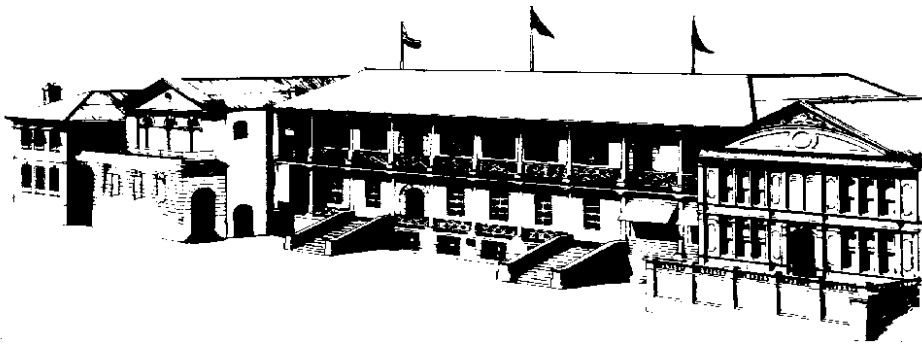




NEW SOUTH WALES



Legislative Council

**PARLIAMENTARY
DEBATES**

(HANSARD)

**FIFTY-FIRST PARLIAMENT
SECOND SESSION**

OFFICIAL HANSARD

Wednesday, 11 November 1998

LEGISLATIVE COUNCIL

Wednesday, 11 November 1998

The Chairman of Committees (The Hon. Duncan John Gay) took the chair as Deputy-President at 11.00 a.m.

The Deputy-President offered the Prayers.

REMEMBRANCE DAY

The DEPUTY-PRESIDENT: Today is Remembrance Day. I ask all honourable members and officers of the House to stand in their places to remember those who made the supreme sacrifice for their country.

Members and officers of the House stood in their places.

RETAIL LEASES AMENDMENT BILL

SUBORDINATE LEGISLATION AMENDMENT (REGULATORY FLEXIBILITY) BILL

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

Suspension of standing orders agreed to.

STANDING COMMITTEE ON SOCIAL ISSUES

Report

The Hon. Jan Burnswoods, as Chairman, tabled report No. 16, entitled "Hepatitis C: The Neglected Epidemic—Inquiry into Hepatitis C in New South Wales", dated November 1998, together with minutes of proceedings, certain written submissions and certain transcripts of evidence.

Report ordered to be printed.

The Hon. JAN BURNSWOODS [11.04 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Jan Burnswoods.

RURAL LANDS PROTECTION BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [11.06 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Rural Lands Protection Bill 1998 is designed to continue the important task of protecting rural lands. Rural lands protection boards have existed in some form for over 150 years. In 1902 the first Pastures Protection Act was passed. This was followed by the Pastures Protection Acts of 1912 and 1934 and the Rural Lands Protection Act 1989. The bill which I now bring before the House will replace the Rural Lands Protection Act 1989. Whilst this bill maintains all of the traditional board functions that have evolved over time, it will change the manner in which the 48 boards operate.

The role of the rural lands protection boards is to be changed to allow boards more autonomy. The bill will also establish a State council which will replace the existing Council of Advice. The State council is to perform an overseeing role to ensure board accountability and to co-ordinate board services across the State. The Pastures Protection Act 1934, and the Act that succeeded it, the Rural Lands Protection Act 1989, covered a range of matters. These include management of travelling stock reserves; control of vertebrate pests and noxious insects; implementation of animal health policy and stock identification activities.

These Acts were drafted in a very prescriptive manner leading to inflexibility with regard to the manner in which boards undertake their duties. In 1994 a working group was set up to review the legislation. Also, Coopers and Lybrand were commissioned to undertake a broad-based review of boards and the role of the Council of Advice. The Coopers and Lybrand review highlighted the need for change within the board system including the lack of accountability of individual boards. Coopers and Lybrand also recommended a number of changes to improve the management of boards and to make boards more accountable for their actions.

In 1996 I established a task force to examine the feasibility of implementing the recommendations in the Coopers and Lybrand report. Finally in late 1996 I formed a new review team made up of representatives of the original working group and the task force to complete the review of the Act. The bill is substantially the result of recommendations made by the review team and reflects a great deal of consultation with the Council of Advice and rural lands protection boards. The bill provides for the continued operation of the 48 rural lands protection boards in a new and improved framework.

The State Council of Rural Lands Protection Boards will consist of representatives of each rural lands protection region in the State. Unlike the present Council of Advice, the State council will be a statutory corporation with supervisory powers over the boards. There will be consequential changes to the responsibilities and accountabilities of the boards. The

framework will also be shaped by new administrative schemes and procedures, particularly in respect of pest control, which are designed to be more effective and efficient. The boards will be given greater autonomy in the exercise of their functions. However, they will be accountable to the State council for the implementation of general policies. These policies will be determined at the State conference of the Rural Lands Protection Association.

State conferences will be held annually to determine, among other things, the general policies to be implemented by boards and the setting of the budget for the State council. The State council will be able to issue guidelines in respect of the exercise of any function of the boards as well as directions to boards to take specified action in certain circumstances. If a board fails to comply with a direction, the State council will be able to take any action necessary to give effect to the direction. The State council will also be able to request the Minister to appoint an administrator to exercise the functions of the board.

The State council will be subject to the control and direction of the Minister in the exercise of its functions. The State council will also be required to enter into a memorandum of understanding with the Director-General of the Department of Agriculture. This memorandum of understanding will relate to the exercise of the animal health functions of the director-general, the State council and the boards, and the exercise of any other functions agreed to. This will allow flexibility in the functions performed by boards in particular and will improve the working relationship between the Department of Agriculture and the boards.

This relationship is vital to the maintenance of a high standard of animal health throughout the State. Failure by the State council to enter into or to comply with the memorandum will be one ground upon which the Minister may appoint an administrator to exercise some or all of the functions of the State council. The accountability of the State council and all boards will be improved by making the State council and boards subject to the Public Finance and Audit Act 1983. An example of the less prescriptive nature of the proposed legislation is the provisions in the bill relating to how boards are to manage travelling stock reserves.

Detail of management requirements is no longer to be contained in the legislation. It will be transferred to function management plans, which each board will be required to prepare for travelling stock reserves within its district. This is an important recognition of the boards' responsibilities in maintaining the sustainability of travelling stock reserves and the natural and cultural heritage that these reserves represent. In addition, boards will have to prepare a function management plan for any other matter, as directed by the State council.

Further examples of the flexibility of the proposed legislation are the rating and pest control provisions. Boards will be able to raise special purpose rates for particular programs. Under the present legislation this is not possible. The only rates that are able to be levied are specifically named in the Act. The bill will enable boards to levy one or more special purpose rates when the board considers it necessary to do so for new initiatives. The pest provisions will enable an order to be made by the Minister declaring an animal, bird, insect or other member of the animal kingdom to be a pest either in a particular locality or generally in this State.

The order will be able to impose or confer the appropriate obligations or powers necessary to control that pest on the

land concerned. This is referred to as a pest control order. A range of obligations may be imposed by such an order. Examples include an obligation to eradicate any pest on certain land by a certain method and an obligation to notify a board when pests are detected on the land. A pest control order may also empower a board to make more specific eradication orders that take into account local conditions and, where appropriate, modify aspects of the pest control order.

The savings provisions in the bill will enable the Minister to make an order on commencement of the legislation regarding existing pests; being wild dogs, the European strain of wild rabbit and feral pigs. This will ensure continuity for the present statewide programs in place to control these serious pests. It has been decided that the definition of wild dog will no longer include the dingo, if it is held in captivity. This means that the pest control provisions will only relate to the dingo if it is living in the wild. Dingoes that are domestic pets will be subject to the Companion Animals Act 1998. Also the pest control provisions will only relate to the European strain of wild rabbit.

As a consequence, people in possession of rabbits of any other breed will no longer need the Minister's permission. An important change is the relationship between district veterinarians of boards and the Department of Agriculture. Under the present legislation although district veterinarians are required to be employed by boards, they are subject to the direction of the department. Under the bill this relationship will be removed and district veterinarians will be under the sole control of their employer boards. As a consequence, boards will become accountable for the vital animal health work undertaken by the district veterinarian and other board employees.

This obligation will be set out in the memorandum of understanding. The department will continue to provide animal health services to people in the western division, whose boards do not have to employ a veterinarian. This bill is the culmination of a government initiative to improve the administration of the rural lands protection boards. It represents a significant improvement in the administration of boards and heralds a new era in improved accountability. This will benefit rural land-holders through improved management of significant issues such as animal health, pest animal and insect control and the sustainability of travelling stock reserves. I commend the bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [11.07 a.m.]: No legislation in the last 3½ years has created as much debate in the rural sector than this legislation, which proposes changes to the Rural Lands Protection Act. I have had more lobbying on this bill than I have had on any other legislation. The bill raises a number of issues which I will touch on during debate. First, I will comment generally on rural lands protection boards. Rural lands protection boards are unique in New South Wales. They serve an important purpose in looking after the health of livestock, providing venues and routes for travelling stock, monitoring the movement of stock, assisting in controlling noxious animals, and assisting in major disasters like grasshopper plagues.

Rural lands protection boards are locally based operations. The directors are elected by ratepayers in

a given area. Rural lands protection boards have played an enormous role in rural areas over many years. Those honourable members who have had anything to do with rural lands protection boards would want to see that role continue. I have had a long association with rural lands protection boards. For many years my father was a director of the Narrandera Pastures Protection Board, as it was known in those days. After he left Federal Parliament he headed a State Government committee which inquired into the boundaries of rural lands protection boards. He served also on the New South Wales Council of Advice for many years.

I have a fundamental understanding of rural lands protection boards and a very strong desire for the boards to continue to serve the ratepayers as they have in the past. This legislation challenges the operation of the rural lands protection boards on many fronts. Over the past three weeks, since the legislation was first highlighted, a raft of people such as ratepayers, board directors and even board administrative officers, have contacted my office to raise concerns about some of the changes.

As honourable members may know, the changes result from an ongoing schedule of events which began by Minister Causley seeking a review into the rural lands protection boards. The review was based primarily on the issue of minimum rating on the north coast, but obviously the reference was wider. The review report—the contents of which I have some knowledge, although I have not seen a copy of it—recommended radical proposals to restructure boards right across New South Wales. Those proposals in the main were ignored by the then Minister, and the matter of the rural lands protection boards was reviewed again. When there was a change of government, Minister Amery set up a task force to examine the report and consider the structure of rural lands protection boards in the future.

The task force was made up of a fairly representative group which consisted of board members, farmers, Department of Agriculture officers and others, and was headed by the honourable member for Bathurst, Mick Clough. The task force reported on a number of areas, including the divesting of ministerial powers from the Minister for Agriculture to the State Council of Rural Lands Protection Boards. I have always supported that change in theory because I believe that the rural lands protection boards movement will now be the master of its own destiny and have the opportunity to make decisions removed from the government and the Minister of the day. The State council, as it is constituted, is a democratic organisation. Its board

members are elected by their peers and the councillors strategically represent all areas of the State.

The essence of the change—the divesting of ministerial powers—is sound. Most of the objections have related to the detail of changes rather than to the actual divesting of powers. When pushed, some who have complained about the changes have said that they would choose their peers, rather than politicians, to run the show. I suppose that is human nature, or perhaps it is a sad reflection on the standing of members of Parliament in today's society. The task force reported on a number of issues but primarily on the divesting of powers, which is the genesis of this legislation.

I have been critical of some of the recommendations of the task force. I can see a potential for boards bearing more cost because of the independence of the State council and the executive organisation which supports it. I was also concerned—and many others were concerned—that there would be an increase in cost to individual board ratepayers because more staff would have to be employed by the State council to run its operations. Another concern related to the costs associated with meeting the reporting criteria of the Auditor-General under the Public Finance and Audit Act, that is, reporting to Parliament rather than to the Minister.

There has been an increase in the cost of reporting. That cost can be contained by the boards introducing a centrally driven, streamlined process which will allow them to report within the requirements of the Public Finance and Audit Act without a great additional cost. That reporting requirement has been a major change for rural lands protection boards. Honourable members who have visited board offices in some areas of the State would know that they are still using typewriters and other support mechanisms of the past. A sea change has been necessary in the operation of the boards, and that will benefit ratepayers in the long term.

Concerns were raised about the cost of reporting under the Public Finance and Audit Act and the cost of the executive. The Government has given an assurance that \$250,000 a year will be made available over five years to assist the transition, which the Opposition supports. I believe that assistance should be ongoing. The State council executive has the opportunity to be housed in the head office of the Department of Agriculture in Orange. I would hope that accommodation is provided at minimum cost as a form of government assistance for the increased expenditure that the State council will face because of the changes.

A great deal of consultation has taken place with the task force on a number of issues. A number of boards were privy to the legislation that was eventually drafted. During zone conferences in autumn this year all board directors had the opportunity to discuss the contents of the bill with the executive officer of the Rural Lands Protection Boards State council. Following exhibition of the exposure draft 300 submissions were received requesting changes to the bill. Most of those changes—which were accepted by the Government, the rural lands protection boards or the Department of Agriculture, whoever was overseeing that process—were incorporated and the Legislative Assembly dealt with a few outstanding matters during the legislation process.

I thank staff of the Department of Agriculture and the Minister's office, who were extremely receptive in discussions on this legislation. Rather than throwing the baby out with the bath water, which is the easiest way for an Opposition to operate, I wanted to find common ground on a number of outstanding issues. We found common ground and were able to reach a satisfactory conclusion on the three issues that concerned the State Council. I will move a number of amendments in Committee, which the Government will oppose. However, I raise these matters because they are important to the ongoing individuality of boards and their independence in the new concept.

I am disappointed about a few matters. Firstly, the task force draft Act listed as functions of the State council: to intervene where board management has failed; to establish guidelines for the implementation of various sections of the Rural Lands Protection Act; and to develop broad policy guidelines for consideration by individual boards. However, since that time and with the introduction of this legislation we have seen a noticeable movement away from the general ethos of assistance and co-operation to a more confrontational situation in which the State council directs the boards what to do.

That would be a pity, because the whole strength of the rural lands protection board movement is in the individual boards and the way they function within their communities with their own issues and problems. The House must seriously consider that important matter. I believe there is room for these changes and to allow the boards individuality whilst operating within the total context of the legislation and within the parameters to be set down by the State council. The task force review team stated that it intends to give the State council general oversight of boards, and to give boards

greater autonomy in their day-to-day operations. Many boards believe that the change to the oversight of management plans is more than just general oversight. They believe that by giving the State council final arbitration on their management plans and oversight over their operations their autonomy has been removed.

I could debate a number of issues in this legislation, but most of the issues and changes are generally supported. The annual conference has been held really for the benefit of the directors and interested parties, but has had no official place in the organisation of rural lands protection boards. It has been a talkfest and information opportunity for directors, but has not had a core function in the management of rural lands protection boards under the Act. They now have a function to develop general policy, which the State council should consider when setting State policy on behalf of the rural lands protection board movement.

This is an important fundamental change to the democratic process of rural lands protection boards. Every board is represented at the conference—most by four or five directors—and each year they have a one-off opportunity to lay down their beliefs for the general direction of the rural lands protection board management and the way they will function over the next 12 months. The legislation provides for the State council to accept that policy direction in general terms. In many ways this has been a good move, but unfortunately it has been misrepresented by a number of people in the movement who do not understand what the conference could not do in the past and can do in the future. We support this important change.

It is my basic argument that the State council has too much power over the individual boards in the drawing up of management plans relating to travelling stock routes and the travelling stock reserves placed strategically throughout the board areas. The reserves are probably not used as much as they were previously, but are still very important in moving stock. I have spent many days and nights out on the stock route behind a mob of cattle or sheep. It is a very fulfilling exercise. These reserves have an important function but, as honourable members would be aware, they vary. Some boards generate quite a lot of income from them.

The Merriwa end of the Merriwa-Mudgee board has an outstanding number of reserves. When I saw them earlier this year they had a lot of feed on them. Quite a few of these reserves have been pasture improved and fertilised, and they are very well managed. The Merriwa board raises a lot of

revenue by taking on agistment stock, and there are separate areas for travelling stock. Of course, the management plan for that reserve would be completely different from that of the Hume Rural Lands Protection Board, where the reserves are basically only big enough for travelling stock to stay overnight; they are not big enough to agist a number of stock at any given time. It is probably going too far to have a general policy on management plans across the State, when there is such a big variation in reserves and routes.

If the State council had a guiding role, oversighting and assisting boards in reaching satisfactory conclusions in their management plans, that would be sufficient authority. Of course management plans do not only cover reserves and routes, but can cover a raft of other issues about which the board might need to have a management plan. As I understand it, the legislation will allow boards more flexibility in their operations. For instance, I hope that one day rural lands protection boards might take on an inspectorial role for weed inspection. An inspector who is inspecting a property—whether private or Crown land—for noxious animals should be able to report the presence of noxious weeds on that property rather than another inspector in a council-owned vehicle going over the same tracks, at great expense to all involved.

