst ever they remain State-owned organisations the Opposition takes the view that if it is good enough for every other agency of government to provide privacy protection, it should be good enough to apply to the State-owned corporations owned by government. If those State-owned corporations ever become privatised this legislation will not apply to them. They will be covered by whatever is the national universal standard.

The principle that the Opposition advocates is that privacy should apply to a government agency unless it is exempted. The fact that it is a State-owned corporation is of no relevance. A State-owned corporation is a government agency that has

been corporatised to drive efficiencies within that agency. Adherence to privacy principles should not affect efficiency. If adherence to privacy provisions were to affect the efficiency of State-owned corporations, then it would impact on the other government agencies. There is no logic in that. The Government should set a standard of behaviour in relation to privacy that should apply to all agencies of government. It is for that reason that the Opposition advocates the deletion of that exception to State-owned corporations.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.05 p.m.]: Opposition amendment No. 2 proposes to remove the exclusion of State-owned corporations from the definition of a public sector agency. This would mean, of course, that State-owned corporations would be subject to the privacy legislation. Honourable members must bear in mind that they are dealing here with pioneering legislation affecting, essentially, public sector agencies. No previous government has enacted privacy legislation in New South Wales, and the question arises for this House whether we should properly push the frontiers of this legislation into the field of State-owned corporations.

I believe that the concept of State-owned corporations goes further than mere corporatisation to drive efficiency, as the Leader of the Opposition has characterised them. The idea is that State-owned corporations compete in the marketplace against private corporations and should be free to so compete. This proposal would put State-owned corporations at a competitive disadvantage with the private sector.

The Leader of the Opposition candidly admitted the difficulty that would occur in relation to competition between a State-owned corporation in New South Wales and a private corporation in Victoria with respect to electricity. There is an argument for the coverage of the private sector by privacy legislation, but until that is effected there is also an argument for keeping State-owned corporations in parity with other private corporations so far as privacy legislation is concerned.

Reverend the Hon. F. J. Nile: Stage one. There is a stage two.

The Hon. J. W. SHAW: Yes, and I believe that nationally legislation will be extended to the private sector in the privacy sphere. But until that occurs one would have to ask whether it is appropriate to cover a State-owned corporation by this legislation when the private sector generally is not covered by that legislation. As I apprehend it, no-one, and certainly not the Opposition, suggests that this legislation ought to cover the private sector. So it seems to be conceded in the argument that a State-owned corporation would be subject to a competitive disadvantage if it were covered by privacy legislation. The Government's argument would be that State-owned corporations should be covered by privacy legislation only when the private sector is similarly covered.

The Hon. I. COHEN [9.07 p.m.]: I support the amendment but I am a bit perplexed. It is interesting to see State-owned corporations competing with private corporations. However, as I understand it, the Government made a pre-election promise, and I hope that the Attorney will correct me if I am wrong, that it would extend the coverage of privacy protection legislation beyond the public sector. That is what I, as a Green, understood to be the case when we went to the last election. Therefore, I would support this amendment on the grounds that not only can it be extended to State-owned corporations but it also should extend to the private sector. So I would feel that this amendment is—

The Hon. D. F. Moppett: Very much in order.

The Hon. I. COHEN: That would appear to be the case, given that that was the Government's original commitment.

The Hon. Dr A. CHESTERFIELD-EVANS [9.09 p.m.]: This amendment will extend the operations of the bill to State-owned corporations, which may be considered a problem as the corporations have to compete in the private sector and it may put them at a disadvantage. The reality is that many of them are effectively monopolies, having been previously government monopolies, and obviously we do not want to put State-owned corporations at a disadvantage. Our solution is to extend the bill to cover the private sector, but that does not seem to be on offer. As most State-owned corporations have a monopoly, the Democrats believe that this amendment should be supported by the Committee.

Reverend the Hon. F. J. NILE [9.10 p.m.]: I share the concern of the Attorney General that we should keep the lines drawn and consider this bill as the first stage of the process. As the Attorney General said, this advanced, innovative legislation should be allowed to operate in the public sector.

Hopefully, once it is operating successfully in the public sector and providing positive benefits, the private sector, including State-owned corporations and other bodies, will be more sympathetic to being included in the second stage. The competition between New South Wales and Victoria is ruthless. That is what this legislation boils down to; it is not so much about monopolies.

New South Wales is in a life and death struggle with Victoria. Mr Kennett is like a dictator; he controls both houses of the Victorian Parliament and introduces whatever measures he likes. This bill will give Victoria an unfair advantage over New South Wales. Obviously, State-owned corporations in New South Wales will need to employ additional staff, et cetera, if they are to comply with the legislation and keep their advantage over their Victorian counterparts and other private sector organisations in New South Wales. The Christian Democratic Party is not proposing any amendments as it often jumps ahead of the Government and we end up with nothing. Honourable members should consider carefully whether they are happy to accept this legislation, rather than not have any legislation.

The Hon. HELEN SHAM-HO [9.11 p.m.]: I will not support this amendment. I echo the comments of the Attorney General and Reverend the Hon. F. J. Nile. In the marketplace there is fierce competition in the corporation sector. Professor Graham Greenleaf of the University of New South Wales has indicated, effectively, that the Opposition's amendment is relevant only if the bill covers the private sector. This bill does not cover the private sector, so I will not support the amendment.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 19

Mr Bull	Mr Lynn
Mrs Chadwick	Dr Pezzutti
Dr Chesterfield-Evans	Mr Ryan
Mr Cohen	Mr Samios
Mrs Forsythe	Mr Rowland Smith
Mr Gallacher	Mr Tingle
Miss Gardiner	Mr Willis
Mr Hannaford	*Tellers,*
Mr Jones	Mr Jobling
Mr Kersten	Mr Moppett

Noes, 19

Mrs Arena	Mr Obeid
Dr Burgmann	Mr Primrose
Ms Burnswoods	Ms Saffin
Mr Corbett	Mrs Sham-Ho
Mr Dyer	Mr Shaw
Mr Kaldis	Ms Tebbutt
Mr Kelly	Mr Vaughan
Mr Macdonald	*Tellers,*
Mrs Nile	Mrs Isaksen
Rev. Nile	Mr Manson

The CHAIRMAN: Order! The numbers being equal, I cast my vote with the ayes and declare the question to be resolved in the affirmative.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.20 p.m.]: I move Opposition amendment No. 3:

No. 3 Page 5, clause 3, lines 7 to 9. Omit "includes any publication or document declared by the regulations to be a publicly available document for the purposes of this Act, but".