The legislation will enable those changes to be made, and that is most important. It would obviously not suit everyone, but there is an opportunity for change in that respect. As I said, there has been a lot of bad feeling in regard to this legislation. No doubt members of the crossbench and the Government have received correspondence about this issue. I believe the legislation in toto is sound. I hope my amendments will be favourably considered, as they would improve the legislation and ensure more individuality for boards. I have considered calls from several quarters for the legislation to be delayed until next year, as has the coalition party room and the shadow cabinet.

Had there not been a period of at least three weeks since the legislation was tabled in another place I would have moved that the debate be adjourned for several weeks to allow anyone who is interested in the legislation to look at it and respond to both Government and other members of Parliament about their concerns. I believe there has been sufficient time for that to occur, and that it is now time to get on with the job and get this legislation under way.

The New South Wales Farmers Association was strident in opposition to the bill at first but through a series of meetings, for which I will take some credit, its opposition has been watered down to the extent that it will support the bill with amendments. Generally speaking, there has been misrepresentation. Many people have been jumping at shadows, so to speak, and looking for conspiracies behind the bill. I have great faith that members of the State council will carry out their functions efficiently and well. I know most of them personally.

I cannot understand farmers telling me that they have no faith in the State council when its members are people who live just up the road from them, just around the corner, or who are a phone call away. Often there has been no communication between the State council and the individual ratepayers who have raised conspiracy theories about the legislation. More communication is needed between these people and their representatives on the State council. I believe in the fundamental tenet of the bill divesting powers from the Minister to the State council and to rural lands protection boards per se. The Opposition will not oppose the legislation but will seek to make amendments in Committee. I urge crossbenchers to think very seriously about the few minor changes that I will propose.

I turn to the power of board inspectors or rangers to go onto properties. I have been on the land since I left school. So has the Hon. D. F. Moppett, as you have Mr Deputy-President. There are not too many other members in a similar position. From time to time I would see the ranger's ute and know that it was the rabbit inspector or another inspector. Those officers certainly had right of way on my property: they were doing an important job.

The bill will make it difficult for them to gain access to properties. They will be required to gain oral or written advice from the land-holder more than 24 hours prior to the proposed visit. He might be an absentee land-holder who goes to the property only on weekends. This provision is pushing the envelope too far, and I will propose amendments to provide that the ranger should make every attempt to contact the landowner, but at the end of the day the inspector should not be prevented from carrying out his important function by difficulties in obtaining permission to enter the property.

On a given day the ranger might be at one end of the board's jurisdiction and it would be

unreasonable to expect the officer not to inspect other properties in the area because of difficulties contacting land-holders. Later he would have to travel extra distance in coming back to the same area for the inspections. That would be a waste of time and would build in unnecessary costs that boards can ill afford. I again urge crossbenchers to consider the very important but simple amendments which would improve the legislation and retain some individuality for the boards concerned.

The Hon. D. F. MOPPETT [11.34 a.m.]: I support the remarks that my leader expressed so eloquently and forcefully. I was gratified to find another person who has viewed the sunlit plains extended from behind a mob of sheep or cattle and at times in his life, as Paterson put it, has escaped the boring round of the cashbook and the journal.

The Hon. R. D. Dyer: You are in a very lyrical mood this morning.

The Hon. D. F. MOPPETT: With those remarks I will restrict myself. The bill is important. I strongly support the significant changes to the Rural Lands Protection Act. On previous occasions I have described the important role that pastures protection boards have played in the control of the livestock industries particularly and also in the agricultural development of New South Wales. Their boundaries were set basically on the old police districts, so it was inevitable that at some stage there would be a review of the boundaries and functions of pastures protection boards.

In the 1950s and into the 1960s there were substantial changes in rural communities. Local government organisations came to the fore and for quite a while the role of pastures protection boards became a matter of public debate. Some functions were being taken over by local government bodies, particularly those which the Deputy Leader of the Opposition referred to in relation to the control of noxious weeds. At the same time local government was growing and extending its area of influence in rural communities. Corporate abattoirs were developed throughout New South Wales and individual councils involved in the electricity reticulation industry developed into county councils to undertake the great work of providing bulk electricity to rural communities.

During that period many people advocated that the functions of the pastures protection boards be taken over by local government. County Party and National Party conferences often debated motions that pastures protection boards be disbanded and their functions be taken over by local government.

The period of uncertainty extended from the 1950s until recently. Rural communities decided that they did not want the functions of the pastures protection boards taken over. If anything, they wanted them strengthened, although rationalised in some areas. There was general support for rationalisation.

Many members present in the Chamber today would have received representations from ratepayers and some directors of pastures protection boards who were unhappy with some of the changes which took place. I remind honourable members that in the Milparinka Pastures Protection Board—it was based on one of the old police districts and was probably one of the largest pastures protection boards in area—10 years ago there were only 40 ratepayers, and there are probably fewer now. It is an impossible burden on as few as 40 units of production to provide the revenue to employ the secretary to the board and a veterinary officer to undertake the vital functions of rural lands protection boards, as they are now known.

It was recognised that the western division was a special area and boards there were not changed as much as some of the smaller boards on the tablelands and the slopes, where there were problems with revenue versus responsibilities. Following the rationalisations there has been a sort of rearguard action against any further changes in the structure of rural lands protection boards. I do not support the views put forward, or any objection to the bill. I have attended a great number of conferences of the advisory council of the pastures protection boards. People who expressed a lack of confidence in the ladies and gentlemen representing them at those conferences would be unable to sustain faith in anything.

One could not find a more responsible, conservative group of people whose agendas are carefully worked out and scrutinised. I have never attended a conference in which debate has been conducted with more attention to detail and less absence from the conference room than is the case with rural lands protection conferences. I salute them for the way in which they undertake their duties.

Even during the period of uncertainty about whether boards would still be relevant in the future, the role of directors was never in dispute. What sustained the boards during that time was the high esteem in which the boards' officers—and directors in particular—were held. It was a great honour to be elected a director of a rural lands protection board and those who held those positions rarely failed to fulfil their duties. They responsibly undertook their public service.

The measures in the bill will alleviate the uncertainty about whether rural lands protection boards have a role to play in agricultural industries and will allow them to resolve any existing difficulties. Areas that have become urbanised experience difficulties in coping with ratepayers on minimal rates but I believe the boards are competent to cope with those problems and are able to co-operate with the Department of Agriculture in dealing with controversial issues, such as control of the devastating Johne's ovine disease. If boards are to be effective they must have the confidence of the Parliament, ratepayers and their communities. Any impact will be felt by not only rural ratepayers but all the community. This is a salutary bill. I will not oppose the foreshadowed amendments of the Deputy Leader of the Opposition.

Local government has undertaken the role of inspection and enforcement of the eradication of noxious weeds, and having set up weeds county councils we should then distance ourselves from the process. Rural lands protection board officers had no authority over council-controlled land in rural areas and local government filled that gap because it had the necessary resources. By agreement local government has gradually taken over control of weeds county councils.

Officers of rural lands protection boards are far better suited to carry out the role of protection of pastures from encroachment of weeds and could equally undertake the supervision of public lands which councils might otherwise have to take over. However, that is not a matter for the Parliament to determine. If in future rural lands protection boards are determined to go that way, I will support them, although I doubt whether local governments would willingly surrender those powers; they usually do not. I sought to assure a colleague who was not familiar with rural and agricultural matters that representations about this bill came from either ratepayers or directors of rural lands protection boards who were protesting about decisions that did not emanate from this legislation. They argued that changes with which they were not in agreement might be facilitated.

The Hon. R. S. L. Jones: Like Merriwa.

The Hon. D. F. MOPPETT: Like Merriwa. I do not think so. However, at the end of the day we cannot offer them any comfort. If that is the decision expressed by rural lands protection boards, this Parliament should respect that because one cannot have one's cake and eat it. Autonomy of the Merriwa board was sought and I can understand the difficulties with the amalgamation. Many successful

amalgamations have taken place, such as the one at Walgett. For many years the new rural lands protection board co-operated with Coonamble in providing veterinary services. I do not believe that situation is satisfactory. It is better to work out a viable area in which boards can provide services to ratepayers and be responsible to the electors. As parliamentarians we should be sympathetic to those objections but that should not affect our support for the bill.

The Hon. R. S. L. Jones: They do not want to hear that.

The Hon. D. F. MOPPETT: They may not, but they are a minority and I do not believe their arguments can be sustained in this debate. I support the bill and will support the foreshadowed amendments of the Deputy Leader of the Opposition.

The Hon. I. COHEN [11.46 a.m.]: The Greens New South Wales support the aims and objectives of the Rural Lands Protection Bill. However, we acknowledge the concerns of some rural communities about a continued sense of alienation and disempowerment in the decision-making process. I have received a number of letters from people in country areas about this bill. Each of these boards in inland and coastal regions has a different perspective and different needs. Hopefully these boards, under the guidance of the Minister, will acknowledge that this is not just an across-the-board, one dimensional concept of one rule for all. It is important to have flexibility. I received a letter dated 10 November from Carol Richard of Cassilis, who eloquently outlined her perspective and stated:

We are hanging on to retain our identity, not to lose out to bigger centres. We want to keep our children in our area so that they can experience the same sense of belonging and ownership and pride in caring for the land.

Twice last week on ABC radio there were talks by leading academics—Rhonda Galbally, International Health, of Melbourne Uni and a visiting psychologist from America. Both spoke on the same theme—sense of community, belonging, ownership. Ms Galbally said that economic rationalisation was OK but only when it led to social goals. Dr Michael Yatko was lecturing at the conference on youth suicide and depression and his "solution" was the same— young people need a sense of ownership, of belonging to a nourishing community. If they had a sense of identity within a community, youth suicide would decline because the networking was there, the friends, family, peer support and I guess, a sense of purpose and of fulfilling a role within that community.

From our determination to hold onto our Rural Lands Protection Board we have all gained in asking and knowing WHY it is important to fight for our democratic rights.

This raises the alienation arising from the decision-making process which is currently being felt by rural New South Wales. People need to be empowered to participate in decisions that attempt to regulate their daily lives. As I said earlier, we must keep in mind the real vulnerabilities of people in the rural community. The bill contains a number of improvements and provides for greater accountability of rural lands protection boards to the Minister. I have been informed that, despite the concerns that have been raised with me by individual land-holders, the changes outlined in the bill were discussed in detail with the rural lands protection boards over a two-year period. I should like to bring to the Government's attention a resolution of the New South Wales Farmers Association executive committee, which expressed its concerns about the bill as follows:

That because of significant and fundamental defects in the Rural Lands Protection Bill (1998), NSW Farmers' Association oppose this bill, and seek to have it substantially rewritten.

That in the event that the proposed Rural Lands Protection Bill (1998) is enacted, NSW Farmers' Association engage in consultation with members with a view to seeking support to have Rural Lands Protection Boards disbanded, and their functions transferred to NSW Agriculture and Local Government.

If those changes do not occur, the Government may find that this legislation, however well intentioned it may be, will regulate very little. I also draw to the Government's attention that there is no requirement that other decisions made by the rural lands protection boards under the Act—for example, decisions under section 89, dealing with the removal or destruction of timber, and decisions under section 101, relating to the issuing of stock permits—should be consistent with the function management plans. One would hope that this is a logical extension of the function of the management process, but there is no requirement for consistency in this legislation.

As a land-holder on a multiple occupancy I have experienced difficulties with the rural lands protection boards in the past. I live in a mixed rural community on the New South Wales north coast where people's lifestyles and participation in the community have changed radically. The north coast is one of the fastest-growing areas of New South Wales, and in many instances we find that the Rural Lands Protection Board has outdated modes of operation and focuses on areas that are not relevant to the people living in the area.

For example, I receive annual visits from the weed inspector, who is an amicable fellow; we get along extremely well. As an occupier of a block of

land, I attempt to facilitate the removal of groundsel, as the inspector requires. However, I live on land that is 99 percent forest, and the way I and many other people who live on multiple occupancies and community land areas deal with that problem is by reforestation. The importance of the eradication of groundsel—which is an almost impossible task—is to protect the pasture land because groundsel grows rapidly in wet areas, by streams, and on cleared land, and therefore degrades the value of the pasture.

Every year properties undergo a recurrence of groundsel growth, and the Rural Lands Protection Board goes in and sprays. On my land we simply cut out the groundsel rather than spray. Of course, if we do not do the job properly, the Rural Lands Protection Board will come in and spray the weed and send us the bill, which is a double insult because, firstly, we do not use chemicals on the property, and, secondly, we do not feel we should have to pay for those chemicals.

Groundsel eradication is really an issue for the cattle producers. Over the last fifteen years that I have been living on that parcel of land, the neighbours have changed; the farmers have moved out. We now have new-age farmers who are very much involved with conservation and growing crops that are different to the original land use, which was bananas and beef. We do not have neighbours who are involved with beef production, and therefore we should not have a problem with groundsel, yet we are still pressured by the Rural Lands Protection Board officers to clean up. The only long-term way to clean up and resolve the problem of groundsel is to get the forest canopy up so that the groundsel is shaded out and ceases to be a problem. In fact, although groundsel is a declared noxious weed, it is not a poison; it just takes over the pastures.

North-eastern New South Wales also has a significant number of noxious animals that, because they do not affect the farming community as such, the rural lands protection boards are not interested in dealing with. Cane toads are a classic example. They are a pest for many people who live on the land and who are concerned with the quality of the habitat and the survival of native species. The cane toad species is taking over to a large extent. Cane toads kill animals that are smaller than them by eating them, and they also kill animals that are bigger than them, because those animals eat the cane toads and then die. Very few species evolve the awareness to be able to dine on cane toads without being poisoned. Nevertheless, I understand cane toads make very good French cuisine frogs legs, so perhaps there is the potential for an industry there.

People living in multiple occupancies on the north coast are very concerned about paying their rates to a board that these days has no relevance to them. In fact, many people have gone on a rates strike. I support the strike, although as a member of Parliament I have not personally participated in recent times because it is not appropriate for me to be in debt to an agency of the State. However, many people refuse to pay rates, and I ask the Government to continue to investigate the relevance of these operations in areas such as northern New South Wales so that we can achieve co-operation between the boards and the community, rather than irrelevant behaviour that is often onerous on the land-holder and very costly. These issues were reflected in the review of rural lands protection boards which was carried out by Coopers and Lybrand in May 1995. The review found:

Despite numerous rate reviews, the rating system was perceived as to be inequitable, where the level of awareness of benefits received for the rates paid was extremely low.

Minimum rate payers, especially those in coastal Boards, comprise a disproportionate number of those expressing concern regarding the rating system.

The bill will provide for rural lands protection boards to grant rebates, or to waive payment on part of a rate with approval from the State council. Therefore, in areas where multiple occupancies are a concern, the Rural Lands Protection Board will be able to create a policy on multiple occupancies. I believe that is a significant step forward in recognising that we now have a different land tenure, and I hope this can be progressed because there is a great deal of concern in the community.

If we are to look at the relevant functions of government instrumentalities, it is incumbent on the Government to discuss the matters further with the community. There have been demonstrations and strike action, and we have heard stories of people blockading their farm gates and neighbours coming along to stop officers and bailiffs collecting rates and arrears. That is inappropriate action, and I hope we can develop a spirit of co-operation where too often in the past there has been a sense of desperation between government instrumentalities and the people they are supposed to serve. I also asked the Minister to consider exemptions for voluntary conservation agreements. In his reply dated 21 October the Minister stated:

Thank you for your inquires in relation to the above legislation. I will recommend the State council of Rural Lands Protection Boards consider the issue of rate payments for land that falls under voluntary conservation agreements as defined by the National Parks and Wildlife Act 1974.

This also would be a significant step forward if we were able to get a clear position on the issue of rate exemptions for people who have voluntary conservation agreements. It is certainly something that I have not achieved with regard to my land, due to difficulties in agreeing on the terms of the agreement with both the government agencies and some of the land-holders with whom I share multiple occupancy. However, I am extremely enthusiastic about ensuring that we achieve a voluntary conservation agreement on that land. Funds should be directed away from the usual payment to the boards. We should find a way to involve ourselves in conservation activities, which is more in keeping with the type of land that many people in the north of New South Wales are focusing on.

This is an opportunity to develop a greater relevance. I certainly would not argue with such luminaries as the Hon. D. F. Moppett and the Deputy Leader of the Opposition, who represent other areas of the State in which the board plays a different role. The Greens will support the bill and we are hopeful that it will result in greater communication between government instrumentalities and the huge variety of communities it will impact upon throughout New South Wales so that we can have relevance in pasture protection and in dealing with pest species, both plant and animal, and move towards significant conservation farming in this State. I commend the bill to the House.

Reverend the Hon. F. J. NILE [12.01 p.m.]: The Christian Democratic Party supports in principle this important bill. We will also support the amendments foreshadowed by the Deputy Leader of the Opposition on behalf of the National Party. If the amendments are not carried, we may be forced to vote against the third reading of the bill. The amendments are essential to meet the concerns of many of the people who will be covered by the legislation, that is the farming community in this State.