On its face the phrase in the legislation appears innocuous but it has the capability of allowing Executive Government to effectively eliminate the operation of the Act in a certain area. "Publicly available publication" is defined as including any publication or document declared by the regulations to be a publicly available document for the purposes of the Act, but does not include any publication or document declared by the regulations not to be a publicly available document for the purposes of the Act.

The effect of the definition is to allow the Government to undermine the information protection principles. The deletion of the first part of the definition, which allows the regulations to declare what is a publicly available publication, is dangerous because clause 4(3)(b) allows any publication to be exempted from the information protection principles even if it is not really publicly available. Once this amendment becomes law, if the Government is concerned about any particular document or publication it could develop a privacy code to address that issue. If there is an area of real concern, the Government still has power under the Act to deal with it. This bill gives Executive Government a weapon by which to limit the application of privacy, and it is for that reason that the Opposition advocates the amendment to the definition.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.23 p.m.]: The Government does not support the amendment, which seeks to remove from the definition of "publicly available publication" any publication or document declared by the regulations to be publicly available for the purposes of the Act. Should this amendment be successful, the definition of "publicly available publication" will be "does not include any publication or document declared by the regulations not to be a publicly available document for the purposes of this Act". The definition was framed to ensure that should there be some difficulty in determining whether a publication or document is in fact publicly available, there will be a mechanism for declaring it so.

Amendment agreed to.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.24 p.m.], by leave: I move Government amendments Nos 1, 3, 4, 5, 6, 7, 8 and 9 in globo:

No. 1 Page 5, clause 3. Insert after line 11:

State record has the same meaning as in the *State Records Act 1998*.

No. 3 Page 6, clause 4(4), line 26. Omit "engagement.". Insert instead "engagement, or".

No. 4 Page 6, clause 4(4). Insert after line 26:

(c) the information is contained in a State record in respect of which the agency is responsible under the *State Records Act 1998*.

No. 5 Page 10, clause 12(2), lines 1 to 6. Omit all words on those lines.

No. 6 Page 13, clause 20(4), line 7. Omit all words on that line.

No. 7 Page 16, clause 25, line 11. After "law", insert "(including the *State Records Act 1998*)".

No. 8 Page 18, clause 29(3), line 14. After "kind.", insert "Any such code must, to the extent that it relates to personal information contained in a State record that is more than 30 years old, be consistent with any relevant guidelines issued under section 52 of the *State Records Act 1998*.".

No. 9 Page 18, clause 29(5), line 21. Omit "A privacy code of practice". Insert instead "Except in the case of a privacy code of practice that is referred to in subsection (3), a code".

Those amendments clarify the relationship between the State Records Act and the bill. The amendments have been included to address concerns raised by the State Archives Authority and the History Council, both of which have indicated their support for these amendments.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.25 p.m.]: The Opposition supports the amendments. There have been a number of complaints by people who seek access to historical information and, as I understand, these amendments are aimed at making certain that historical information will be available and that a code can be devised to allow access to it. That being so, it overcomes some of the concerns that have been raised with the Opposition.

The Hon. JAN BURNSWOODS [9.26 p.m.]: I support the amendments. For a while various historians and others were most concerned about the possibility of conflict between privacy considerations and the needs and interests of historians. As a member of the New South Wales Archives Authority, I played some role in discussing the need for amendments that would achieve these ends, and I congratulate the Government and members of the historical and archives community on making sure that any possible conflict between the privacy legislation and the State Records Act was overcome.

Amendments agreed to.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.27 p.m.]: I move Government amendment No. 2 as circulated:

No. 2 Page 6, clause 4(3). Insert after line 5:

(f) 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*,

This amendment amends clause 4(3) by providing that personal information about an individual that arises out of or in connection with an authorised operation under the Law Enforcement (Controlled Operations) Act is not caught within the definition of "personal information" for the purposes of the bill.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.28 p.m.], by leave: I move Opposition amendments Nos 4 and 5 in globo:

No. 4 Page 6, clause 4(3), lines 15 and 16. Omit all words on those lines.

No. 5 Page 6, clause 4(3), lines 17 to 19. Omit all words on those lines.

In clause 4 "personal information" is defined as meaning "information or 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". One would assume that is a straightforward definition of "personal information", but subclause (3) provides that personal information does not include, inter alia, paragraphs (i) and (j), which state:

(i) information or an opinion about an individual's suitability for appointment or employment as a public sector official,

(j) information about an individual that is of a class, or is contained in a document of a class, prescribed by the regulations for the purposes of this subsection.

Effectively that means people wanting to obtain personal information about themselves in relation to possible employment will not be able to obtain it. In all personal relationship issues these days people have an opportunity to obtain information from their personnel file. However, the Government says that under this privacy Act there will be no automatic right to personal information in connection with employment. This bill is modelled on Federal privacy legislation which includes that exemption, but the experience of the past 10 years is that that exemption has not been resorted to.

If such exemptions are justified in some circumstances, the Privacy Commissioner could provide for them in a code. Again, the exemption in paragraph (j) has not been resorted to in the Commonwealth Privacy Act for 10 years. The effect of paragraph (j) is to exempt anything, whether or not it is really personal information. The preferable approach would be for clause 4(3)(j) to instead confirm in a code that the Privacy Commissioner may provide that certain classes of information are not personal.

By deleting these two provisions the Government can still move in this area but must develop a code that states that if an employee wants access to information about himself or herself, this is the way to go about it. It must be remembered that under this Act privacy codes can be developed either to restrict or broaden access to information that is otherwise exempt. The Opposition considers it inappropriate to have a blanket exclusion that states, as the Government has done, that a person will never be allowed to get any information that relates to his or her suitability for appointment or employment.

The Government must move on that proposal by way of a code. Effectively, that means the Privacy Commissioner will work on the proposal and, as the bill states, the Government will be able to deal with that by way of an order. That is the more appropriate way to deal with this type of situation. That has been the Commonwealth experience and I advocate it for New South Wales.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.32 p.m.]: These amendments raise the principle of whether public sector agencies and potential public sector employers should have access to records of employees. One can postulate examples where there would be records of misconduct or inappropriate behaviour that one would have thought clearly should have been readily available to prospective employers of people seeking positions within the public sector.

As the Leader of the Opposition said, the definition of personal information excludes information or opinions about an individual's suitability for appointment or employment as a public sector official and excludes information about an individual that is of a class or is contained in a document of a class prescribed by the regulation. Obviously, sensitive and personal information will be contained on files within public sector agencies, but one must ask why that information should not be available generally to prospective employers within the public sector.