The bill will replace the Rural Lands Protection Act 1989. Its objects are to provide protection for rural lands; to provide for the continued operation of rural lands protection boards; to constitute a State Council of Rural Lands Protection Boards; to give the State council general oversight of the exercise by the boards of their functions in accordance with determinations of representatives of the boards at annual state conferences of the boards; to confer on rural lands protection boards greater autonomy in the exercise of their functions while imposing on them the

responsibility to be accountable for their actions; to provide for the imposition and collection of rates, charges and fees; to regulate the provision of animal health services; to identify and control animals, birds, insects and other members of the animal kingdom that are pests; to make provision with respect to the identification of stock; and to regulate the use of, and the movement and grazing of stock on, travelling stock reserves and public roads.

From the letters we have received there seems to be tension in the farming community and a great fear that the bill will centralise more power in the hands of the State body—particularly the State bureaucrats—and take control away from the local level. The fear is that instructions will come from the State body down to the local representatives, to the rural lands protection boards, and then to the farmer. There should, rather, be a devolution of power: concerns should come from the bottom up to reflect the concerns of the farmer and the local community.

When the boards meet as a group the local concerns should be developed into policies to be adopted at State level, rather than instructions coming from the top down. We have received a number of submissions from the New South Wales Farmers Association expressing concern about the legislation. In its latest correspondence, of 9 November, the association identified a number of significant problems with the bill and asked that it be amended. The amendments will be picked up in the main by the amendments foreshadowed by the Deputy Leader of the Opposition. The association stated:

In summary, the Association believes that the bill in its current form would:

- dramatically change the nature of the ratepayer-funded Rural Lands Boards by effectively converting them into statutory bodies under the control and direction of the Minister;
- establish an unnecessary bureaucratic State council of Rural Lands Boards that would centralise decision-making and remove the operational autonomy of the Boards, a feature that has been their real strength, and
- create a future opportunity for the progressive transfer of functions currently carried out by NSW Agriculture to the RLP Boards, at ratepayers expense.

We share those concerns. Honourable members know, and I am sure the Government would admit, that local government is the most effective of the three levels of government. Similarly, the local rural lands protection boards reflect the local level of involvement in the community. It would be tragic if that local involvement and enthusiasm were

somewhat dampened by the legislation. Such a harmful effect would be reduced by the Government accepting the Opposition's amendments.

The New South Wales Farmers Association has sought our support for the re-incorporation of the amendments that were passed in the Legislative Assembly. Honourable members are aware that because of the absence of some government members, certain amendments that were opposed by the Government were passed. However, the bill was recommitted in the other place and the amendments deleted, and they do not form part of the legislation. We support their reintroduction in this House.

The New South Wales Farmers Association has also proposed a series of other amendments to clarify the relationship between the State Council of the Rural Lands Protection Boards and the State Conference of the boards. The association believes it is essential that the State council represents the boards rather than directs them. I am sure that the crossbench members—the Greens, the Australian Democrats and the Hon. R. S. L. Jones—would support involvement in these matters at the local level. Local boards should be fully involved and their views considered. The New South Wales Farmers Association, through its president, John Cobb, stated:

In summary, the NSW Rural Lands Board system which is funded by rural landholders and carries out extremely important functions, is not, and should not be subject to Ministerial or bureaucratic control. The autonomy of the Boards to operate in a manner best suited to local conditions is their strength, and must be preserved.

The Christian Democratic Party fully agrees with those views. We have received a great deal of correspondence from farmers who will be affected by the legislation. I will not take the time of the House to read all the letters, but Peter Bonner from the Aloomba Pastoral Company wrote:

Boards are ratepayer funded and thus deserve control at local level. The bill proposes to transfer power from boards to State council and its bureaucrats which would erode the effectiveness of the boards, reduce accountability to boards and ratepayers and cause an increase in overall costs to the rural community.

Peter Bonner also stated:

Rural communities are suffering through poor seasons and commodity prices and cannot afford this unwarranted interference by the New South Wales Government.

The severe flooding in this State has had a dramatic impact on many farmers. Because of the heavy rainfall that we have experienced, authorities are concerned about the threat of bushfire in the new

year. That could seriously affect our farmers and place economic pressure on them. I call on the Government to show some sympathy towards and compassion for the views of farmers, which have been reflected in letters from the New South Wales Farmers Association and many other letters I have received. In the main, these letters say that we should vote against the bill in its present form. Tony O'Brien of Merriwa wrote to me:

The first concern I have with the Bill lies with the issue of democratic accountability. The State council of the Rural Lands Protection Boards Association of NSW has been and is, by its constitution, directed in matters of policy by the State Conference of the Association; this has provided a form of democratic accountability through Board Directors back to the ratepayers. I believe that this proposed legislation will change this so that the State council will, of itself, become the policy making body. In formulating a policy the SC is only required to "have regard" to the directions of the State Conference.

Those concerns have been echoed in correspondence I have received from many thoughtful farmers. I call on the Government and the crossbench members to take a positive attitude to the Opposition's foreshadowed amendments so that the bill will be workable. If it is to be workable we must have the co-operation of the major stakeholders—the farmers—and everyone else involved. If we are to maintain their enthusiastic co-operation with rural lands protection boards we must support the foreshadowed amendments of the Hon. R. T. M. Bull.

The Hon. R. S. L. JONES [12.14 p.m.]: I and other honourable members have received a number of representations from various individuals and rural lands protection boards across the State. As result I read this bill thoroughly, and I came to the view that two or three points need clarification or amendment but that some of the problems that have been raised are not justified. I will move four minor amendments in Committee, and I understand that the Government will accept them. One deals with the important matter of appeal rights against board decisions. One of the key and ongoing problems for these boards has been the continuing row over the minimum size of rateable land. To an extent that problem will be resolved by the legislation, in that each board will set its own area and rates, and anyone who is aggrieved can appeal to the Land and Environment Court.

This will affect areas in which there are a lot of rural residential properties. On the north coast many people have large rural residential properties of 10, 20 or 30 hectares. They grow small crops or bush food, like I do, but they do not really use the resources of the rural lands protection boards, and there have been constant rows because they have not

paid their board rates. They have been taken to court and they have had orders made against their properties. I understand that this ongoing problem has now been addressed. There will always be problems with the payment of rates, but this bill will provide much more variability in the setting of rates and the minimum size of rateable land.

Last night in the adjournment debate the Hon. A. B. Kelly referred to the very important Save our Soils initiative. The honourable member said to me that we are placing an emphasis on water and forests, but that our soil is also really important. Recently I spoke to a man from Wellington who told me how much top soil he had lost. He said that he had lost so much top soil that Aboriginal artefacts thousands of years old were being uncovered.

A few days ago I introduced two investors to a farmer in my area. These investors brought hemp seeds, perfectly legally, from Hungary and intend to grow a trial crop of seeds. Farmers who are not getting a good return, particularly those in irrigation areas, might want to try growing hemp. It will be an interesting crop in the future when we obtain the right strains of hemp. Today, fortuitously, I am wearing a hemp suit which I wore into this Chamber seven or eight years ago. At that time honourable members said they wanted to smoke my suit. This suit, which contains no tetrahydrocannabinol, or THC, is quite a hard-wearing fabric. A number of clothing manufacturers in Australia are using hemp from Thailand, China and Hungary.

The Hon. R. T. M. Bull: It is not as soft as wool.

The Hon. R. S. L. JONES: It is not as soft as wool, but it is a lot easier to grow. Farmers can be assured of the success of this crop, and the yield per hectare is quite enormous. Farmers do not need to use insecticides as the plant contains its own insecticide—THC—on which people can get high. I am sure that in the future more and more hemp crops will be grown legally in this country. Concerns have been raised by a number of people in Merriwa. I feel sorry for them because of the forced amalgamation of the Mudgee and Merriwa rural lands protection boards. Those boards were doing pretty well before that amalgamation and I do not believe that they should have been amalgamated. I, and I am sure many Opposition members, made representations to the Minister and tried to have that amalgamation reversed, but we failed to do so.

This matter might be addressed by the Minister at some time in the future, but by then it might be

too late. I can understand the rationale for the amalgamation, but boards should not be forced to amalgamate if they are doing pretty well on their own. I received a letter dated 19 October from Tim Baillieu, a retired board director from Cassilis, and a letter dated 9 November from Jeff McQuiggin, the senior administrative officer on the Mudgee-Merriwa Rural Lands Protection Board, who says that this amalgamation has given the Minister an unjustified level of power. I received another letter dated 9 November from Janet Barton, who is particularly bitter about the continuing push by the Minister to change the board structure. She states:

According to the people in the community I visited, these Boards are funded by ratepayer levies, not by tax dollars, and they are managed by local people elected by ratepayers.

It seems to me that the people in the country know what works best for them . . .

She is concerned about the boards' loss of control. I received letters also from Michael and Prim Winston-Smith from Narrabri, Nicholas Thompson from Merriwa, and Paddy Carrigan from Merriwa, Sarah Thompson from Cassilis—members would know of Sarah—Trudie Stammers from the Hunter Rural Lands Protection Board, Mr Cameron from the Tamworth Rural Lands Protection Board, and Paul and Jane Bettington from Coolah.

There have been representations from many other people, which I will not detail. Some of their concerns are not warranted. When the bill is enacted, it will become apparent that its effects will not be as severe as some people believe. However, people who have been affected by forced amalgamations of boards are particularly bitter about their loss of control. There are a number of good provisions in the bill and I am pleased that the Government will support my four mild, although in some ways significant, amendments.

The Hon. Dr A. CHESTERFIELD-EVANS
[12.20 p.m.]: In general the Australian Democrats support the bill. However, we are concerned that as far as possible power should remain at the local level. The rural lands protection boards have a long and proud history. They are locally funded, respond at the grassroots level and reflect the pride and co-operation that is characteristic of locally-based organisations. The Australian Democrats recognise that a great deal of co-ordination is needed on national priorities. Nowadays diseases travel fast, and sometimes powerful national action is needed to counteract them.

In society today the general principle is that power is taken away from small groups and given to

larger and better funded groups. Local government power is given to the State Government, State government power is given to the Federal Government, and Federal Government power is given to international companies and bodies. This trend must be curbed if some autonomy is to be kept at the local level. Although the bill has good co-ordination effects, a number of concerns have been expressed to us. One concern is that the changes to the Act are not being driven from within and that the people at the grassroots level do not support the change in the power base. Sarah Thompson from Cassilis stated that the bill "is substantially the result of recommendations made by the review team that reflects a great deal of consultation with the Council of Advice, that is, the State council and the rural lands protection boards". The bill was not driven by the boards, which submitted some 400 amendments to the May draft.

Another concern is the change in the power base. The bill changes the power structure within the board system and gives more power to the State council. The State council, which will replace the Council of Advice, will become a statutory corporation. It will have the authority to direct boards and will be answerable only to the Minister. Under these changes local boards will lose, not gain, autonomy. There is also concern about the loss of accountability to ratepayers who pay for the system, which has been managed successfully for the past 130 years. The staffing requirements for the boards will generate more charges. Although the State Government will fund the State council to the extent of \$250,000 for the next five years, there is no clear funding after that. The ratepayers are concerned that the cost will then be transferred to them.

The Australian Democrats considered whether it was necessary to put the State council in place and to take power away from the boards. We noted that the council was effectively able to dictate to the boards, which became subject to its directions. It is true that the council is elected by the same people who make up the boards, but any change must be justified. The people from Merriwa vehemently opposed this change. The Australian Democrats conceded that with local management some groups are extremely competent and some are not. Judgment should be made whether the fact that some groups were not as competent as others justified changes to all of the boards.

Members of five boards opposed the loss of autonomy—and I suggest that 10 per cent is substantial opposition. The Opposition amendments, which basically give the council an advisory role and leave the final say with the boards, seem to be a

reasonable compromise. They would keep power at the local level, with co-ordination, oversight and contact with the Minister at State level. The Australian Democrats support the bill and will also support the Opposition amendments that relate to the function of the council and its relationship with the boards.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [12.25 p.m.], in reply: I thank honourable members for their contributions. Some groups in the community are concerned that boards may abrogate their responsibilities in managing travelling stock routes by leasing routes out on a long-term basis. Under the proposed bill that will not be possible, as the State council will require that boards manage routes for the purpose for which they are intended, that is, travelling stock, and will not allow boards to lease routes out to individuals for the long term to avoid managing the routes in the correct manner and incurring expenses associated with such management.

The Deputy Leader of the Opposition raised a number of matters. One related to increased costs, and I am advised that extra accountability costs could be dramatically reduced by voluntary amalgamation of boards, which was proposed by Coopers and Lybrand. The honourable member also referred to State council control over boards. I am advised that the provision for a State council to direct boards came from the Rural Lands Protection Act writing group, which was made up mainly of board staff and directors, that is, the industry itself.

The Deputy Leader of the Opposition also raised a concern about management plans. I am advised that the boards will not develop management plans unless they are instructed to do so. For example, New South Wales Agriculture and the State council have been encouraging boards to implement pest animal management plans for at least six years. At this point in time only 30 per cent of boards have done so. That means that most boards cannot demonstrate to ratepayers any outcomes of pest animal control in the individual board districts. The State council must have the power to direct boards to implement management plans.

The Deputy Leader of the Opposition also referred to the powers of inspectors. There is no need for the amendments suggested by the honourable member. If there is an urgent need for inspectors to enter a property, they may do so as long as they seek approval from the board. The Hon. I. Cohen referred to the Merriwa amalgamation. I

am advised that that amalgamation was effected under the existing legislation and is not related to this bill.

The honourable member also raised concern about community involvement. I am advised that there will still be a need for community involvement under this legislation. For example, the community must be consulted before any animal is declared a pest. The honourable member also referred to weed control, and I am advised that weed control comes under the Local Government Act, not the Rural Lands Protection Act. The Hon. I. Cohen referred to cane toads. The problem with cane toad control is finding a practical method of destroying toads. But we should ensure that they do not come too far down into New South Wales.

The Hon. R. S. L. Jones: It should be done humanely. We have them around our house and we do not kill them.

The Hon. M. R. EGAN: I suppose you have one as a pet?

The Hon. R. S. L. Jones: We have several as pets. They are very territorial; they have their own space.

The Hon. M. R. EGAN: Are your shoes made of cane toad skins?

The Hon. R. S. L. Jones: No, nor is my wallet.

The Hon. M. R. EGAN: Rural lands protection boards are interested in cane toad control, and this issue is presently being considered by the New South Wales Pest Animal Council. The Hon. I. Cohen also raised the relevance of boards in rating systems. I am advised that my esteemed colleague the Minister for Agriculture, and Minister for Land and Water Conservation has asked the State council to examine the present rating system and in particular matters involving minimum rate payers. He will receive a report on this review in the near future.

The Hon. R. S. L. Jones referred to the Mudgee and Merriwa amalgamation. I assure him that the Minister for Agriculture, and Minister for Land and Water Conservation did not force this amalgamation. It was recommended to the Minister by the State council, which consists of elected representatives of the board movement. I hope that at the appropriate time the Hon. R. S. L. Jones will apologise for misleading the House in such a dreadful way.

The Hon. Dr A. Chesterfield-Evans raised a number of matters. I can advise him that changes to the Act did not come from the board movement. The Clough task force, which made the recommendations for changes, consisted mainly of board directors and staff as well as New South Wales farmers. If the State council does not have power to direct boards there will be no statewide co-ordination—which is, of course, what the Hon. Dr A. Chesterfield-Evans wants. I regret that Reverend the Hon. F. J. Nile is not in the Chamber, but I am sure the deputy leader of the Christian Democratic party will convey my comments to the leader of that party.

I advise the honourable member that boards will not develop plans and policies unless they are directed to do so. Without plans and policies there is simply no accountability for ratepayers' funds spent by boards. The Local Government Act already requires local councils to have management plans. The proposed legislation brings rural lands protection boards into line with local councils. I am delighted to commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Parts 5, 6 and 11

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [12.30 p.m.], by leave: I move amendments Nos 1 to 9 in globo:

- No. 1 Page 10, clause 24(2)(c), lines 16-18. Omit all words on those lines. Insert instead:
 - (c) the provision of advice and assistance about implementation and the monitoring of function management plans by boards,
- No. 2 Page 12, clause 27(2)(c), lines 1 and 2. Omit all words on those lines. Insert instead:
 - (c) without limiting paragraph (a), a board fails to comply with any requirement under section 44(1) or 47(1) with respect to the preparation or submission of any draft function management plan, or
- No. 3 Page 18, clause 44(2), lines 23-27. Omit all words on those lines. Insert instead:
 - (2) A board may prepare a draft function management plan for any of its other functions if requested to do so by the State council.
- No. 4 Page 19, clause 47(1), line 33. Omit "for approval". Insert instead "for comment and guidance".

- No. 5 Page 20, clause 47(3), lines 6-11. Omit all words on those lines.
- No. 6 Page 20, clause 47(4), lines 12-14. Omit all words on those lines. Insert instead:
 - (3) The State council may suggest changes to a draft and refer it back to the board for further consideration.
 - (4) The board is to take into consideration any suggestions made by the State council and may alter the draft if it considers it appropriate to do so before adopting it as a function management plan for the function concerned.
- No. 7 Page 20, clause 47(5), line 16. Omit "approved by the State council". Insert instead "adopted (with or without alteration) by the board at a meeting of the board".
- No. 8 Page 20, clause 48(1), lines 19-21. Omit all words on those lines. Insert instead:
 - (1) A board may amend any of its function management plans or revoke any such plan and substitute a new plan.
- No. 9 Page 20, clause 48(3), lines 26-29. Omit all words on those lines. Insert instead:
 - (3) If the board is of the opinion that a proposed amendment to a function management plan is minor in nature, the board need not comply with section 46.

The Opposition moves these amendments basically to ensure some degree of independence for boards in the drafting of the function management plans. The amendment to clause 24(2)(c) encapsulates the general theme of the amendments, which indicate that the State council is in an advisory and assistance role rather than an arbitral role. The amendments change the emphasis from the dictatorial language that is present in a number of these amendments and replaces it with a more conciliatory position with conciliatory language. The boards will be encouraged at every opportunity to fulfil these management plans, and the State council will be in a position to monitor, assist and guide the boards with respect to these management plans.

The amendments are fundamental to giving boards independence on the individual management of their areas. There is a genuine concern about the individual role of boards and the function of the State council over those boards. This is an opportunity to demonstrate that the Opposition wants to change the emphasis from this dictatorial and compliance language to the State council advising and assisting the boards.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.23 p.m.]: The Government

is opposed to amendments Nos 1 to 9. The amendments are designed to dilute the power of the State council so that it cannot direct a board to develop and implement a function management plan other than a management plan for travelling stock routes. In the Government's view this would lead to chaos. In the past boards have been reluctant to develop and implement management plans. The State council must have the power to direct them to develop and implement management plans to ensure consistency across the State and that there are agreed outcomes for statewide programs implemented by boards. These clauses are necessary to protect boards and to ensure their future.

Amendment No. 1 deals with clause 24(2)(c) of the bill. The Government believes the amendment is unsatisfactory. The present wording gives the State council the function of monitoring the implementation of function management plans by rural lands protection boards. The amendment would transfer the monitoring role to the boards themselves. If this amendment is adopted there will be no means of ensuring that boards implement the management plans in a satisfactory manner.

The second amendment refers to clause 27(2)(c). With the present wording the State council would have the power to direct the board to take specific action if it fails to exercise a function in conformity with any relevant function management plan. Opposition amendment No. 2 would restrict this to the State council having power only to direct the board to take specific action in regard to travelling stock reserve management plans, not to all management plans. This would mean that a board would be free to do whatever it liked in relation to other management plans such as plague locusts and pest animal management plans. This would again create lack of uniformity in the implementation of control programs for plague locusts and pest animals across the State. The State council must have the power to direct boards in all their activities to ensure that plans are implemented in a uniform and efficient manner.

Amendment No. 3 refers to clause 44(2). The present wording of the clause makes it compulsory for boards to prepare function management plans of all their functions other than travelling stock reserve management plans, which are referred to in another clause. The amendment would mean that boards would need to prepare such management plans only if they felt like doing so. This again would lead to chaos in that many boards would not prepare such plans and as a result there would be no way of assessing the success or otherwise of various programs that boards implement across the State.

Amendment No. 4 refers to clause 47(1), which makes it mandatory for boards to submit management plans to the State council for approval. The amendment would remove the requirement for plans to be approved by the State council. This is unacceptable to the Government as the State council must have power to approve management plans to ensure uniformity of plans across the State and to ensure that plans will deliver on agreed outcomes for the various programs the boards undertake.

Amendment No. 5 refers to clause 47(3), which makes it compulsory for the State council to consult with the National Parks and Wildlife Service, the Department of Land and Water Conservation and the Department of Fisheries before approving travelling stock reserve management plans. This is essential if these plans are to take into account other legislation such as the threatened species and native vegetation Acts. The amendment would omit this clause altogether and therefore remove the requirement for such consultation. This would lead to mayhem in that management plans would be developed which may conflict with the provisions of the Acts I have mentioned.

Amendment No. 6 refers to clause 47(4), which allows the State council to direct the board to make changes to a draft management plan. This is necessary, again, if there is to be uniformity in the plans across the State so that the community has an assurance that there will be agreed outcomes resulting from the implementation of such plans. The amendment removes the power of the State council to direct boards. Under the amendment the State council may only suggest changes to plans. Boards would then be able to accept or reject the changes, which would lead to a variety of plans across the State, some of which would be completely unworkable.

Amendment No. 7 refers to clause 47(5). It is very similar to the previous amendments in that it would remove the power of the State council to approve management plans. As stated previously, if council lost the power to approve plans a variety of plans would be developed and implemented across the State, some of which would conflict and be completely unworkable.

Amendment No. 8 refers to clause 48(1). It would remove the power of the State council to direct a board to amend a management plan. The State council must have the power to direct boards with regard to the development and implementation of management plans to ensure consistency across the State, for the reasons I have already articulated. Amendment No. 9 refers to clause 48(3). It again

would dilute the power of the State council for the reasons I have previously described. For those reasons the Government is unable to accept the amendments proposed by the Deputy Leader of the Opposition.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [12.45 p.m.]: I did not count how many times in the Minister's response he referred to uniformity and consistency, but they were the general theme of the opposition to my amendments. The Government cannot have it both ways: it cannot say on the one hand that the boards are individual and the State council will not take away their individuality, and on the other hand say that there must be consistency and uniformity across the State. Why do we need consistency and uniformity across the State when there are 48 individual boards doing their own thing? Why does the Government not just abolish the boards and have uniformity and consistency across the State driven from Orange? That is not the way we want to go.

The Minister for Public Works and Services obviously does not know anything about this subject. He is doing a very good job representing the Minister in another place, and I do not blame him. The arguments put up are bureaucratic and typical of a government taking control, but denying that it is taking control and claiming that there must be consistency. The Minister said that the Government must have direct power for the State council to ensure that there is consistency. How on earth can we have individuality yet have uniform compliance across the State?

I have a copy of a management plan here—the Minister would not have seen one—the vertebrate pest management plan for A division of the Moss Vale Rural Lands Protection Board. It is a very good draft plan. It is commonsense. It has not been prepared because the State council has said that it has to be done; it has been done because the board believes that it is important to its administration and functions. It was prepared without the legislation. Management plans will be developed across the State on a whole raft of issues because it is in the interests of the boards to do so. The amendments are important and retain the individuality of the boards.

The Hon. Dr A. CHESTERFIELD-EVANS [12.47 p.m.]: I note that the amendments were moved in globo. The Australian Democrats have a problem with Opposition amendment No. 5. It would delete clause 47(3), which would give more power to the National Parks and Wildlife Service in relation to management plans. We regard them as an important innovation in the bill which we would not

like deleted. The Australian Democrats do not support Opposition amendment No. 5.

The Hon. D. F. Moppett: You might move an amendment to the Opposition's amendment.

The Hon. Dr A. CHESTERFIELD-EVANS: I want to delete Opposition amendment No. 5 from the package of Opposition amendments moved in globo.

The TEMPORARY CHAIRMAN (The Hon. Jennifer Gardiner): Would you be happy if Opposition amendment No. 5 were excised from the package?

The Hon. Dr A. CHESTERFIELD-EVANS: Yes.

The TEMPORARY CHAIRMAN: If the Committee is happy with that, I will proceed on that basis.

Question—That amendments Nos 1 to 4 and 6 to 9 be agreed to—put.

The Committee divided.

Ayes, 18

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Chadwick	Mr Samios
Dr Chesterfield-Evans	Mr Rowland Smith
Mrs Forsythe	Mr Tingle
Mr Gallacher	Mr Willis
Mr Gay	
Mr Hannaford	<i>Tellers,</i>
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Noes, 17

Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mrs Sham-Ho
Mr Dyer	Ms Tebbutt
Mr Jones	Mr Vaughan
Mr Kaldis	<i>Tellers,</i>
Mr Kelly	Mrs Isaksen
Mr Macdonald	Mr Manson

Pairs

Dr Goldsmith	Mr Egan
Dr Pezzutti	Mr Johnson
Mr Ryan	Mr Shaw

Question so resolved in the affirmative.**Amendments agreed to.**

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [12.56 p.m.]: The Australian Democrats have a problem with amendment No. 5. The amendment removes the compulsion of the State council to consult with the directors-general of the Department of Land and Water Conservation, State Forests of New South Wales and the National Parks and Wildlife Service. This amendment is not of great moment because it only relates to consultation. I would have thought that rural lands protection boards, as land-holders with travelling stock reserves, would be treated in the same way as any other land-holder. In other words, if they did not comply with the Native Vegetation Conservation Act or the Threatened Species Conservation Act they would be found to be in breach of the Act, like any other land-holder. This is an unnecessary impediment to something that boards would ordinarily negotiate individually.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.57 p.m.]: When the Committee debated the earlier amendments I articulated why the amendments were unacceptable to the Government. It would not be profitable to repeat those arguments and waste the Committee's time, other than to say that the Government does not accept the amendment for the reasons outlined earlier.

Question—That amendment No. 5 be agreed to—put.

The Committee divided.**Ayes, 16**

Mrs Arena	Rev. Nile
Mr Bull	Mr Samios
Mrs Forsythe	Mr Rowland Smith
Mr Gallacher	Mr Tingle
Mr Gay	Mr Willis
Mr Hannaford	
Mr Kersten	<i>Tellers,</i>
Mr Lynn	Mr Jobling
Mrs Nile	Mr Moppett

Noes, 18

Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Dr Chesterfield-Evans	Ms Saffin
Mr Cohen	Mrs Sham-Ho
Mr Corbett	Ms Tebbutt
Mr Dyer	Mr Vaughan
Mr Jones	
Mr Kaldis	<i>Tellers,</i>
Mr Kelly	Mrs Isaksen
Mr Macdonald	Mr Manson

Pairs

Dr Goldsmith	Mr Egan
Dr Pezzutti	Mr Johnson
Mr Ryan	Mr Shaw

Question so resolved in the negative.**Amendment negatived.**

The Hon. R. S. L. JONES [1.04 p.m.], by leave: I move in globo amendments Nos 1 to 4 circulated in my name:

- No. 1 Page 21, clause 49(2), lines 1 and 2. Omit all words on those lines.
- No. 2 Page 64, clause 143. Insert after line 9:
 - (4) An order must not specify any method of eradication in relation to a pest that would constitute an act of cruelty committed upon an animal within the meaning of the Prevention of Cruelty to Animals Act 1979.
- No. 3 Page 64, clause 144. Insert after line 26:
 - (2) The Minister must consult with the Minister for the Environment before making a pest control order declaring any member of the animal kingdom that is a native species to be a pest.
- No. 4 Page 75, clause 175(4), line 23. Omit "is final and".

Clause 44 of the bill provides that the rural lands protection boards must prepare draft function management plans for their functions in respect of all travelling stock reserves under their care, control and management, and any other functions if directed to do so by the State council. Clause 49(1) provides that functions of the boards must "as far as practicable" be exercised in accordance with those management plans. However, subclause (2) provides that the exercise of that function is not "invalid" because of a contravention of any such plan. Amendment No. 1 omits subclause (2) from clause 49, and thereby ensures that rural lands protection boards exercise their functions in accordance with their function management plans.

Amendment No. 2 inserts a new subclause into clause 143, under which the Minister may make pest control orders. The amendment ensures that pest eradication orders cannot contravene the Prevention of Cruelty to Animals Act. Amendment No. 3 inserts a new subclause into clause 144 of the bill and ensures that the Minister for the Environment is consulted before pest control orders are made against native species.

Amendment No. 4 relates to subclause (4) of clause 175, which deals with appeals against refusal to approve the keeping of pests in captivity or to use alternative eradication methods, and provides that a decision of a local land board on an appeal is final. Under section 26 in division 3 of the Crown Lands Act, however, currently local land board decisions can be appealed against in the Land and Environment Court. The amendment removes the words "is final and" from subclause (4), and therefore restores existing appeal rights.

The Hon. R. D. DYER (Minister for Public Works and Services) [1.06 p.m.]: The Government accepts the amendments moved by the Hon. R. S. L. Jones.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [1.06 p.m.]: The Government says it likes to consult. For the past two weeks I have been indicating to the Government exactly what aspects of the legislation I intend to support and what aspects I intend to oppose. For some extraordinary reason, the Government has decided to do a little ambush on the House, and especially on the Opposition, by accepting the amendments moved by the Hon. R. S. L. Jones without any indication to the Opposition as to its intention. I inform the Government that the Opposition will oppose the amendments. The Prevention of Cruelty to Animals Act fully deals with the eradication or treatment of animals. I see no reason to include these provisions in the Act.

It is totally unnecessary to include in the Act a provision that the Minister should consult with the Minister for the Environment before making a pest control order declaring any member of the animal kingdom or native species to be a pest. I do not know why the Government has decided to accede to these amendments at five minutes to midnight. Clearly it has decided to engage in one-way consultation: the Government is quite happy to be told what the Opposition intends to do but is not prepared to let the Opposition know what it intends to do. The Opposition opposes the amendments.

The Hon. R. S. L. JONES [1.08 p.m.]: The Deputy Leader of the Opposition is obviously being capricious about the amendments and is having a bit of a temper tantrum on the floor of the House.

The Hon. R. T. M. Bull: Why? When did you receive my amendments? It was last week.

The Hon. R. S. L. JONES: These amendments were available a week ago.

The Hon. R. T. M. Bull: They arrived on my desk today.

The Hon. R. S. L. JONES: They are very mild amendments. Clearly, the Deputy Leader of the Opposition is just being bad tempered and bloody-minded about this. He is also opposing an amendment which his supporters in the bush would be very much in favour of, so he is denying his supporters appeal rights.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 17

Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Obeid
Mr Cohen	Mr Primrose
Mr Corbett	Ms Saffin
Mr Dyer	Mrs Sham-Ho
Mr Johnson	Ms Tebbutt
Mr Jones	<i>Tellers,</i>
Mr Kaldis	Mrs Isaksen
Mr Kelly	Mr Manson

Noes, 18

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Chadwick	Mr Samios
Dr Chesterfield-Evans	Mr Rowland Smith
Mrs Forsythe	Mr Tingle
Mr Gallacher	Mr Willis
Mr Gay	
Mr Hannaford	<i>Tellers,</i>
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Pairs

Mr Egan	Dr Goldsmith
Mr Shaw	Dr Pezzutti
Mr Vaughan	Mr Ryan

Question so resolved in the negative.

Amendments negatived.

Parts as amended agreed to.

Part 12

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [1.13 p.m.], by leave: I move Opposition amendments Nos 10, 11 and 12 in globo:

No. 10 Page 81, clause 191(1), lines 6-9. Omit all words on those lines. Insert instead:

- (1) Before an authorised officer enters premises under this Part, the authorising authority must make a reasonable effort to give the occupier of the premises oral or written notice of the intention to enter the premises.

No. 11 Page 81, clause 191(2), lines 10 and 11. Omit all words on those lines.

No. 12 Page 81, clause 191(3), line 12. Omit "notice to be given". Insert instead "any effort to be made to give notice".

The amendments relate to clause 191 in division 2 of part 12. As the legislation is written, before an authorised officer enters premises the authorising authority must give the occupier of the premises oral or written notice of the intention to enter the occupier's premises on a day or within a period of days specified in the notice. The day or any day within the period specified must not be the day on which the notice is given. I have received representations from board officials that this clause will make it difficult to access ratepayers' property. Approval cannot be easily obtained at short notice.

If a board official is inspecting a property in one area and the notice is not forthcoming for the property next door, the official may have to drive halfway across the board area to inspect another property where authority has been given. A number of land-holders in board areas within close proximity to Sydney are only in residence on the weekends. It is difficult for board personnel to gain approval from the occupier to enter the property. I note that the bill contains a clause that enables boards to give approval at the local level in urgent circumstances.

Commonsense needs to be applied. As the Hon. D. F. Moppett mentioned earlier, it is perfectly acceptable for a ranger to arrive at a property and make a reasonable attempt to gain approval to inspect the property for rabbits. If no-one is at home the ranger can leave a card so the occupier knows that the wheel tracks across the paddock belong to the ranger. The amendments are totally reasonable. I urge the House to consider them as an appropriate response activated by those who are charged with the responsibility of accessing properties.

The Hon. R. D. DYER (Minister for Public Works and Services) [1.17 p.m.]: The Government does not accept these amendments. Amendment No. 10 affects clause 191(1). The present subclause requires an authorised officer of the board to give the occupier of the premises oral or written notice of his intention to enter the premises for matters associated with the Act, such as inspecting or searching premises. The amendment of the Deputy

Leader of the Opposition would enable authorised officers to make a reasonable effort to give the occupiers oral or written notice. In some situations the occupier of the premises may not know that the authorised officer is entering the premises, thus denying the occupier natural justice. Therefore it is unacceptable.

Amendment No. 11 affects clause 191(2). The present subclause relates to action that must be taken by the authorised officer when giving notice of entry in that the authorised officer must indicate in writing or orally that he intends to enter the premises on the day on which the notice is given. The amendment of the Deputy Leader of the Opposition removes this requirement, which again denies the occupier natural justice. Amendment No. 12 affects clause 191(3) and deals with situations in which notice does not have to be given.