Why should that information be protected by privacy? I suggest to the Committee that the removal of these exemptions involves risks. It is all very well to say that a code of practice could be formulated, but it is not particularly easy to formulate such a code that might not prevent sensitive information being given to a prospective employer where that information would be highly relevant to the employability of a particular person. These are not easy issues and there is no point in trying to politicise a debate of this nature. However, I suggest that the carefully framed exemptions in this bill are part of the checks and balances of the package and that the Committee ought to be cautious before it removes them wholesale.

The Hon. Dr A. CHESTERFIELD-EVANS [9.35 p.m.]: The Australian Democrats believe that the Opposition wants to remove from the definition matter that does not constitute personal information or opinion about a person's suitability for a job. As the bill stands, this information should be freely available. The Democrats believe that if the

amendment is agreed to, a department would not be able to tell another department of problems with a job applicant. It is common for an applicant to obtain a reference from the present supervisor for a job application to another department but this proposal would make that impossible. It is standard practice for this information to be available and it is unreasonable to make access to it impossible, difficult or actionable. We believe this amendment cannot be supported on these common practice grounds.

Amendments negatived.

The Hon. I. COHEN [9.37 p.m.], by leave: I move Greens amendments Nos 2, 3 and 7 in globo:

No. 2 Page 12, heading to clause 19, line 23. Omit "**classes**". Insert instead "**restrictions on disclosure**".

No. 3 Page 12. Insert after line 29:

(2) A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales unless:

(a) a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction, or

(b) the disclosure is permitted under a privacy code of practice.

(3) For the purposes of subsection (2), a ***relevant privacy law*** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.

(4) The Privacy Commissioner is, within the year following the commencement of this section, to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales.

(5) Subsection (2) does not apply:

(a) until after the first anniversary of the commencement of this section, or

(b) until a code referred to in subsection (4) is made, whichever is the later.

No. 7 Page 18, clause 29. Insert after line 14:

(4) A privacy code of practice may also provide for the disclosure of personal information to persons or bodies outside New South Wales.

In order to ensure that the transfer of personal data to New South Wales is not prevented by the European directive, the Hong Kong legislation or possibly the new Victorian Act, new subclauses are needed to prevent disclosure of personal information to organisations that are not subject to similar privacy protections as those found in the New South Wales Act or do not otherwise provide sufficient guarantees of privacy protection.

The proposed amendments are flexible in that they do not require a privacy law in another jurisdiction; instead they ask the Privacy Commission to specify in a code of practice what types of contracts, industry codes of conduct or other protections can provide adequate guarantees of privacy protection because these standards will be contained in a code of practice. The commissioner will be able to amend the codes to keep up with international best practice. I commend Greens amendments Nos 2, 3 and 7 to the Committee.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.38 p.m.]: The coalition addressed the need for Greens amendments Nos 2, 3 and 7. Amendment No. 3 states that no public sector agency in New South Wales that holds any personal information will be able to convey any of that information to any person or body in any jurisdiction outside New South Wales. That means it cannot convey information to any State government in Australia or any government overseas unless that jurisdiction has a privacy law. Amendment No. 3 provides a window. Proposed subclause (4) of clause 19 states:

> The Privacy Commissioner is, within the year following the commencement of this section, to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales.

I proposed to move that amendment myself, but, after taking further advice, I decided not to. The effect of the amendment is that if no other State in Australia adopts a Privacy Act, New South Wales will not be able to communicate with any other State. That might be a good way to put leverage on other States to adopt a Privacy Act but it has a potential problem. I do not think New South Wales should legislate that no New South Wales agency will be able to communicate with, say, Queensland or Western Australia, who, I understand, are not addressing their minds to privacy legislation.

For that reason I decided not to move a like amendment and that is why I say to the Hon. I. Cohen that I cannot support his amendment. Although the principle of trying to apply leverage to the other States is laudable, I do not think it is appropriate. That is not to say, however, that the Government could not have the Privacy Commissioner develop codes for all agencies to communicate with other States. The legislation allows that to occur and the Government could

move that way at any time. At this stage, in the infancy of privacy legislation of this type in Australia, perhaps it is better not to accept the amendment proposed by the honourable member.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.41 p.m.]: The Government takes a somewhat different view from that advocated by the Leader of the Opposition. We feel the amendments cannot be opposed.

The CHAIRMAN: Order! I remind honourable members that they should not speak to members of the general public in the gallery.

The Hon. J. W. SHAW: As has been pointed out, the amendment would require the Privacy Commissioner, within a year following the commencement of the section, to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales. Amendment No. 3 also proposes a subclause (2) which states that the public sector agency must not disclose information to any person or body who is in a jurisdiction outside New South Wales unless a relevant privacy law applies in that other jurisdiction or the disclosure is permitted under a privacy code of practice.

The view my advisers take is that we could expeditiously prepare a privacy code of practice dealing with the interstate transfer of data, and therefore that would not inhibit New South Wales transferring information to another jurisdiction within Australia. Alternatively, it is possible that the commencement date of this clause could be delayed until such a suitable privacy code of practice is prepared that would facilitate the transfer of data. On that basis, we cannot reasonably oppose the amendment, although I acknowledge the point that the Leader of the Opposition has made. There is a need for the transfer of information between New South Wales and other States and Territories of the Commonwealth. Obviously a mechanism needs to be enacted to facilitate that. However, we take the view that the amendments will provide adequately for a code of practice to allow that to be done.

Amendments agreed to.

The Hon. I. COHEN [9.44 p.m.]: I move Greens amendment No. 4:

No. 4 Page 13, clause 20(6), lines 11 to 13. Omit all words on those lines. Insert instead:

(6) Without limiting the generality of section 5, the provisions of the *Freedom of Information Act 1989* that impose conditions or limitations (however expressed) with respect to any matter referred in section 13, 14 or 15 are not affected by this Act, and those provisions continue to apply in relation to any such matter as if those provisions were part of this Act.

Clause 20(6) exempts virtually the whole of the public sector from clauses 13 to 15, relating to information protection principles, effectively making them illusory. This amendment is important because some of the rights provided by those clauses are not duplicated in the Freedom of Information Act, particularly clauses 13(a) and 15(1)(b) concerning relevance, and clause 15(3) concerning notice to recipients of amended records.

Clause 20(6) should be amended to provide that where the Freedom of Information Act provides a specific exemption from access or correction, or conditions that must be complied with for access or correction, the Freedom of Information provisions will apply as if they were provisions of this Act. This change is consistent with clause 5, the Freedom of Information Act notwithstanding. The Commonwealth Privacy Act makes the Commonwealth Freedom of Information Act prevail in analogous fashion and no problems have arisen from this. I commend to the House Green amendment No. 4, which in part obviates the need for Opposition amendment No. 6.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.46 p.m.]: The Government does not oppose the amendment. It seeks to bolster the Government's position that clauses 13 to 15 of the bill cannot be used to circumvent provisions of the Freedom of Information Act.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.46 p.m.]: The Opposition does not oppose this amendment either. And therefore we will not proceed with our subsequent amendments.