The Deputy Leader of the Opposition seeks to amend the subclause to make it consistent with his amendment to clause 191(1), which, as stated previously, if adopted, would deny the occupier of the premises natural justice. The amendments of the Deputy Leader of the Opposition on entry are not required because they all relate to the fact that an authorised officer must give notice. However, an authorised officer has the right of entry without giving notice if the board has given authority to the officer to enter without notice in a particular case, or generally if there is an urgent need to do so. For those reasons, the amendments are opposed.

Amendments agreed to.

Part as amended agreed to.

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

Message forwarded to the Legislative Assembly seeking its concurrence with the Legislative Council's amendments.

FOOD PRODUCTION SAFETY BILL

MEAT INDUSTRY AMENDMENT BILL

**WASTE MINIMISATION AND
MANAGEMENT AMENDMENT BILL**

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

Suspension of standing orders agreed to.

[The President left the chair at 1.25 p.m. The House resumed at 2.45 p.m.]

BILLS UNPROCLAIMED

The Hon. J. W. Shaw tabled a list detailing all legislation unproclaimed as at 10 November 1998.

**POLICE SERVICE AMENDMENT
(COMPLAINTS AND MANAGEMENT
REFORM) BILL**

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.46 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is proud to introduce the Police Service Amendment (Complaints and Management Reform) Bill 1998. This bill implements 10 of the key recommendations for the legislative change made by the Royal Commission into the Police Service in its final report. In fact, the passage of this bill will mark the implementation of the trifecta of police reform in the first term of the Carr Government. Already this Government has passed major legislation to establish the Police Integrity Commission and give the Commissioner of Police the power to quickly remove corrupt officers. This bill completes the process in relation to those royal commission recommendations designed to create strong oversight of the Police Service coupled with effective powers for the commissioner and commanders to manage the Police Service.

This bill gives the commissioner and his front line managers the tools they need to, among other things, properly manage and correct non-dismissible instances of misconduct or poor performance by officers. The amendments to part 9 of the Police Service Act will provide a framework within which Police Service commanders can manage and improve the conduct and performance of their officers. Based on the recommendations in chapter 4 of the final report of the royal commission, this bill also overhauls the complaints and discipline provisions of the Police Service Act 1990. The passage of this bill will in fact mark the implementation of most of the royal commission's major recommendations for legislation.

In both its first interim report and its final report, the royal commission made some fundamental criticisms of the existing complaints and discipline system. It said that the system was: complex, inconsistent and inflexible; counter-productive because of its adversarial nature and its concentration on punitive, rather than remedial action; directed towards command and control, rather than management of its members; characterised by substantial delay; prone to leaks, collaboration and ineffective investigations; affected by bias, typified by an almost instinctive reaction to defend any charge, no matter how indefensible, and to appeal any decision made; conducive to fear and want of openness in dealings between members and the organisation; and productive of anxiety and uncertainty during the long waiting period, sometimes leading to genuine stress-related illness.

A primary concern of the royal commission was that the complaints system was divorced from the supervision responsibility of managers, and from a managerial commitment to improve the performance of staff about whom complaints are made. This structure acted to remove the emphasis on proper management practices and on the accountability of supervisors within the service. The royal commission was firmly of the view that the Police Service should move from a formal adversarial model to a more managerial or remedial model. Such a model would place responsibility on commanders at local area level to deal with complaints and detect and deal with other cases of misconduct or unsatisfactory performance. This bill implements the legislative changes required to enable this to occur.

Under the amendments to part 9 of the Act, the outdated discipline system based on proving discipline charges in an adversarial manner and imposing punishment is repealed. The Police Tribunal is abolished, as are appeals to GREAT in relation to part 9 matters. The bill establishes a framework which places primary responsibility on frontline managers for the conduct and performance of their staff. Managers will determine the appropriate response to each case of misconduct or poor performance, whether it comes to their attention through the complaints system or through day-to-day management. The system of employee management extends beyond this bill. In the effective implementation of employee management principles, the formal and informal recognition of good performance, of a job well done, is just as important. Indeed, the royal commission acknowledged that the recognition of good performance is a more positive value in the pursuit of integrity and professionalism than the censure of bad performance.

These legislative changes, and the implementation of employee management throughout the Police Service, will not only correct misconduct or poor performance but, perhaps more importantly, foster a culture of continual improvement. Emphasis will be placed on using appropriate modern management tools to improve performance and correct instances of minor misconduct. These tools include coaching, mentoring, training and development, counselling, increased professional, administrative or educational supervision, and performance enhancement agreements. Other approaches will also be available for use where necessary. These can include issuing a reprimand, imposing restricted duties, the recording of adverse findings and a change of shift for a limited period.

In accordance with royal commission recommendation 72, sanctions of reduction in rank or grade, reduction in seniority and deferment of an increment will be available for the more serious cases where some form of personal penalty is required to act as a deterrent. In accordance with royal commission recommendation 74, a right of review to the Industrial Relations Commission is available for those sanctions as their imposition may have a financial impact on the officer concerned. Before a reviewable order is made, the officer will have a total of 28 days in which to make written submissions to his or her manager, and those submissions must be taken into account by the manager when determining whether to make the final order. An officer may seek a review of this decision by the Industrial Relations Commission on the ground that the order is beyond power or is harsh, unreasonable or unjust. Indeed, it will be a merits review in line with the principles embodied in the Industrial Relations Act.

The Police Association or the Commissioned Police Officers Association may also make an application for review on behalf an officer. An application for review must be made within 21 days of the service of the order and the Industrial

Relations Commission must commence hearing the application within four weeks. These time limits are designed to ensure the review is conducted quickly. The bill also provides that the commission is to act according to good conscience and the substantial merits of the case without regard to technicalities or legal forms. Both these provisions respond to the royal commission criticisms of the of the old system, particularly the length of time it took to resolve matters and its technical and legalistic approach.

I am advised that, initially, the commissioner also plans to establish an internal review panel to ensure that local area commanders and other managers across the State are making consistent decisions when ordering reviewable actions. I understand this panel will operate for at least 12 months, or longer if required. The bill does not provide for external review provided for managerial actions which do not impact financially. As the royal commission noted, these proposals involve a somewhat radical change. However, as noted in the final report, they go to the heart of the reform process. The royal commissioner said:

The best platform for change does not involve the preparation of a new set of rules and regulations and the imposition of a more vigorous regime for their enforcement. Rather it involves the service setting proper professional standards and then doing whatever it can to encourage its members, in a managerial way, to lift their performance. Unless this is achieved, no system of discipline or complaint management will ever bring about reform. At best it will be a safety net.

The royal commission also highlighted a pertinent comment from the judgment in *Hardcastle v Commissioner of Police* where the full Federal Court said that the purpose of a disciplinary system within a professional organisation is to protect the public, to maintain proper standards of conduct and to protect the reputation of the organisation. It is not to punish. The passage of this bill will introduce the structural framework for a modern system of management within the Police Service and it will enable the fundamental cultural change within the organisation which was envisaged by the royal commission.

The bill I present today also rewrites the complaints handling provisions in part 8A of the Police Service Act. The amendments address the recommendations on the police complaints system the royal commission made in its final report. They also implement joint proposals from the Commissioner of the Police Integrity Commission, the Ombudsman, and the Commissioner of Police to streamline the complaints system and to support the philosophy of those royal commission recommendations.

The royal commission in both its first interim report and its final report pointed out a number of deficiencies with the complaints handling provisions. In particular it criticised: the need for complaints to be processed through a rigid system which had many ports of call; the fact that the immediate supervisor of the officer the subject of the complaint loses all knowledge and ownership of the complaint; and the inflexibility and formality of the complaints system which required all complaints to be dealt with under the same regime.

Part 8A was substantially amended following the release of the royal commission's first interim report in 1996. However, further amendments in response to the final report, and which draw on the experience of two years of operation of the system, are necessary. On 17 August this year the Commissioner of Police, the Ombudsman, and the

Commissioner of the Police Integrity Commission presented the Minister for Police with a joint paper proposing extensive amendments to part 8A. Both commissioners and the Ombudsman agreed that the complaints handling system needed to reflect the following principles: the system, and the legislation by which the system is created, ought be simple and capable of easy and practical application; complaints should be dealt with managerially in accordance with the recommendations of the royal commission and employee management principles; police and others involved in the complaints handling regime ought not be overly burdened by unnecessary or bureaucratic procedures at the expense of being able to pursue their primary duties and functions; and the system should preserve and permit appropriate levels of accountability.

They also recommended that urgent consideration be given to bringing the proposed amendments to part 8A forward to Parliament at the first available opportunity. The Minister for Police has determined to ensure that any impediments in the way of the successful implementation of employee management were removed and that the recommendations of the royal commission were fully supported. The Minister also wanted to make sure that the honest police who work hard within the service and who have a commitment to professionalism are able to get on with the job. Accordingly, he fully supported those proposals.

Both the commissioners and the Ombudsman advised the Minister for Police that the aim of their proposals was to support the recommendations made by the royal commission in chapter 4 of its final report and to: ensure the Police Service owns all aspects of the complaints process—that is that the service has full responsibility for the fast, fair and effective resolution of complaints about its staff and procedures; enhance the Police Service's capacity to implement its own processes for assessing, investigating and responding appropriately to complaints; encourage the Police Service to manage complaints in a way that is consistent with accepted standards of professionalism; emphasise the need for the Police Service itself to improve its communication with and service to members of the public; clarify and enhance the Ombudsman's capacity to oversee the complaints process; and clarify and streamline notification and reporting procedures in a manner consistent with this scheme.

Under the part 8A amendments, the primary responsibility for handling complaints will lie with the Police Service. However, some of the core provisions of the current part 8A have been retained, such as the types of conduct which can be complained about, a complaints information recording system, the referral of complaints between agencies, many of the provisions regarding the investigation of complaints and reporting of the outcomes, and the oversight roles of the Ombudsman and the PIC. But the reform is significant. This bill will streamline the operation of the part, significant flexibility will be introduced into the complaints handling process, and primary responsibility for determining how most complaints are resolved will lie with the Police Service.

This addresses the concerns raised by the royal commission about the inflexibility of the complaints system and removal of the responsible commander from the complaints process. It also addresses the commissioner's concerns that trivial matters which are not strictly complaints and should be dealt with managerially get caught within the current system and impact adversely on the way officers do their job. Under the new complaints system, commanders will be able to choose the appropriate response to any particular complaint, unlike the present system in which certain types of complaints must be

dealt with in the manner set out in the legislation. When a complaint is received, a commander will decide whether it should be investigated, dealt with managerially, conciliated subject to the complainant wishes, or dealt with as a customer service matter. This is in accord with the final report where the royal commission commented that the statutory requirement that conciliation be attempted in certain categories of complaint should be abolished in favour of permitting the local commander to initiate conciliation only in those matters where it is considered appropriate. These proposals will not reduce the powers of the Ombudsman or the PIC.

The bill retains the Ombudsman's powers to oversee, monitor and investigate complaints. Furthermore, the Ombudsman's audit role in relation to the complaints handling processes is strengthened. Under new section 160, the Ombudsman must conduct an annual audit of the relevant police records. She will also have the power to conduct a random audit at any time. In addition, section 160 inserts a new provision into the Act requiring the Ombudsman to keep under scrutiny the overall complaints system established within the Police Service. I emphasise that the Ombudsman will retain independent investigation powers to use where necessary, as well as the ability to make special reports to Parliament.

Under new section 139 the relevant commander may decide that a complaint will not be investigated. However, the Ombudsman may overrule this decision when necessary and direct that the complaint be investigated. The Ombudsman has similar powers under new section 140 in relation to complaints received direct by her. Under new section 146, the Ombudsman can monitor the progress of a complaints investigation, and under new section 152 she may query the timeliness of an investigation. Under division 6 of the new part 8A, when an investigation has been concluded, the commissioner is obliged to report to the Ombudsman. The Ombudsman is also empowered to seek further information from the commissioner to determine whether a complaint has been properly investigated. If the Ombudsman is not satisfied about the conduct or the outcome of an investigation, she may request that a further investigation be completed or that the outcome be reviewed.

The commissioner may refuse these requests. However, if the commissioner adopts this course, the Ombudsman may make a special report to Parliament on the case or, under division 7 of the bill, make the complaint the subject of a special investigation under the Ombudsman Act 1974. The Ombudsman may also take these actions on her own initiative if she considers an independent investigation or a special report to be necessary. Under this bill, complaints are divided into two categories. The procedures for dealing with category 1 complaints remain unchanged from the current system with the PIC conducting investigations unless satisfied that the matter is appropriate for investigation by the Police Service. Other complaints are called category 2 complaints and will be dealt with in the manner I have already outlined, with commanders deciding on the appropriate course of action in each case.

However, there is a third category of complaints. There are certain types of Police Service internal complaints which, under the terms of this bill, will not be notified to the Ombudsman. The types of internal complaints which need not be notified will be determined by agreement between the PIC and the Ombudsman, following consultation with the commissioner. However, those complaints will still be recorded on the complaints information recording system under new section 129 and, therefore, will be audited by the Ombudsman annually. They can also be audited randomly if

necessary. The three categories of complaint are consistent with recommendation 71 of the royal commission.

It is also worth noting that under division 5 of the bill certain complaints are excluded from investigation. The excluded complaints, which will be agreed between the PIC and the Ombudsman, after consultation with the commissioner, will be minor matters which need not be investigated but which can be dealt with in other ways. However, these matters are still complaints and will therefore be recorded on the complaints information recording system and be subject to oversight by the Ombudsman. As with all other complaints, under the terms of division 7 of the bill, the Ombudsman can also make these matters the subject of an investigation under the Ombudsman Act. The PICs oversight and investigation functions in the complaints system are not changed by the amendments.

Like the current part 8A, which this bill replaces, the part remains subject to the Police Integrity Commission Act 1996. The PIC remains responsible for determining how a category 1 complaint is to be investigated. Under new section 168, the PIC also retains its power to direct that a category 2 complaint be dealt with as if it were a category 1 complaint. The definition of category 1 complaints has not been changed. New section 145 will insert a new provision into part 8A to allow an investigation into a complaint against an officer to be extended to a particular area of the Police Service or the Police Service as a whole, where the complaint is indicative of a systemic problem within the service. This is an important change as it will allow systemic problems to be investigated and addressed. It acknowledges that, in some instances, complaints about individual officers can arise through a failure of a Police Service system, rather than from the conduct of the individual officer.

I should draw attention to a final change to part 8A. New section 172 will enable the commissioner to arrange for police officers from other jurisdictions to conduct a complaints investigation. This will enable the commissioner to use independent police officers when a matter warrants an external investigation. In the last three years, key police reform legislation has been passed including the establishment of the Police Integrity Commission, summary dismissal powers for the commissioner, integrity testing powers, drug and alcohol testing, controlled operations laws, the abolition of special branch and the establishment of the protective security group, facilitation of lateral recruitment, protection of police whistleblowers, the removal of tenure and implementation of term employment for senior police, new witness protection legislation, legislation to provide for detention after arrest, provision for financial and integrity statements, greater confiscation powers so corrupt police can have their assets confiscated, and legislation to ensure a special audit of the reform process occurs annually.

The introduction of this bill is a crucial part of the Government's implementation of the final outstanding recommendations for legislative change made by the royal commissioner. This bill, and in particular the amendments to part 9 of the Act, have been the subject of extensive negotiations conducted by the Ministry for Police with the PIC, the Ombudsman, the Police Service, the Police Association and the Commissioned Police Officers Association. I am pleased to be able to say that these amendments are fully supported by the Commissioner for Police, the Commissioner of the Police Integrity Commission, the Ombudsman, the Police Association and the Commissioned Police Officers Association. The passage of this Bill will enable the Police Service to put the final processes and practices in place to manage its officers in a

positive way, to encourage continual improvement. The implementation of these measures will underpin the cultural change envisaged by the royal commission. I am pleased to be introducing this bill today. I commend the bill to the House.

The Hon. M. J. GALLACHER [2.47 p.m.]: I speak on behalf of the Opposition in support of the Police Service Amendment (Complaints and Management Reform) Bill. This bill makes a number of changes to the Police Service Act 1990 with respect to the handling of complaints against police; introduces an employee management scheme to modernise the process of disciplinary action taken against officers for misconduct or unsatisfactory work performance; introduces certain review provisions for the Industrial Relations Commission; and abolishes the role of the Police Tribunal.

The bill maintains the current system of categorising complaints against police in two forms, namely, category one or category two complaints. It also sets out certain procedures and protocols with respect to the reporting of those matters once they are received by the three bodies directly involved in the oversight of police conduct. Those three bodies are, of course, the Police Integrity Commission, the Ombudsman and the New South Wales Police Service.

The bill sets out the procedures to be followed when complaints are made to other officials, including Local Courts, the Independent Commission Against Corruption and members of Parliament. It sets out for the information of members of Parliament their responsibilities and the processes that can be followed once they lodge a complaint on behalf of a constituent. Honourable members who have maintained an interest in the issue of complaints against police would be aware that this bill further cements in place the role of those police officers still involved in the investigation of complaints against other police officers.