Amendment agreed to.

The Hon. I. COHEN [9.47 p.m.], by leave: I move Greens amendments Nos 5 and 6 in globo:

No. 5 Page 16, clause 27(1), line 27. After "not", insert ", for a period of one year from the commencement of this section,".

No. 6 Page 16, clause 27(2), line 29. Omit "However, the information protection principles do apply". Insert instead "The information protection principles apply, regardless of subsection (1),".

Amendments Nos 5 and 6 apply to the complete exemptions for the Independent Commission Against Corruption, the Police Service, the Police Integrity Commission and the New South Wales Crimes Commission. Clause 27 exempts these organisations completely from complying with the information protection principles—the IPPs—specified in part 2, division 1, except in connection with the exercise of their administrative and educative functions. The Greens consider this to be unnecessary and inappropriate.

The Commonwealth Privacy Act does not contain such complete exemptions for police agencies. No matter how many exemptions from the IPPs are appropriate for these agencies, there is no reason why the remaining IPPs should not apply to them. These agencies should have a one-year exemption to allow them time to adjust and for a code to be drawn up for them. I commend Greens amendments Nos 5 and 6.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.48 p.m.]: The Government cannot accept these amendments. They seek, as the Hon. I. Cohen said, to remove the exemptions given to the Independent Commission Against Corruption, the Police Service, the Police Integrity Commission and the New South Wales Crimes Commission. Those exemptions have been provided on the basis that these are investigative bodies dealing with special personal information that needs to be collected and exchanged, unhindered, with other investigative bodies. The Government thinks the need for the investigation of crime is sufficiently important in the public interest to justify the exemption.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.48 p.m.]: The argument put by the Hon. I. Cohen has some merit but New South Wales is moving into a new era and government agencies are beginning to understand that privacy is somewhat important. One might well say we are entering a period of cultural change in New South Wales.

The Hon. I. Cohen: A brave new world.

The Hon. J. P. HANNAFORD: The Hon. I. Cohen says it is a brave new world, and for the public service that may be so. The ICAC inquiry related to members of the Police Service accessing privacy information held by the service. The Police Service was the major organisation about which complaints were made during the inquiry. For example, people constantly complain about police officers gaining unauthorised access to police computers to use data, such as motor vehicle licence information, for their own purposes.

I acknowledge that the administration of the Police Service has been significantly tightened since the ICAC inquiry. Police officers who breach the commissioner's rules in relation to access to computers are now dealt with quite harshly and are often sacked. The Police Service is going through a significant cultural change. Police officers who commit such breaches of privacy may have to pay a fortune in compensation. I have heard on the grapevine—I do not know whether it is true—that a letter was signed jointly by all the heads of those agencies, pleading with the Government to exempt them from the operation of the legislation. It is unusual for these agencies to get together to sign such a letter.

My recollection is that when I introduced the draft legislation into this House in 1994 this exemption was not included. I understand that central agencies had a strong view in relation to the legislation and if they had their way the legislation would never have been passed. I suspect that the Attorney General has acceded to this provision being included in the bill as a compromise to get the legislation through. I do not support the amendment moved by the Hon. I. Cohen. I agree with the Government. I put on record my view that the police and law enforcement agencies will have to comply with privacy principles in the future. There are strong advocates in the community for the application of the privacy principles but those advocates have been realistic enough to say to me that they recognise that there will have to be an evolutionary period in this regard.

I know that the Hon. I. Cohen has said that the police ought to be given a year to develop a code to deal with this legislation. I suspect that a year might not be enough and it is better to leave the clause as it is. I expect that at some stage an attorney will ask the privacy commissioner to review that area with a view to developing a privacy code in conjunction with these agencies. That privacy code would then, as I understand it, override this provision. That is the way it will go in the future, and the justice agencies should accept that.

The Hon. Dr A. CHESTERFIELD-EVANS [9.53 p.m.]: The Australian Democrats support these amendments. We believe that a cultural evolution would be helped immensely if the Parliament supports these amendments. Given the record of some of these agencies, and their lack of respect for

privacy, it would be good if this Parliament took the lead and pushed towards the cultural change to which the Leader of the Opposition referred.

Reverend the Hon. F. J. NILE [9.54 p.m.]: I am not surprised that the Greens have moved these amendments. However, I am surprised by the Leader of the Opposition's soft response and support for the amendments.

The Hon. I. Cohen: It was an intelligent response which acknowledged that we have come out of the Dark Ages.

Reverend the Hon. F. J. NILE: I am worried about the Leader of the Opposition and the Hon. I. Cohen. Should the organisations that were set up to fight crime, drug rackets and other activities in our society—ICAC, the Police Service, the Police Integrity Commission and the New South Wales Crime Commission—be tied up in knots so that they cannot do their job? The exemption is vital for these organisations to carry out their role in our society in the war against crime.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.55 p.m.]: I should make it clear that this exemption has nothing to do with the crime-fighting activities of the police, which will not be affected by this legislation. The matter to which I am referring is other information held by them in their administrative or educative functions. The debate should not be confused by any suggestion that crime-related information would be at all compromised. Nobody at any stage would suggest that privacy principles ought to apply to the crime intelligence data of the police. For the very reasons outlined by Reverend the Hon. F. J. Nile, if access to that data was allowed the police would be compromised. I want it clearly on the record that there is no suggestion from me that any information held by police which might be of utility in their crime fighting ought ever be brought under this bill.

Reverend the Hon. F. J. NILE [9.56 p.m.]: I know that it can be said that the exemption can be divided, but my understanding of how organised crime works is that it is so efficient that an opportunity could be exploited. Administrative information could be of assistance to them—for example, which officers are involved with administrative tasks, on leave or involved with surveillance activities. One does not have to be a genius to gather such information and use different devices to obtain it. That is why there must be a protection.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.57 p.m.]: I have no desire to prolong this debate but I need to explain how the bill works and what the effect of the amendments would be. Clause 27(1) of the bill gives a general exemption to the Independent Commission Against Corruption, the Police Service, the Police Integrity Commission and the New South Wales Crime Commission. If that clause were removed, as the amendment suggests, the exemption with respect to the investigative functions of those crime-fighting bodies would be removed.

Clause 27(2) of the bill brings those bodies into the ambit of the Act in relation to their administrative and educative function. The bill seeks to draw that dichotomy between crime investigation which would be exempted under clause 27(1) and administrative and educative functions which would not be exempt under clause 27(2). The amendment would remove the clause 27(1) exemption and therefore remove the exemption with respect to crime investigation.

Amendments negatived.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [9.59 p.m.]: I move Opposition amendment No. 7:

No. 7 Page 18, clause 29. Insert after line 22:

(6) A code:

(a) must provide standards of privacy protection that operate to protect public sector agencies from any restrictions in relation to the importation of personal information into New South Wales, and

(b) must not exempt any public sector agency from compliance with an information protection principle unless the Privacy Commissioner is satisfied that the public interest in allowing the exemption outweighs the public interest in the agency complying with the principle, and

(c) must not impose on any public sector agency any requirements that are more stringent (or of a higher standard) than the information protection principles.

Clause 29 relates to the operation of privacy codes of practice and allows for their development. However, the bill does not include a benchmark against which the privacy code ought to be developed. The Opposition argues that in developing a privacy code the benchmark should be the information privacy principles. This is not

inconsistent with the approach taken in privacy Acts in New Zealand, Hong Kong and United Kingdom jurisdictions. The Opposition is seeking consistency in the operation of privacy. We agree that privacy codes ought to be developed, and that they should be able to be used in a flexible way. But in developing a code there should be a benchmark for testing the operation of the code.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.01 p.m.]: The Government supports the amendment.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.02 p.m.]: I move Opposition amendment No. 8:

No. 8 Page 18, clause 30(1), line 26. After "principles", insert "or the application to any public sector agency of the provisions of Part 6".

Part 6 applies to public registers. The privacy code of practice should apply to the public registers and in relation to any such register a privacy code of practice should be able to modify the application to any agency or any one or more of the information protection principles to that division. This amendment is intended to make certain that there is a more comprehensive application of the code to all aspects of government.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.02 p.m.]: The Government supports the amendment.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.03 p.m.]: I move Opposition amendment No. 9:

No. 9 Page 19, clause 30(2). Insert after line 3:

(c) exempt a public sector agency, or class of public sector agency, from the requirement to comply with any information protection principle.

Clause 30 is aimed at allowing for a code to vary a specific part of any one of those principles. At the moment a code may specify requirements that are different from the requirements set out in the principles, or exempt any activity or conduct by a public sector agency from compliance with any such principle and may specify the manner in which any one or more of the information protection principles are to be applied or followed by the public sector agency. However, there is not a clear statement that a public sector agency could be exempted from the application of the principle. The Opposition wants that opportunity to be available, because maximum flexibility should be allowed for the use of codes to control behaviour.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.04 p.m.]: The Government accepts the amendment.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.05 p.m.]: I move Opposition amendment No. 10:

No. 10 Page 19, clause 31, lines 4 to 26. Omit the clause. Insert instead:

31 Preparation and making of codes

(1) Privacy codes of practice are to be made by the Privacy Commissioner.

(2) The Privacy Commissioner, or any public sector agency, may initiate the preparation of a privacy code of practice. If an agency initiates a code, it is to consult with the Privacy Commissioner on the preparation of the code.

(3) The Minister may require the Privacy Commissioner to initiate the preparation of a privacy code of practice that deals with any one or more of the following:

(a) a specified class of personal information,

(b) a specified public sector agency (or specified class of public sector agency),

(c) the ways in which personal information may be used.

(4) The Privacy Commissioner is required to make a code dealing with the use of personal information for the purposes of research within one year of the commencement of this section.

(5) In making a code, the Privacy Commissioner is to consult with such persons and agencies as the Privacy Commissioner thinks appropriate. The Privacy Commissioner may cause a draft code to be made publicly available and invite submissions on the draft.

(6) A code takes effect when it is published in the gazette (or on such later date as may be specified in the code).

(7) The provisions of sections 39, 40 and 41 of the *Interpretation Act 1987* apply in relation to codes in the same way as those provisions apply to statutory rules.

This provision is controversial. It is necessary that the Committee understand the operation of clause 31 of the bill. Under that clause the Privacy Commissioner will be able to make codes. The Privacy Commissioner or any public sector agency may be able to initiate the preparation of a draft privacy code of practice and develop that draft code in consultation with other bodies and submit it to the Minister. The Minister may determine whether it is appropriate to proceed with that code. The code is made by an order of the Government. The effect of clause 31 is to give to the Minister the complete control over codes. That means that if the commissioner prepares a code and an agency does not like it, or the Minister does not like it, it will not proceed.

However, if the Privacy Commissioner proposes a code but the Government does not like it, the Government will make such code as it wants and that code, when gazetted, will apply. The Opposition suggests that there should be a greater transparency in the making of a code; that the Privacy Commissioner should make the codes; that the Minister may be able to require the Privacy Commissioner to make a code; when the code is made after public consultation that code should be gazetted as if it were a regulation. If the Government does not like the code the Government could seek to disallow it by the normal regulatory mechanisms, or if the Parliament does not like the code, it could be disallowed.

That approach is not supported by the Government. It takes the view that in relation to these codes, at this stage of development of the concept, the Minister should have complete control of the direction of any codes; that there should not be public oversight by the Parliament. The Opposition takes the view that there should be parliamentary accountability in relation to codes, not ministerial accountability. The Privacy Commission has been set up to develop these codes and it should be left to the Privacy Commission subject to oversight by the Parliament. There is a philosophical difference between the Opposition and the Government in this regard. I understand the position taken by the Government, at this stage. It is saying that this is a new direction in this legislation.

With the passage of this bill, New South Wales will be the first State in Australia to move in this direction. We are moving into a brave new world, but there are two alternative approaches. First, leave it to the Government at this stage to support the development of codes and do it completely by orders or, second, leave it completely to the Privacy Commissioner and do it by regulation and leave it to the Parliament to debate and disallow any parts of the code that are not regarded as appropriate. Those two approaches are divergent and I understand the Government's position. I leave it to the Committee to make a decision.

The Hon. I. COHEN [10.09 p.m.]: I move that Opposition amendment No. 10 be amended by the following Green amendment:

> Omit "may cause" from proposed section 31(5) to be inserted by Opposition amendment No. 10. Insert instead "must cause".

The amendment simply changes the wording from "may" to "must" in the amendment to clause 31(5) proposed by the Opposition. The Greens think it is appropriate, for community consultation and public participation reasons, that the Privacy Commissioner must cause a draft code to be made publicly available and invite submissions on the draft. This should not be left to the discretion of the Privacy Commissioner. I commend the Greens amendment to Opposition amendment No. 10.