Honourable members would remember calls from various quarters, including the Government, for police to be removed from internal investigations. Nowhere was that call louder than from the Police Association of New South Wales. Previous legislation has ensured that New South Wales police or former police cannot be employed at the PIC. Those provisions are spelled out in other legislation.

An examination of this legislation and at what has occurred since the passing of other legislation following the formation of the PIC, demonstrates overwhelmingly that the majority of category one and category two investigations are being carried out by members of the New South Wales Police

Service. This legislation has been introduced because the Government failed to provide necessary funding to enable the PIC to handle at least all category one complaints.

I again refer to a matter to which I have referred in the past. With fewer than a dozen investigators at the Police Integrity Commission we cannot expect those staff to do any more than they are currently doing. The success that they have so far achieved no doubt would have been greater had the Government given the Police Integrity Commission its full support, thus enabling it, in its civilian oversight role, to carry out internal investigations of the New South Wales Police Service.

The Police Integrity Commission has had its supporters and its critics, but one can only imagine what it would have achieved if it had been given investigative resources in the way of manpower and finance similar to those allocated to the police internal affairs branch. Officers who worked at the internal affairs branch during the royal commission and prior to the reform process, together with those who recently joined the ranks, are playing a significant role in what is being achieved in New South Wales. However, the reality is that very little credit has been given to the New South Wales Police Service, in particular to the officers at internal affairs, for the role that they perform.

Quite often the PIC is applauded for its fine work; and so it should be. But the men and women of the New South Wales Police Service should be similarly applauded, not only those in internal affairs but also those throughout the service, for lifting the standards of professionalism and integrity within their ranks. Positive comments with regard to the internal affairs branch are made only about its current members. Very little is ever said about the early investigations, those prior to the reform process and prior to the royal commission. It is as if the police officers involved in internal investigations who performed those duties over decades lacked the level of professionalism and integrity that current officers exhibit.

It is a shame that the Government has not taken advantage of the opportunity to give credit to officers who worked at the internal affairs branch during those trying times; when the culture of the Police Service was not supportive of officers who took on an investigative role. It is unfortunate that the Government has not congratulated the officers who, despite the lack of support and the culture that existed within the Police Service, worked to tackle the problems that confronted the service in the past.

The reality is, of course, that some investigations were inept and some were corrupt, but we do not hear enough from the Government about the officers who did a good job in that area of policing. In saying that the internal affairs branch has undergone reform, we are not simply talking about the processes by which complaints are made and received.

The type of work performed by the internal affairs branch has also changed; its main focus is now on organised crime. It is important to place on the record the Opposition's concerns about investigations which must be performed from the perspective of police involvement in criminal activity. Is the internal affairs branch investigation of organised crime—following the reform of the investigative procedures within the Police Service—being undertaken purely from the perspective of police involvement? Are they seeking to uncover police activity in organised crime or are they looking at organised crime in New South Wales separately from police involvement?

Does Parliament and the community expect the internal affairs branch to investigate organised crime without police involvement? There seems to be a fair degree of confusion in this area. Recently two members of the Police Service told me that they are becoming more and more involved in investigations of organised crime. If police are performing those duties, who is undertaking investigations into police conduct within New South Wales? The bill basically spells that out; it states that internal investigations are being pushed down to the local level.

If there is a need for specialised investigations of organised crime—which I have been told internal affairs is now conducting—what has become of the other units within the Police Service, the crime agencies and specialist investigative groups that were formerly responsible for investigations into organised crime? Are joint investigative teams formed when police are suspected of being involved in corrupt conduct, or when misconduct is taking place? Are joint investigative teams put together from other specialist groups and police internal affairs or does the police internal affairs branch take full control of the investigation? I am sure that the Attorney General has a reasonable answer to my questions about demarcation between internal affairs and other sections within the Police Service, but I have yet to hear it.

If internal affairs is now to be involved in the investigation of organised crime, what is the role of the Police Integrity Commission? I may be wrong, but I suspect that not too many police officers would

be involved in organised crime in New South Wales. Some officers may be involved in corrupt conduct and others may be involved in serious matters that warrant investigation, but not too many officers would be involved in what is referred to as organised crime. If organised crime is being investigated from an internal police perspective, why is the Police Integrity Commission not undertaking those inquiries? I am sure that the Attorney General will be in a position to clarify these valid questions about demarcation between the new investigative roles and responsibilities of the Police Service internal affairs branch and the Police Integrity Commission.

As a member of the Committee on the Office of the Ombudsman and the Police Integrity Commission I have had an opportunity to explore these concepts at their embryonic stage with various heads of agencies. The bill clearly sets out roles and responsibilities, but I would greatly appreciate the Attorney General clarifying the matters of demarcation that I have raised. Where does the internal affairs branch fit in with organised crime and, apart from its oversight role, what role does the Police Integrity Commission play? I do not expect the Police Integrity Commission to do any more than it is doing, given its scant on-the-ground investigative resources. With my knowledge of investigative processes, I am sure its resources are stretched to their limit.

Investigations are a drawn-out process of speaking to individuals and examining evidence. The process and the way investigations are conducted would not have changed over the past 10 years. Reporting procedures and oversight responsibilities have changed—and this legislation spells out those changes—but the actual on-the-ground investigations of internal matters and criminal activity would be the same.

I return to the issue of pushing internal responsibilities down the line to the local level, which raises a number of questions about who performs the internal investigations. As can be seen from this legislation, and as has been put forward by the police Minister and agency heads, the Police Service is pursuing a line of ensuring that local commanders are given greater responsibility and that there is greater accountability at the local level for internal investigations. That is a positive step. However, the question remains: Who does the work? I can assure honourable members that local area commanders would not personally conduct investigations of complaints against officers. They would delegate that responsibility down the line.

Further, investigations are not necessarily being undertaken by senior officers within local area patrols, as some honourable members might believe. Officers in the field are conducting the internal investigations. In fact, many investigations are being pushed down to sergeant and possibly senior constable level. The positive side of such a step is that the sergeants and senior constables, through their hands-on experience, become more aware of their supervisory responsibilities to ensure that junior personnel are informed of their obligations. Investigation at that level engenders an open policy towards internal complaints. There is no longer the "them and us" mentality that has existed between internal affairs and the rank and file in the past. The cloud of secrecy that once surrounded internal affairs and its work is lifted by the decision to push the investigative responsibilities down the line.

However, the reality is that the senior constables and sergeants who investigate complaints against police officers also conduct investigations into fraud and break and enters, and respond to emergency calls. They are the ones whom we call on for assistance at any hour of the day. With the added work of conducting internal investigations, more responsibility is pushed onto those levels within the Police Service. A management principle is that it is a good idea to delegate internal investigations to a local level so that officers have the opportunity of hands-on involvement. Further, because they are investigating their own, at the end of the investigation officers are left with a lasting impression.

While these police officers' responsibilities are expanded, they are not necessarily given the resources that they require to undertake the task. I know that the Attorney General is concerned about the matters I have raised, which were not previously referred to in his briefing information. I am sure that he would like to discuss these matters with me outside this Chamber, so I will not continue for much longer. An important point to conclude on is that honourable members need only look at the type of legislation—public safety legislation rather than law and order legislation—that has been introduced into this Chamber in the past few weeks.

The Government has been promoting legislation that gives police officers more powers, but by giving them more powers they are also giving them more responsibility. This legislation places even greater responsibilities upon police officers. Not only will they be investigating criminal activity on the streets of New South Wales, they will now also have to investigate misconduct or inappropriate behaviour by other police officers.

Internal affairs investigations are carried out in the same manner as murder investigations. Witnesses are interviewed and all possible evidence obtained. Police officers conducting such investigations, if they are sensible and wise, will leave no stone unturned and will conduct the most thorough investigation they possibly can. They will do a thorough job for fear of the Police Integrity Commission, or other civilian oversight body, inquiring into their investigations at a later stage. Whilst the officers undertake the internal affairs investigations, investigations of sexual assaults or frauds will not receive the same level of thoroughness because yet another piece of legislation is making demands on the officers' time.

In essence, the Opposition supports what the Government is trying to do, but I have drawn to the attention of the Attorney General practical examples of instances where the theory needs to be more closely coupled with the practice. I suggest that for the remaining months that this Government is in office the Attorney General should keep an eye on the results of this legislation at the coalface of law enforcement. I suspect that the bill will require amendment at a later stage. I am concerned that the bill will place further onerous responsibilities on our front-line police while they perform the job that Parliament and the community expect of them. At the same time, the Government has failed to meet its responsibility of ensuring that officers at the sharp end of policing have the resources to do the job.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.10 p.m.], in reply: I thank the Opposition for its support of the bill, even if that support is accompanied by tendentious remarks. That is perhaps as one would expect in the current environment. As honourable members know, this bill implements 10 key recommendations for legislative change made by the Royal Commission into the New South Wales Police Service. The bill represents a complete overhaul of the outdated police discipline system and a significant streamlining of the police complaints system.

I would like to deal with some matters raised by the Hon. M. J. Gallacher in particular. The honourable member commented on the demarcation of investigations into organised crime. Police Service crime agencies are given the task of investigating organised crime. The internal affairs section investigates police corruption and complaints against police. There is no confusion in those roles as I apprehend it. The Police Integrity Commission not only has an oversight role but considers whether to investigate every category 1 complaint made. In

addition, the Police Integrity Commission may also take over the investigation of any other complaint if it considers that to be necessary. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

WEAPONS PROHIBITION BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.12 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Weapons Prohibition Bill confirms that the possession and use of prohibited weapons in New South Wales is a privilege. The bill aims to make New South Wales a safer place in which to live. The Weapons Prohibition Bill contains the toughest controls on the use and possession of prohibited weapons ever enacted in Australia. Firearms will, however, remain subject to the Firearms Act 1996: that is, this bill will not change the existing firearms law.

On 31 March the Premier announced the establishment of a task force to review the effectiveness of the Prohibited Weapons Act 1989 and its enforcement. The task force was chaired by the Director General of the Ministry for Police, and included representatives from the Police Service, the Cabinet Office, the Attorney General's Department, and the Department of Fair Trading. The task force found that the Prohibited Weapons Act 1989 is inadequate and outmoded, and recommended its repeal and the introduction of entirely new legislation. This bill implements the recommendations of the task force for tougher legislation to protect the community against prohibited weapons.

A great deal of consultation occurred during the development of the bill. The groups consulted include the Police Association; the Retail Traders Association; the Firearms Dealers Association; the security industry and security industry unions; the film and television industry; the theatrical industry; the Media, Entertainment and Arts Alliance, which is the union for the film, television and theatre industries; museums; martial arts organisations; and prohibited weapons collector groups. Those groups will continue to be consulted during the development of the regulations, which will also be advertised for public comment.

The bill will improve public safety by imposing stricter controls on the possession and use of prohibited weapons. In addition, the bill provides tough penalties for a range of prohibited weapons offences. The underlying principles of the bill are that the possession and use of prohibited weapons should be a privilege, and not a right, that is conditional on an overriding need to ensure public safety.

The bill requires each applicant for a prohibited weapons permit to prove a genuine reason for possession or use of a prohibited weapon. It provides strict requirements that must be satisfied in relation to the possession and use of prohibited weapons, and it provides an amnesty period for the surrender of prohibited weapons to encourage their removal from the community.

The bill retains the current system of permits for prohibited weapons but provides more guidance to the police on the criteria for issuing a permit. Currently there are no legislative criteria on the issue of a permit. The bill changes this by imposing minimum criteria, such as requiring permit applicants to show genuine reason for possession of a prohibited weapon.

Last session the Government introduced the toughest knife laws in Australia. Those laws were required because anyone carrying a knife without lawful reason is attacking the civil liberties of others. Today in New South Wales it is illegal to carry a knife in a public place or school without a lawful reason. Police can search for knives and confiscate them. Police can now also demand names and addresses and ask people who are harassing, intimidating or causing fear to others to move on. The Government's policy can be described as zero tolerance on knives, and it is proud of that.

All those weapons which are currently prohibited under the Prohibited Weapons Act 1989 have been retained in the bill. Some of these weapons include: flick knives; sheath knives; push daggers; trench knives; butterfly knives; star knives; flame throwers; kung-fu sticks or nunchakus; side-handled batons; hand-held electronic shock devices; knuckle dusters; sap gloves and studded fighting gloves; and defence or anti-personnel sprays.

After police advice, three new weapons have been added: ballistic knives, which are devices which shoot a blade by means other than by explosive; acoustic or light emitting antipersonnel devices which are designed to incapacitate or disorientate persons; and any device designed to propel or launch a bomb, grenade, rocket, or missile. These weapons are inherently dangerous and warrant being listed as prohibited weapons.

For example, the ballistic knife shoots a blade with sufficient force to pierce the skin and can seriously injure or blind a person. They are readily concealed and are difficult to detect when being carried in public. Strict control of ballistic knives is required to ensure that their use does not increase.

"Sound and light grenades", as they are known, emit sound and light and can temporarily stun and disorientate persons in the near vicinity. In criminal hands, such devices could be a lethal tool to be used in robberies or hostage situations.

Missile launchers, including the home-made launchers known commonly as PVC cannons, have no place on the streets of New South Wales. The New South Wales police ballistics unit has advised that several incidents involving PVC cannons have occurred recently. Tests carried out by the ballistics unit have shown that PVC cannons can shoot missiles over 100 metres, through doors and car windscreens. If used on a person, PVC cannons could cause serious injury or death.

This Government recognises that there are some legitimate purposes for the possession of some prohibited weapons: for example, by public museums that display historic weaponry, or locally produced film and television productions whose scripts centre around the use of exotic weapons.

This bill ensures that strong penalties will be imposed on those who break the law. The maximum penalty for possession of a prohibited weapon without a permit is 14 years. In addition, clause 32 of the bill provides that a person who purports to hold a permit, forges or alters a permit, lends his or her permit to another person, steals a permit, or knowingly possesses a forged or altered permit is liable to penalties of up to \$11,000 or imprisonment for two years.

Clause 10 of the Weapons Prohibition Bill sets mandatory criteria for the issue of a permit. Before a permit is issued, the commissioner must be satisfied that: the applicant is a fit and proper person who can be trusted to have possession of a prohibited weapon without danger to public safety or to the peace; that the applicant has completed any approved training and safety course; and that the approved storage and safety requirements will be met.

For those groups in the community who can legitimately access these devices, the bill provides genuine reasons for possession and use. Clause 11 introduces a genuine reason test for all permit applicants. This will ensure that a permit is not issued unless a legitimate need for the prohibited weapon has been demonstrated.

There are nine genuine reasons. The first reason is recreational-sporting purposes. The applicant must show that the activity engaged in requires the possession or use of the prohibited weapons for which the permit is sought. For example, persons applying for a martial arts prohibited weapons permit to train competitively with nunchakus must demonstrate that their discipline requires the possession and use of nunchakus.

The second is business and employment purposes. The applicant must show that the prohibited weapon for which the permit is sought is needed for the conduct of his or her business or employment.

The third is film, television or theatrical purposes. The applicant must show that the prohibited weapon for which the permit is sought is required to conduct the film, television or theatrical activity.

The fourth is weapons collection. The applicant must show that his or her prohibited weapons collection has genuine commemorative, historical, thematic or financial value.

The fifth is public museum purposes. The applicant must be an institution that: has a written constitution that states the museum's charter, goals and policies; has a stated acquisition policy; acquires, conserves and exhibits objects of scientific or historical interest for the purposes of study, education and public enjoyment; is sufficiently financed to enable the conduct and development of the museum; has adequate premises to fulfil its basic functions of collection, research, storage, conservation, education and display; and is regularly open to the public.

The sixth is heirloom purposes. The applicant must show that he or she has inherited a prohibited weapon and that it has genuine sentimental value: for example, a trench knife which was used by a person's great grandfather in World War I.

The seventh is animal management. The applicant must be a veterinary surgeon or an organisation with responsibilities for animal management, and must show that the prohibited weapon is needed to fulfil those responsibilities. For example, a fauna park may require a blow-gun and darts to tranquillise sensitive wild game which react adversely to the use of noisier tranquilliser firearms.

The eighth is scientific purposes. The applicant must show that the prohibited weapon for which the permit is sought is required for legitimate scientific purposes. For example, a university may require the use of a high-powered slingshot to shoot ropes up trees to enable research to be conducted into tree-dwelling animals.

If applicants cannot establish that they have a genuine reason, a permit will not be issued. Each permit will be for a five-year term, or for a shorter period where required. All permits will be subject to the following conditions: the holders must not allow any unauthorised person to possess or use the prohibited weapon covered by the permit; the holders must, by arrangement with police, allow police to inspect their storage and safe keeping facilities; prohibited weapons dealers or theatrical armourers must at any reasonable time, allow police to inspect their storage and safe keeping facilities; and the permit is not transferable.

Permit holders are also required to take all reasonable precautions to ensure the safekeeping of the prohibited weapon, that it is not lost or stolen, and that it does not come into the possession of a person who is not authorised to possess it. The maximum penalty for not complying with this requirement is \$11,000 or imprisonment for two years, or both.

Breaching the conditions or the safe keeping requirements means that the permit can be suspended or revoked and the prohibited weapons seized by police. The bill introduces tough new mandatory suspension and revocation provisions to ensure that persons with violent tendencies cannot access prohibited weapons.