The Hon. Franca ARENA [10.11 p.m.]: In principle I believe in the independence of the Privacy Commissioner. However, there has been a lot of speculation about who that person will be. Because the speculation has been neither confirmed nor denied, and I do not trust the person about whom the speculation has been made, I would rather that the Minister made the decision.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.11 p.m.]: In relation to the Greens amendment, which makes it mandatory for the Privacy Commissioner to circulate a draft code, I should indicate that I have considered the proposal made by the Greens but I will not support it, because the Privacy Commissioner would not only have to circulate the draft code when he is making the code, but would also have to circulate it if he were to make any amendments. There may be circumstances when only a very minor amendment is required to make the thing work, perhaps because of drafting errors.

Under the proposition of the honourable member, every time the code had to be varied the advertising and public submissions mechanism would have to be used, which may frustrate the need to make minor amendments on short notice to particular codes. It is clear that the Privacy Commissioner through the Opposition's amendment will be told that he should move to public consultation, and we should leave it to the Privacy Commissioner to exercise his discretion having regard to the direction being advocated by the in-

principle amendment. For that reason that I will not support the honourable member's amendment.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.13 p.m.]: For the same reasons advanced by the Leader of the Opposition the Government will not support the amendment to the amendment moved by the Hon. I. Cohen. The Government has difficulties with the Opposition amendment: the idea of the Privacy Commissioner making delegated legislation that would constitute regulations. The Government believes that Opposition amendment No. 10 would remove the present procedures for the making of a privacy code of practice and introduce a new procedure.

The present procedures provided for in the bill are that the Privacy Commissioner, or any public sector agency, can initiate the preparation of a draft privacy code. Codes have to be developed in consultation with the relevant persons and bodies. The Privacy Commissioner can make submissions to the Minister on any draft code. The Minister must take into account the Privacy Commissioner's submissions before making a code, and then a code, as the Government would propose it, is made by an order of the Minister published in the *Government Gazette*.

The Opposition amendment provides that only the Privacy Commissioner can make a privacy code. In addition, it would apply, as the Government understands it, to sections 39, 40 and 41 of the Interpretation Act 1987. The Government contends that it is not appropriate for the Privacy Commissioner to make codes or regulations in accordance with the Interpretation Act. That seems to the Government to be a function for the Minister. The present provisions ensure that the Privacy Commissioner is involved in the drafting of codes and that the Minister must take into account submissions made by the Privacy Commissioner in regard to codes but, in the final outcome, it is a matter for the Minister, not the commissioner, to make the codes by order. Therefore, the Government will support the model in the bill rather than the amendment.

Reverend the Hon. F. J. NILE [10.14 p.m.]: For the reasons outlined by the Leader of the Government, we oppose amendment No. 10 and the amendment moved by the Hon. I. Cohen. The Opposition amendment gives tremendous powers to the Privacy Commissioner, which puzzles me. I have never seen an amendment in any legislation that gives such power to an individual. It is amazing. This person would be drawing up codes on his own and moving regulations.

The Leader of the Opposition said that the Government would have to move a disallowance motion against the privacy commissioner. That is ridiculous; it is all back to front. I am surprised at the Opposition moving in this direction. The Opposition's amendment would create a new kind of very powerful privacy commissioner in this State. Having such a powerful individual, whoever that individual may be, would act against the privacy legislation. We oppose the Opposition amendment and the Greens amendment.

The Hon. Dr A. CHESTERFIELD-EVANS [10.16 p.m.]: The Democrats believe this is an important amendment. The bill as a whole will give the power for the codes to be authorised by the Minister. The Opposition amendment will put the power in the hands of the Privacy Commissioner. The privacy commissioners in Hong Kong and New Zealand have that power, and it does not seem to have caused any collapse in those countries. If the bill is not to be emasculated by a future government, the power must lie with an independent arbiter—the Privacy Commissioner. It is better that the person driving the code has an unequivocal commitment. It is disappointing that the bill is so weak and has so many exemptions, but it will go some way at least towards putting an engine in the bill to drive it towards where it needs to go. The Democrats, therefore, will support this amendment.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.18 p.m.]: I note the comments made by honourable members, but I also note the numbers in the Chamber and I will not call a division on an amendment when I do not have the numbers.

Amendment of amendment negatived.

Amendment negatived.

Parts as amended agreed to.

Part 4

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.19 p.m.]: I move Government amendment No. 10:

No. 10 Page 23, clause 37. Insert after line 21:

(4) This section does not confer any function on the Privacy Commissioner that may be

exercised in relation to the Independent Commission Against Corruption.

This amendment is designed to clarify that the Privacy Commissioner does not have the power to obtain information from the Independent Commission Against Corruption.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.20 p.m.]: I move Opposition amendment No. 11:

No. 11 Page 30, clause 51(1), lines 3 to 6. Omit all words on those lines.

This amendment is important because, effectively, this clause as presented precludes anyone from obtaining remedies under the legislation. It is unfair to legislate that complainants must make an irreversible choice between mediation by the Privacy Commissioner, with no enforcement powers, or a fully litigated dispute before the Administrative Decisions Tribunal at an early stage. Effectively, once the commissioner makes a preliminary assessment of a complaint, that is, without investigation, he, not the complainant, must decide whether to commence a proper investigation pursuant to clause 46, although such decision 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, under clause 53 the commissioner can refer the complainant to the agency complained about for an internal review. If the internal review fails, under clause 55 the complainant can then seek a review by the tribunal. The tribunal is the only body with the power to order remedial conduct or award damages. An unscrupulous agency that wished to avoid paying damages or awards being made against it would not offer sufficient remedies in an internal review but would initially appear conciliatory. However, as soon as the complainant accepted investigation of the matter by the commissioner the agency could become intransigent, knowing that the complainant had forfeited his right to take action before the tribunal.

The result is that preservation of the right of complainants to remedies would depend largely on the vigilance of the Privacy Commissioner in refusing to investigate the complaint. That would be a bizarre result. The potential for unfairness in this procedure must be avoided. If conciliation is sought, such a requirement to forfeit rights is not found in the Anti-Discrimination Act, which contains a similar division of functions.

I have difficulty understanding why the Government would advocate for this unless central agencies want to put in place a convoluted mechanism which could result in them being able to thwart access to damages through people not being vigilant about exercising their rights. If clause 51(1) is deleted, the bill still provides a mechanism for genuine mediation or conciliation. If disputes are unable to be resolved, complainants will still have a right of access to the tribunal. Therefore I advocate this amendment to the Committee.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.24 p.m.]: The Government does not support the Opposition's amendment to delete subclause (1) of clause 51. Subclause (1) provides that if the Privacy Commissioner deals with a complaint under clause 53 the complainant is not entitled to pursue the option of requiring an internal review by the public sector agency concerned. The bill presently provides for two separate procedures for complaint handling: first, a complaint to the Privacy Commissioner to be dealt with by the commissioner by way of conciliation; and, second, a person who complains about a public sector agency breaching information protection principles or codes can request an internal review by the public sector agency and, if unhappy with the results of that review, can then appeal to the Administrative Decisions Tribunal.