In keeping with the Firearms Act 1996, a permit must be suspended when the permit holder has been charged with a domestic violence offence, or when the commissioner has reasonable cause to believe that the permit holder has committed or has threatened to commit a domestic violence offence.

In addition, the bill provides that a permit is automatically suspended on the making of an interim apprehended violence order against the permit holder, and the suspension continues until such time as the order is confirmed or revoked. A permit will be automatically revoked if the holder becomes subject to a weapons prohibition order or an apprehended violence order.

A permit may also be revoked: for any reason for which the holder would have been refused the permit; if the permit holder supplied false or misleading information in connection with the permit application; if the permit holder contravenes any provisions of the bill or regulation; if the permit holder contravenes any condition of the permit; or for any reason the commissioner considers sufficient to justify revocation in the circumstances. In the interests of public safety, the bill also provides that doctors and health practitioners may advise police when a patient is unsuitable to be in possession of a prohibited weapon.

Clause 19 of the bill provides that once a permit has been suspended or revoked, the permit and any prohibited weapons in the person's possession must be immediately surrendered to police. The maximum penalty for failure to surrender the permit or prohibited weapons is \$5,500 or imprisonment for 12 months, or both.

The bill introduces a range of powers to assist police in ensuring that the interests of public safety are maintained. Clause 33 provides the commissioner with the power to issue

a weapons prohibition order to prevent someone from obtaining or possessing a prohibited weapon. Possession or sale of a prohibited weapon to a person in contravention of a weapons prohibition order will attract a maximum penalty of 10 years gaol.

Under clause 19, police will be authorised to seize any prohibited weapons in the possession of a person whose permit has been suspended or revoked.

Clause 39 empowers police to seize prohibited weapons where there are reasonable grounds to believe that an offence under the bill or the regulation has been, or is being, committed in connection with the weapon. Pursuant to clause 27, police can also conduct on-the-spot inspections of prohibited weapons and permits.

Persons must produce their permit and weapon on demand, or if they have a reasonable excuse for not having the permit with them they may produce it to police within 48 hours of the demand. The maximum penalty for failing to produce a permit or weapon for inspection is \$5,500 or imprisonment for 12 months.

The bill also creates new offences relating to the purchase, sale, and advertising of prohibited weapons. A person who buys a prohibited weapon without being authorised by a permit to possess the weapon is liable for a maximum penalty of five years gaol. A person who buys a prohibited weapon from a person who is not authorised by a permit to sell the weapon, is liable for a maximum penalty of \$5,500 or imprisonment for 12 months, or both.

A person who sells a prohibited weapon when not authorised by permit to possess it, is also liable for a maximum penalty of \$5,500 or imprisonment for 12 months, or both.

Clause 25 of the bill requires any person who places an advertisement for the sale of a prohibited weapon to ensure that the advertisement states that a permit is required to purchase the weapon, and includes the permit number of the seller. A person who is in breach of this requirement will be liable for a maximum penalty of \$5,500.

These new offences are designed to stop the illegal trade in prohibited weapons. The Government is serious about reducing violent crime and creating a safer environment for New South Wales citizens. It believes that the proposed laws are strict, sensible and fair. I commend the bill to the House.

The Hon. M. J. GALLACHER [3.13 p.m.]: The Opposition supports the Weapons Prohibition Bill, which addresses a number of deficiencies with respect to the possession and use of prohibited weapons in New South Wales. Primarily, the passage of this legislation will introduce an overriding necessity for applicants for a prohibited weapons permit to prove a genuine need for possession and use of the weapon. The bill compliments the current legislative prohibition of various forms of weaponry. However, the specific object of this bill puts in place clearer guidelines for regulatory authorities—in this case the Police Service and the courts of New South Wales—with regard to permit issuance and leave to use a prohibited firearm.

The bill recognises the inclusion of three further weapons on the list of weapons already prohibited. Those three new weapons are ballistic knives, acoustic or light emitting anti-personnel devices, and any device designed to propel or launch a bomb, grenade, rocket or missile. I would ask honourable members to reflect for a moment on those three items and the need for their inclusion on the prohibited list. Is it any wonder that New South Wales police are being forced to buy their own body armour when those three items alone, quite apart from those already on the prohibited list, are available in New South Wales.

A ballistic knife shoots a blade. Acoustic or light emitting anti-personnel devices, I suspect, include lasers or other weapons of sophisticated technology. I do not believe they would include a stun gun. The third is any device designed to propel or launch a bomb, grenade, rocket or missile. Is it not ironic that on Remembrance Day honourable members in this House are talking about some weapons used in World War I, and the fact that their availability in New South Wales warrants their prohibition. Other weapons already on the prohibited list are worthy of mention and are quite frightening. They include flame throwers, star knives and shark darts.

The Hon. Dr Meredith Burgmann: What is a shark dart?

The Hon. M. J. GALLACHER: Apparently it is a dart that is used to kill sharks. Of course, body armour is not the only protective gear being denied by the Government to New South Wales police. Extendable batons, which are used in other jurisdictions throughout Australia, may not be carried by members of the New South Wales Police Service. I have no doubt that some honourable members of this Chamber would prefer that our police did not carry firearms. But, reflecting on the weaponry that is now available in New South Wales, police must have some weapons to put them on something of a level playing field. The Government should consider issuing our police with extendable batons and body armour.

It is, unfortunately, a sign of the times in which we live that we must exercise our responsibility and give police access to these protective weapons, so that police and their families know that we are mindful of their needs in trying to fulfil their roles as police officers. We must provide them with the necessary safeguards and equipment to do their job properly and safely. It has only been in the past 10 to 15 years that weapons such as those I have described have become available on the

streets of New South Wales. Their presence on our streets is a sad indictment on our society.

A few years ago I and a number of other specialist police were assigned to make a forced entry to a Cabramatta house. We had received information that a case of Uzi submachine guns had been delivered to that home. Entering that home in the early hours of the morning without knowing what lay ahead of us was one of the greatest laxatives known to man. Fortunately, or unfortunately, the submachine guns were not there. We found a number of other high-calibre firearms believed to be in the possession of the occupants, as well as a reasonable quantity of drugs. It is unfortunate, of course, that those Uzi submachine guns, which we later learned had been removed 48 hours before we arrived, are still on the streets of New South Wales; they are probably somewhere in this country.

Honourable members would be aware that body armour vests are currently being worn by officers of the New South Wales Police Service in the Sydney metropolitan area—provided that, up until today, they have been prepared to pay for that equipment themselves. That body armour also is included on the list of prohibited items. I ask the Attorney General to give a commitment that any New South Wales officer found wearing such body armour, where that person is not the holder of a permit to do so, and provided the body armour is being worn while the officer is engaged on police duties, will not have action taken against them.

The legislation makes it clear that a person must have a permit to buy such body armour. What happens in a situation where a police officer who cannot afford to buy body armour, is starting an afternoon shift and is offered body armour by his fellow officer who has a permit for that equipment? If the officer lends that body armour to a fellow officer to wear during a shift after the owner of the equipment has gone home, will the officer who wears the body armour be exempt from prosecution even though that officer does not have a permit to possess the body armour? Further, will the officer who lends body armour to a fellow officer who does not have a permit to wear it be exempt from prosecution for lending the armour in those circumstances?

The Hon. Janelle Saffin: Can't the police get permits?

The Hon. M. J. GALLACHER: That is what I want the Attorney General to tell me. Is it relatively simple for police to obtain permits or does

it take a period of time. We should not be sitting on our hands. This matter should be expedited and I am sure the Attorney General is in a position to give a reasonably simple answer. Police officers need to be reassured that if they wear body armour they will not become the subject of internal complaint. I refer especially to those police we read about every day: those in the Bankstown area. I suspect that many of the officers in that area might choose to wear armour while they are off duty because they are known by many of the criminals in the area. Merely because police officers are not wearing their uniforms does not mean they are not targets. I reiterate that the continued expansion of the list of prohibited weapons is a sad indictment of our society. The weapons are becoming more exotic and many are able to be better concealed, but the primary concern is that they are also becoming more accessible.

The Hon. R. S. L. JONES [3.21 p.m.]: The Weapons Prohibition Bill seeks to regulate the possession and use of prohibited weapons by the introduction of a permit system. The Commissioner of Police formerly had relatively wide and discretionary powers to issue permits to possess and use prohibited weapons. The bill introduces a system under which minimum criteria must be satisfied before the Commissioner of Police will issue a permit. Applicants must demonstrate to the commissioner that they need a prohibited weapons permit for one of the following reasons: for recreational or sporting purposes; for business or employment purposes; for film, television or theatrical purposes; for a weapons collection; for public museum purposes; for sentimental value because the weapon is an heirloom; for animal management purposes; or for scientific purposes.

The bill includes all the weapons that are currently prohibited under the Prohibited Weapons Act 1989, and three new weapons have been added to the list. Firearms are not subject to the provisions of the bill, but magazines suitable for category D firearms are prohibited weapons. They are found in clause 4(4) of schedule 1.

The Coalition for Gun Control noted that the bill significantly and comprehensively complies with the resolution of the 1996 Australasian Police Ministers Council. Two excellent principles underpin the operation of the bill. The first is that the possession and use of a prohibited weapon is a privilege and not a right and is conditional on the overriding need to ensure public safety. The second is the imposition of strict controls on the possession and use of prohibited weapons. I fully support those principles as commitments to community safety.

The bill is explicit about the type of person who should not be issued with a permit. The commissioner must be satisfied that an applicant is a fit and proper person who can be trusted to possess a prohibited weapon without endangering the public safety or breaching the peace. An applicant must have completed relevant training and safety courses, and must be able to store the weapon safely and in accordance with the approved requirements. Those excellent provisions forbid the issuing of a permit to a person who has a history of violence. Persons who have been convicted of an offence prescribed by the regulations in the past 10 years, whether in New South Wales or not, persons who are or have been subject to an apprehended violence order in the past 10 years and persons who are subject to a recognisance to keep the peace, whether in New South Wales or not, may not be granted a permit.

I generally support the provisions of the bill and consider that it is a positive step to ensure the safety of the community. To guarantee that applications for permits are not made under assumed names, I foreshadow an amendment in the Committee stage. I understand that the amendment will be accepted by the Government and the Opposition. The amendment will strengthen the provisions of the bill by ensuring that applicants for prohibited weapon permits must prove their identity according to the 100-point system used by banks. Proof of identity is a requirement under section 10(2)(b) of the Firearms Act 1996 for the issuing of a licence and is contained in resolution 4(a) of the special firearms meeting of the Australasian Police Ministers Council in 1996.

Although the Coalition for Gun Control is generally supportive of the bill it has raised two concerns in relation to its provisions. The coalition notes that although the bill outlines the need for applicants to provide the commissioner with a genuine reason for having a permit, there is no requirement for applicants to prove that they have a genuine need to possess prohibited weapons. The idea of a genuine need comes from both section 17 of the Firearms Act and from resolution 3(c) of the Australasian Police Ministers Council, which stated:

... over and above satisfaction of the "genuine reason" test, an applicant for a licence for the categories B, C, D and H must demonstrate a genuine need for the particular type of firearm.

That is a means of excluding persons who may be able to achieve their aims through other means, that is, through the use of non-prohibited weapons. That concept is somewhat different to proposed section 11(2)(b), which provides that the commissioner may determine that an applicant has a genuine reason if

the applicant intends to possess or use the weapon for one of the eight reasons listed and if the applicant is able to produce evidence that satisfies the requirements specified in respect of any such reason. The second concern raised by the Coalition for Gun Control relates to a regulation that is foreshadowed in the crossbench briefing note. The note states:

Under the 1989 Act, a prohibited weapons permit is required in order to possess firearm magazines for a category D firearm. An exemption will be introduced in the Regulation allowing persons with a firearms licence authorising the use of category D firearms to possess these magazines without an additional permit.

That means that persons with category D licences will no longer have to apply to the commissioner for a permit or provide a genuine reason for possessing and using the magazines that make category D firearms operational, and they will not have to satisfy the commissioner that they are able to comply with the storage requirements for the safekeeping of the magazines. According to the 1989 Firearms Act category D firearms are self-loading centre-fire rifles, self-loading rimfire rifles with a magazine capacity of more than 10 rounds, self-loading shotguns with a magazine capacity of more than five rounds, pump action shotguns with a magazine capacity of more than five rounds and any firearm to which a category D licence applies. Those firearms are prohibited except for official purposes. I am advised that the main reason category D licences are issued is for vertebrate pest animal control and vermin control on rural lands.

The Coalition for Gun Control notes that magazines for category D firearms have been declared prohibited weapons for good reason: without a magazine the firearm is ineffectual in causing harm, as the magazine is the repository for the ammunition. There is no reason to exempt category D licence holders from the necessity of seeking additional permits to possess and use firearm magazines. The firearms they are licensed to use are particularly dangerous and the purposes for which they may be used should not be taken lightly. Given that there are only 337 category D licences in New South Wales at present, I am not swayed by the argument that it is a bureaucratic double-up to force persons to apply for the additional permit. In relation to the proposed exemption the coalition also notes:

Martin Bryant at Port Arthur used an AR-15 semi automatic, a military weapon also known as the M-16. This gun can be fitted with magazines holding 30 bullets. Evidence presented at Bryant's court hearing showed that in one 12 second period he fired 17 rounds, killing 15 people.

In the Port Arthur incident the magazine capacity and the rounds used by Bryant were as critical to the number of people who were killed as the type of firearm used. In addition, the coalition notes that although there are few category D weapons and licensees, banned semiautomatic weapons are still likely to be found in the community. Any proposal that allows more magazines into the hands of the public or that makes them easier to obtain becomes a public safety issue. If the principles behind the bill are, first, the confirmation that the possession and use of prohibited weapons is a privilege conditioned by the need to ensure public safety and, second, the need to improve public safety by imposing strict control on the possession and use of prohibited weapons, the suggestion that people should be given greater access to magazines without permits is a contravention of those principles. With those reservations I support the bill.

The Hon. A. G. CORBETT [3.29 p.m.]: I support the Weapons Prohibition Bill. However, I have a question relating to the storage of prohibited weapons. Clause 10 states that a permit must not be issued unless the commissioner is satisfied that such storage and safety requirements as may be approved, either generally or in a particular case, are capable of being met by the applicant. Clause 26, which specifies the general requirement for safe keeping of prohibited weapons, states:

A person who possesses a prohibited weapon must take all reasonable precautions to ensure:

- (a) its safe keeping, and
- (b) that it is not stolen or lost, and
- (c) that it does not come into the possession of a person who is not authorised to possess the weapon.

I ask the Attorney General in his reply to elaborate on the provisions relating to storage and the reasonable precautions that will be expected of people who hold prohibited weapons.

The Hon. J. S. TINGLE [3.30 p.m.]: I support the Weapons Prohibition Bill. This bill is not about firearms; it is about prohibited weapons, and in this debate we must be careful to make the distinction between the two things. The Firearms Act 1996 changed everything in relation to the connection between prohibited weapons and ordinary firearms as used by law-abiding shooters. The Hon. R. S. L. Jones referred to the concerns of the Coalition for Gun Control. An outstanding characteristic of the Coalition for Gun Control is that it knows very little and understands even less about the reality of firearms.

The reference to the need to include magazines for self-loading rifles and other types of firearms in the Weapons Prohibition Bill simply indicates that the Coalition for Gun Control does not understand that all of that is covered by the Firearms Act 1996, which places specific limitations on the kinds of magazines that can be used in what kind of rifle and controls who can have what in the categories of A, B, C, D and H firearms. As I said, this bill is not about firearms; it is about prohibited weapons, which fall into two categories.

The Hon. M. J. Gallacher talked about the kinds of prohibited weapons that fall into the hands of criminals, such as Uzis and semiautomatic pistols which criminals should not have. Law-abiding shooters believe that criminals should not have such weapons and that more serious steps need to be taken to get them out of the hands of criminals. These days—and it is important to allay the concerns expressed by the Hon. R. S. L. Jones—it is extremely difficult, if not impossible, for an ordinary citizen to get a permit to own a prohibited weapon. In fact, a number of permits issued under the new firearms laws are in the process of being withdrawn, because on 10 May 1996 the Australasian Police Ministers Council said that prohibited weapons should not be in the hands of ordinary licensed shooters. That has gone to the absolutely absurd.

Recently, I received representations from a number of people who are recognised and respected collectors of firearms, especially military-type firearms which are totally disabled. One man wrote to me saying that for many years he had had a ministerial permit, as it used to be called, to own various firearms and similar weapons. That permit, which is now known as a commissioner's permit, is being withdrawn. The man also told me that he had a number of hand grenades. I thought that that was a bit rough, but when I read his letter further I found that they were filled with concrete. He said that the grenades had been deactivated; they do not have fuses and are simply collector's items.

The Hon. D. J. Gay: You could throw them though.

The Hon. J. S. TINGLE: The Hon. D. J. Gay says that one could throw the grenades.

The Hon. D. J. Gay: By way of a joke.

The Hon. J. S. TINGLE: I accept that. One can also throw a bullet when one does not have a gun to put it in, but it does not do a great deal of harm.