The Opposition's amendment would have the effect of combining the two procedures so that even after conciliation it would be possible for a person to seek an internal review and have a right of appeal to the ADT so long as the complaint concerns a contravention of the information principles or codes. The review procedures in the bill are intended to emphasise conciliation by the Privacy Commissioner. Conciliation is available for all privacy complaints, including those relating to contravention of an information protection principle or privacy code. That is the preferred method of resolution.

However, in cases involving contravention of a protection principle or code a person can choose to go either to conciliation or directly to an internal review by the agency concerned with a right of appeal to the ADT. Having been advised by the Privacy Commissioner of the relevant procedures, the complainant should decide which option to take. Accordingly, the Government contends that the procedures contemplated by the bill are adequate. However, I apprehend that the Committee may take a different view of the matter.

Amendment agreed to.

Part as amended agreed to.

Part 8

The Hon. Dr A. CHESTERFIELD-EVANS [10.27 p.m.]: I move the Australian Democrats amendment as circulated:

Page 38, clause 62(1), lines 4 and 5. Omit "for the purpose of obtaining any financial or other personal benefit,". Insert instead "otherwise than in connection with the lawful exercise of his or her official functions, intentionally".

The purpose of this amendment is to ensure that personal information gathered lawfully by government departments and agencies is not passed onto any person or organisation that has no legal right to the information. Clause 62(1) imposes a narrow construct of passing information on "for the purpose of obtaining any financial or other personal benefit". That does not cover situations in which information is passed on to friends and there is no direct benefit, either financial or personal, to the public official.

Obviously, the information would be of benefit to the recipient but it would not necessarily be of benefit to the person who provided the information. For example, a person may want to find a former girlfriend, a former wife, a former husband or another person with whom the person is keeping company. Various agencies keep all manner of personal information that could be embarrassing, damaging or dangerous if disseminated. This amendment will cover all those situations. It is a comprehensive provision. I commend the amendment to the Committee.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.29 p.m.]: The amendment of the Hon. Dr A. Chesterfield-Evans changes the wording of clause 62, and the Government will support it.

Amendment agreed to.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.30 p.m.]: I move Government amendment No. 11 as circulated:

No. 11 Page 38, clause 62. Insert after line 16:

(3) Subsection (1) does not prohibit a public sector official from disclosing any personal information about another person if the disclosure is made in accordance with the *Protected Disclosures Act 1994*.

The amendment is intended to clarify that there is no offence for unlawful disclosure for any person who discloses any personal information about another person if the disclosure is made in accordance with the Protected Disclosures Act.

Reverend the Hon. F. J. NILE [10.30 p.m.]: The Christian Democratic Party supports this important amendment.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.31 p.m.]: I move Opposition amendment No. 13:

No. 13 Page 38, clause 63. Insert after line 28:

(2) If a person is convicted of an offence under section 62 or 63 (1), the court may order the confiscation of any money or other benefit alleged to have been obtained by the person in connection with the offence and for that money or other benefit to be forfeited to the Crown.

I have expanded on the amendment circulated to the Committee. That amendment stated that there would be confiscation of any money. I have added the words "or any benefit". The intention of the amendment is to make certain that people who receive bribes for circulating money and are prosecuted should not be able to keep the profit of their bribery. That is only reasonable. We want to discourage people from thinking that they can profit by selling what is protected information. This amendment, which takes away the profit motive as an incentive, should be supported.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.32 p.m.]: The Government supports the amendment.

Amendment agreed to.

Part as amended agreed to.

Bill reported from Committee with amendments and report adopted.

ADJOURNMENT

The Hon. R. D. DYER (Minister for Public Works and Services) [10.35 p.m.]: I move:

That this House do now adjourn.

NATIVE FOREST DEPENDENT ANIMAL SURVIVAL

The Hon. R. S. L. JONES [10.35 p.m.]: I wish to record my great concern about the prospect of survival of many of the State's native forest-

dependent animals unless substantial areas of current State forests are added to the national parks estate in the north-east regions of New South Wales. As part of the forest assessment process, the Commonwealth and New South Wales governments convened an expert scientific panel for each of the major fauna groups—birds, mammals, reptiles and amphibians—to determine what the habitat requirements were to ensure the survival of each of the priority species of fauna.

The panels comprised a fauna expert nominated by the New South Wales National Parks and Wildlife Service, a nominee of New South Wales State Forests and two fauna experts nominated by the Commonwealth Government. They represent some of Australia's foremost zoologists and forest ecologists. These panels were charged with the responsibility of identifying how many of each species would comprise a minimum viable population and identifying how much high-quality habitat would be required to be preserved to ensure the survival of the species. As a result of the work of these panels we now know, for the first time since colonisation by Europeans, what our native animals' requirements are for habitat, in terms of the size of areas they need for their long-term survival. I will describe just a couple of the many old growth forest-dependent animals that we are in danger of losing in the future unless we act now to protect and restore their habitat.

Forest owls such as the sooty owl are high-order predators which require large territories over which to hunt and raise their young. They typically live in old growth forests as they require large tree hollows in which to roost and breed. They spend their nights hunting arboreal marsupials such as possums and gliders. The yellow-bellied glider, one of the largest gliding possums, is aptly named because of the distinctly yellow underside of its gliding membrane. It has to spend most of its nights foraging for nectar and sap over a relatively large home range, and often carves V-shaped notches in the bark of suitable trees to access nutritious sap flows. The glider also requires roomy hollows in very old trees.

Without the immediate protection of sufficient areas of suitable habitat, these species and many like them are very likely to become extinct. This is not speculation or scaremongering. Thanks to these expert fauna panels we know what these animals' needs are, and if the Government chooses not to meet these fundamental needs, the animals will disappear forever. Those are the brutal scientific facts. The new national parks proposed for north-east New South Wales must be designed with these key species in mind, not the demands of a timber industry which will only provide short-term jobs for a handful of people from logging the remnant ancient forest. Unless the forest reserve system achieves adequate protection for these key species, it will have failed in one of its central objectives—the maintenance of biological diversity.

According to the National Parks and Wildlife Service and State Forests, at least one million hectares must be added to existing national parks to begin to meet the survival needs of these and many other animals. The public interest plan for forest protection developed by the State's conservation groups aims to enhance the survival prospects of these species and many other threatened animals. Under the public interest plan which I, together with the Premier, Ministers and members, had the opportunity to view last night at a display in the precincts of the Parliament, 860,000 hectares of core areas of forest habitat are proposed for immediate protection and a further 300,000 hectares of additional reserves are proposed to be added to the reserve system over the next 10 years as a transition strategy.

I commend the plan to honourable members. It is a worthy and farsighted proposal to conserve the forests of north-east New South Wales and their myriad forest-dependent animal and plant species. The public interest plan presents a serious challenge to the Carr Government: protect the habitat of these threatened species and guarantee their survival or be haunted forever for risking their extinction for a score of dead-end jobs in the old growth timber industry.

ARTESIAN BORE WATER

The Hon. D. F. MOPPETT [10.40 p.m.]: New South Wales enjoys one of the great natural resources with Queensland—the great artesian basin. Its discovery and exploitation is part of the wonderful history of the development of inland New South Wales. Of course, it was of extraordinary importance to the pastoral industry and to the developing populations of inland New South Wales. Although we know that the droughts from which we have recently emerged are part of the cyclic climatic experience in this continent, it is true that the discovery of this almost permanent supply of water has done a great deal to mitigate the impact of those droughts.

When I moved to the Quambone district I was introduced to the mystique of the bore drain delvers and drillers of artesian bores. I value that heritage greatly. Presently this Government is pursuing a

policy of capping and piping bores, which was introduced by a former Government. In essence, the program is good and I commend the Government for its pursuit of this voluntary scheme. When those bores were first sunk little effort was made to control the water flow. Often the pipes were open and water flowed up from the ground as an extraordinary phenomenon. The original bore that was sunk at Quambone produced a flow of roughly one million gallons a day. The best bore in the area now produces a flow of between 150,000 and 200,000 gallons a day.

The initial tappings were prolific and since then as more bores were sunk water flows abated a little. However, this resource has not dissipated. People said that the water flowing in open bore drains was wasted, but that was like saying the water running in the Murray River was wasted. In the great scheme of nature, water is never wasted. It evaporates and goes through the cycle of nature and is returned to the earth. The state of artesian basins is important, and because of controls introduced over the years the state of the artesian basin is good. There was a great deal of misunderstanding in the early days; certainly my early impressions were that artesian bores were in some ways like oil wells. A lens of water below ground was surrounded by pressure that eventually drove it through the earth like oil. Of course, that was an erroneous view.

I often wondered how water was discovered at a depth of 2,000 feet. I understand that Samuel McCaughey was the first person to drill a bore, at Dunlop Station in Bourke. As I learned more about artesian bores I presumed that the water collects beneath the surface because it enters the aquifers of the Great Dividing Range and emerges in South Australia. I have discovered that since I became a member of this House! The water rises to the surface again at mound springs. Something had to happen to the water that was absorbed over countless millennia; that water could not continue to be absorbed into the earth forever.

It is most important to recognise the value of this artesian basin and the value of flowing water as a reservoir in the ground and for those who manage their bore drains carefully. This water is a source of greenfeed; it helps to avoid the pressure of livestock watering from ground tanks and troughs even where these bores are piped. This is an efficient utilisation of artesian water. Of course, a large quantity of the water is lost in the flow, but compared to the river flows we applaud as a natural water cycle for our ecology, the water flow of bore drains is equally important to maintain the flora—particularly that about which the Hon. R. S. L. Jones is so worried—and native fauna, such as kangaroos.

I am certain that bore water and open bore drains have encouraged an increase in the kangaroo population. Certainly they have sustained the human population, which is the backbone of the pastoral industry, and supplied water to many towns. We must be judicious when using this water, but I defend the use of old open-bore drains and hope that people will be sympathetic to their continued use.

CHILD LABOUR LAW REFORM

The Hon. JAN BURNSWOODS [10.45 p.m.]: A subject that has received much media attention this week is the need to reform our child labour laws. Child labour is usually associated with Third World countries, but as reports this week in the *Sydney Morning Herald* and the Melbourne *Age* made clear, the levels of injuries that children face are outrageous. The *Sydney Morning Herald* of 26 October stated:

> More than four child workers, some as young as 12, are seriously injured at work every day across Australia.

I agree with the comment in the *Sydney Morning Herald* that these figures may be just the tip of the iceberg as many injuries are not officially reported or do not lead to insurance claims. One reason is that so much of outworker employment, particularly child labour employment, is illegal. Of course, children are not protected by workers compensation and other laws of the State or nation. Because a high percentage of child workers fortunately will not have an accident, there is a lack of statistics to add to the figures reported this week in the *Sydney Morning Herald*. It is therefore difficult to establish the real level of child labour,

When I previously raised this matter in the House I pointed out that inquiries by the Legislative Council's Standing Committee on Law and Justice into occupational health and safety drew attention to some extent to the level of child labour. That committee heard evidence particularly about the clothing and cleaning industries and specifically from people representing women workers and migrant women workers in western Sydney; and that the level of child labour is higher than was realised, and is probably still increasing.

Amongst the issues that must be considered are those of contracting out services of both government and private business. The more that happens, the more difficult it is to follow the path from contractors to the children, as it is not a direct

line of employment. In private workplaces there are often one or two middlemen to contend with in the employment line. The industries that seem to be particularly affected are the clothing and cleaning industries, but many others are affected, as the *Sydney Morning Herald* and the *Age* showed.

It is important also to mention that employers need to share responsibility for this developing situation. Parents often are blamed, because when evidence of child employment is raised it is normally the parents who encourage the children to work. Of course, the problem is that adult outworkers are amongst the most poorly paid and disadvantaged in our community, particularly when they are relatively recent migrants with poor language skills and a lack of knowledge of awards and conditions. Those people are often placed in situations where any work is better than none. With low incomes being paid to adults, the temptation to use children to increase the piecework rate often cannot be resisted. I was shocked this week to learn that Mr Howard, the unfortunately newly re-elected Prime Minister, will not act on this matter.

The Hon. D. F. Moppett: Is it Mr Howard who is unfortunate or is it his re-election?

The Hon. JAN BURNSWOODS: It was his re-election that was unfortunate. Listening to the comments of the Federal Government, it is obvious that we could return to the working conditions of the early nineteenth century, of which we know so much from our studies of English history. It was believed to be all right for young children, even those younger than 10 years of age, to work in mines, factories and as chimney sweeps and in other Dickensian jobs without regulation. It was pointed out to the Senate inquiry last year that the Federal Government must act to correct this problem.

I was pleased to hear from Minister Lo Po' and the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading that our work in reviewing legislation under the Department of Community Services and the report of Professor Parkinson is being examined and that action will be taken. Certainly no-one would deny that children labouring in appalling conditions need the attention and help of this House. [*Time expired*.]

Motion agreed to.

House adjourned at 10.50 p.m.