The Hon. D. J. Gay: A hand grenade filled with concrete thrown at the scone would do more harm than good.

The Hon. J. S. TINGLE: Those who live in glasshouses should not throw hand grenades filled with concrete. The same collector has two machine guns, but the sides and middle have been cut out to expose the mechanisms, because people are only interested in the mechanisms. These kinds of formerly prohibited firearms are now being denied to collectors and permits for them are being withdrawn. I would argue that technically they are not even firearms as they are incapable of being fired or ever being made to be capable of being fired. I cannot see the harm in them.

Far from being worried that these prohibited weapons might get into the wrong hands, I reassure honourable members that every possible step is being taken even to remove from the hands of collectors firearms which cannot be fired. This bill adds three categories to the list of prohibited weapons: ballistic knives which shoot a blade, stun grenades or what are called acoustic or light-emitting anti-personnel devices and missile launchers. No reasonable people would want such weapons in the hands of ordinary citizens. Certainly the average sporting shooter has no wish to have such weapons in his armoury.

The average firearm owner suffers most whenever a crime is committed, whether it be with a prohibited weapon or a weapon in the hands of criminals which otherwise would be legal, because people tend to believe that all prohibited weapons are in fact firearms—and they are not, as this bill clearly demonstrates. I am pleased that this bill may change the perception that all prohibited weapons are firearms by pointing out that none of the weapons being added to the list is a firearm. Therefore, on behalf of law-abiding and respectable shooters, I support the bill.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.35 p.m.], in reply: I thank honourable members for their support of this bill and for their contributions to the debate. First, I shall reply to a number of specific matters raised by the Hon. M. J. Gallacher. The police are empowered to wear body armour in the course of their duties. There is no need for police to have a permit to wear that body armour. The commissioner's instructions authorise police to possess and use body armour. That means that such armour can be worn by police in accordance with clause 6 as the commissioner has authorised its possession and use as falling within the ordinary course of their duties.

In response to the Hon. A. G. Corbett, I can advise that the safekeeping requirements for prohibited weapons are to be determined in the regulation. Although the regulation has not yet been drafted, it will be necessary to subject the regulation to wide public comment. While it is not desirable to pre-empt that process, as the safekeeping requirements will inevitably vary according to the prohibited weapon, I am advised that a proposed minimum standard has been developed. It is proposed that the general storage conditions for prohibited weapons will include a requirement that all weapons must be stored in secured premises that meet the following requirements.

The storage area or room must be part of a permanent building with secure locks on all entries. It must have solid walls which form a substantial barrier to forced entry. All perimeter windows and roof skylights must be fitted with security devices designed to protect against forced entry, to the commissioner's satisfaction. All perimeter doors must be of solid construction, securely hinged in stout framework and fitted with a mortice lock or deadlocks. Door hinges must be concealed or the hinge pins welded to prevent them from being punched out. Ammunition for any weapons for which such is appropriate must not be stored in the area or room in which the weapon is stored. Finally, if the weapons are displayed outside their locked premises at any time the permit holder must be present.

I am advised that it is impossible to prescribe one standard which adequately covers the wide range of prohibited weapons. The commissioner will retain the discretion to increase security standards when necessary. I assure the Hon. A. G. Corbett and the House that the Government does not intend to weaken the existing prohibited weapons laws in any way. The storage requirements for prohibited weapons can be increased only on the basis of expert advice from the Police Service. Finally, and more generally, the Government has a zero tolerance policy on knives and dangerous weapons. It has made it illegal to carry a knife or other blade in a public place or school without lawful reason, it has given police the power to search for knives and confiscate them, and it has banned the sale of knives to children under 16.

The bill retains the current system of permits for prohibited weapons but provides more guidance to the commissioner as to the criteria for issuing a permit. Only persons with a genuine reason for possessing a prohibited weapon will be able to obtain a permit. In addition, the following minimum criteria will apply to all applicants. The applicant must be a fit and proper person who can be trusted

to possess a prohibited weapon without danger to public safety or the peace, must have completed the approved training and safety courses, and must meet the approved storage and safety requirements.

The bill also provides that a permit cannot be issued to a person who: has been convicted of an offence prescribed by the regulations within 10 years of making the permit application; is or has been within the past 10 years the subject of an apprehended violence order other than an order which has been revoked; is subject to a recognisance order to keep the peace; or is subject to a weapons prohibition order. The bill ensures that strong penalties will apply to those who break the law. Unauthorised possession of a prohibited weapon will attract a penalty of 14 years imprisonment. Police will also have the power to inspect weapons and their storage areas and to demand to see permits. All the changes provide greater safeguards for ordinary law-abiding citizens against dangerous weapons. In short, the bill is just another measure by the most reformist Government in living memory in terms of the criminal justice system.

Motion agreed to.

Bill read a second time.

In Committee

Clause 9

The Hon. R. S. L. JONES [3.42 p.m.]: I move amendment No. 1 circulated in my name:

No. 1 Page 8, clause 9. Insert after line 31:

- (3) An applicant for a permit must provide proof of the applicant's identity in accordance with the requirements of the *Financial Transaction Reports Act 1998* of the Commonwealth that apply in respect of the opening of a bank account.

I have moved the amendment to guarantee that people will not be able to apply under an assumed name for prohibited weapons permits. The amendment would strengthen the provisions of the bill by requiring that applicants must prove their identity under the 100-point system used by banks. Proof of identity is required for the issuing of a licence under the Firearms Act 1996, in section 10(2)(b), consistent with resolution 4(a) of the Australasian Police Ministers Council special firearms meeting in 1996.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for

Fair Trading) [3.43 p.m.]: The Government will accept the amendment. We had contemplated that this matter would be provided for in the regulations but if the honourable member feels that it is more appropriate to be in the Act, that is acceptable to the Government.

The Hon. M. J. GALLACHER [3.43 p.m.]: The Opposition supports the amendment.

Amendment agreed to.

Clause as amended agreed to.

Schedule 1

The Hon. R. S. L. JONES [3.45 p.m.]: I move amendment No. 2 circulated in my name:

- No. 2 Page 34, clause 2(12) of schedule 1, lines 11 to 13. Omit "a ceremonial mace made for and used solely as a symbol of authority on ceremonial occasions". Insert instead "an Aboriginal mace or a ceremonial mace made for and used solely as a symbol of authority".

This amendment would protect one or two collectors in the entire country—one in New South Wales that I know of—who have what might be termed an Aboriginal mace. An Aboriginal mace is a ceremonial club used by what white people termed Aboriginal kings. They were not really kings but they were leaders of their community. I have seen only two such maces in my life. There is only one in New South Wales and one is about to go out of the country to England: it has been bought by a collector there. These are old items: they are not made these days. They were made 100 or so years ago. Probably no other member in the Chamber has ever seen one. Apparently, the amendment is not accepted by either side because they do not know what the amendment refers to. Even if the amendment is not agreed to, Aboriginal maces would probably still be classed as ceremonial maces.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.46 p.m.]: The Government is unable to accept the amendment. A mace is defined in the bill as "a club or staff fitted with a flanged or spiked head other than a ceremonial mace made for and used solely as a symbol of authority on ceremonial occasions". This definition has been carried over from the current Prohibited Weapons Act 1989. The amendment would insert "an Aboriginal mace made for and used solely as a symbol of authority" in the definition of mace in the bill. I am advised that any exemption introduced should most properly cite the traditional name or names for such implements.

I am further advised that the New South Wales Police Service Aboriginal co-ordination unit has been unable to provide information as to the extent of use of the weapons or areas in which they are used by tribal Aborigines. However, I am advised that the anthropology department of the Australian Museum has confirmed that there are south-east Australian Aboriginal implements of war which would fit this definition. However, these implements are made for war. In addition, I understand that the museum has not been able to confirm the manner or extent of the use of such weapons in traditional Aboriginal communities.

Although these items are designated weapons of war, I am advised that the Minister for Police recognises that there may be traditional ceremonial uses for them. As the honourable member would be aware, clause 5 authorises the weapons prohibition regulation to amend the prohibited weapons schedule. It is therefore possible to exclude in the regulation traditional ceremonial uses of these types of weapons by Aborigines. But I am advised that it would not be appropriate to make such an amendment without first engaging in consultation with the Aboriginal communities which are likely to be affected.

There may be some communities which do not wish these types of weapons to be available without a permit being issued, but until consultation occurs this question cannot be answered. I am therefore advised that this matter is to be referred by the Minister for Police to the Aboriginal Justice Advisory Council, AJAC, which is within the Attorney General's Department. It is a reconstituted and representative body which can give us expert advice on this matter. The Aboriginal Justice Advisory Council operates as a unified consultative forum for all the law and justice portfolios. The Government would welcome any information or submissions that honourable members might want to make available to the council in order to resolve the questions that have been posed in relation to the indigenous weapons dealt with by the amendment.

Amendment negated.

Schedule agreed to.

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

MARINE SAFETY BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [3.50 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

It is with great pleasure that I introduce the Marine Safety Bill. The bill represents a milestone in the maritime history of this State and is the culmination of considerable work to ensure that it meets the expectations of those interests most affected, namely the boating public and the maritime industry. Honourable members would be aware that by introducing this bill the Government demonstrates its commitment to an important initiative dealing with safety on the State's ports and waterways.

This bill stands as a significant achievement in marine safety which had its origins in the policies of a previous Labor Government back in the 1980s. After several years of idleness when the Opposition was in power it was only natural that the Carr Government should take up the difficult and involved task of consolidating the various marine safety Acts into a bill. At the same time we have ensured, as far as possible, that it is drafted in a simple and easy to read style.

Under the Minister's delegated authority, the marine agencies comprising the ports portfolio are required to enforce the marine legislation which, at the present time, is contained in five separate Acts and 12 associated regulations. Because some of the legislation dates back to the turn of the century it is also not unusual to come across legislation with rather archaic wording. Whilst marine agencies do not have a problem understanding the legislation because of their constant usage of it, the same cannot be said for the operators of commercial, recreational and trading vessels, and the general public.

The need for them to consult so many different pieces of legislation compounds the issue and makes it difficult for them to fully comprehend the legislative regime under which they are required to operate. Honourable members would be aware that one of the goals of any government is to do everything in its power to ensure its citizens are governed by good laws. But a prerequisite of that is for the law to be drafted in a user-friendly manner so citizens can readily understand what the legislation really means. Legislation should not intimidate, but encourage. This bill does just that.

Having said that, I place on record the fact that the Government has taken the effort to ensure that the bill contains all provisions necessary to maintain the highest standards of safety in the ports and waterways of this State. A number of new provisions are included in the Marine Safety Bill. However, it is possible that, despite such diligence, the Government could be faced with a novel situation on the water in the future that adversely affects marine safety and which requires a legislative response. Should such a situation eventuate, the Government will not hesitate to bring an amendment to this place, if that is the only way the maintenance of marine safety can be safeguarded.

I refer to some of the more significant new provisions of the bill which are not part of existing marine safety legislation and which deserve mention. A factor critical to the improvement of marine safety is the investigation of marine accidents. The benefits flowing from investigations include analysis of the causes in order to allow future preventive action. However, if an investigation is stymied because the vessel involved in an accident has left the jurisdiction of the State, the benefits of learning from the accident are lost.

To preclude the development of such a situation, clause 17 enables a vessel involved in an accident to be detained for the purposes of conducting an investigation. The intention of this provision is to enable the investigator to interview the master and others on the vessel for the purposes of the investigation. While on the one hand the provision enables the conduct of a proper investigation, it does not give an investigator carte blanche to detain a vessel indefinitely. A vessel cannot be detained for more than 48 hours unless authorised to do so by order of a magistrate, who would need to be satisfied as to the merits of such an order.

The Government is of the firm view that persons engaged in recreational water-based activities, such as boating, have a right to do so without fear of harm or injury. However, that right carries with it a corresponding obligation that those persons do not behave in a manner which could cause harm either to themselves or to others. Accordingly, clause 18 of the bill provides for water-based activities such as surfboard riding, swimming and diving to be regulated in a manner which will ensure the safety of persons as well as the safety of vessels navigating in those waters.

Instances have occurred when vessels in narrow channels with limited room to manoeuvre have had to take action to avoid persons in the water, such as divers, and, as a consequence, have run aground or collided with other vessels thereby also placing at risk the safety of persons in those vessels. The provision will enable appropriate measures to be taken by authorised officers to require persons in the water to be made aware of the risks to which they are exposed and which they might cause to others.

Honourable members would be aware of the Government's dual responsibility of managing the safety of persons engaged in water-based activities as well as the safety of other persons in vessels navigating in the vicinity of such activities. The provision will provide the necessary mechanisms to discharge this responsibility. I need not remind honourable members of this House that this State is gifted with the finest waterways in Australia and it is therefore not surprising that various classes of persons seek to utilise its facilities to the maximum extent possible.

This inevitably places considerable pressure on the waterways because of the competing and, at times, conflicting demands of interested parties. At the present time, considerable pressure is placed on certain areas of the waterways by persons engaged in recreational activities and those engaged in commercial interests such as aquaculture. The Government has been aware of these pressures and has taken steps to ensure that equity prevails between the parties.

The task of responsible government must achieve an equitable outcome for all parties, even though the attainment of an equitable balance may involve each interest sacrificing a part so that all may share in the whole. Because aquaculture interests seek, and are granted, the exclusive use of an area of navigable water for the particular activity there may arise, understandably, a degree of indignation emerges amongst other users of those navigable waters who are not granted corresponding exclusivity over other parts of navigable waters.

That indignation arises also from the fact that there have been incidents involving boats running into unmarked oyster leases at night. Because the leases were abandoned by their bankrupt owners, they were not adequately marked and have therefore become a danger to safe boating. Clause 16 will therefore require aquaculture interests to obtain ministerial approval prior to the granting or renewal of any aquaculture lease over navigable waters.

The provision has a twofold purpose. First, it will ensure that aquaculture leases do not encroach upon boating and shipping channels when it is in the public interest that those channels are kept available for safe navigation by vessels. Second, it will ensure that safe navigation of vessels is not endangered by aquaculture leases that are already established in areas of navigable waters and are not adequately marked. It should be noted that one of the objectives of this bill is to ensure, as far as is reasonably practicable, the safe operation of vessels in the ports and waterways of this State.

This provision will assist in achieving that objective. I should emphasise that this provision does not, other than the inclusion of certain conditions, affect the renewal of a lease to which a lessee is entitled under the Fisheries Management Act 1994 or the granting or renewal of a lease of a class prescribed in the regulations. I now draw the attention of honourable members to existing legislation that requires a person engaged in the operation of a vessel to submit to a breath test and, if necessary, a breath, blood or urine analysis, if he or she is suspected of operating a vessel under the influence of alcohol or drugs, or when involved in an accident on the water.

However, the Government is concerned that similar legislative provisions are not in place for persons engaged in recreational activities, other than the operator or driver of the vessel, which require a high level of concentration such as waterskiing, aquaplaning and paraflying. These activities are often undertaken at high speeds requiring a high level of alertness and an ability to respond quickly. Participating in these activities under the influence of alcohol or drugs has the potential to result in serious injury or death should there be a high speed collision or other accident.

A similar situation obtains in the case of an observer in a waterskiing vessel who is required to observe the person being towed and to report to the driver any matter which could affect the safety of that person. Consequently, the observer should also be required to be free from the influence of alcohol or drugs. Clause 19(1) extends the existing alcohol and drugs testing regime to persons engaged in the recreational activities already outlined.

I draw the attention of the House to the final point about the additional provisions in the bill. Honourable members would be aware that under the existing legislation the administration of breath tests and the subsequent breath or blood and urine analyses can be administered only by officers of the Police Service. Testing for alcohol and drugs has received careful consideration by the Government and the issue is the matter of optimising existing resources available for maintaining on-water safety.

For many years officers of the Waterways Authority have maintained a strong presence on the water. Their core responsibility is to ensure the safe and environmentally responsible use of State waters by vessels and others engaged in water-based activities. An integral part of these responsibilities is the requirement to investigate marine accidents to determine their causes and make suitable recommendations to prevent recurrence.

Alcohol and drugs can be contributory factors in accident situations, therefore these officers currently must request the attendance of police officers at an accident on the water to administer a breath test to determine whether further analysis for alcohol or drugs is necessary. Given the geographical layout of the State's waterways police officers are, on occasion, required to travel considerable distances to administer such a test. The time involved in such travel has

resulted on many occasions in either the police officers being unable to attend non-fatal marine accidents or the prescribed time limit of two hours within which to administer a breath test has expired.

This means that the presence of alcohol or drugs has not been determined one way or another on a significant number of occasions. The absence of such information seriously undermines the effectiveness of the investigation. To address this serious problem, the Government has decided to utilise the existing Waterways Authority resources to complement the resources of the Police Service to a certain extent. This is not an abrogation of the responsibilities of the Police Service; it is a recognition of this Government's fiscally responsible approach to resolving a problem by using existing resources.

The officers of the Waterways Authority have enforcement powers under existing marine legislation. This provision builds on these powers and enables those officers to administer a testing regime after the Commissioner of Police is assured that they have attained the required level of competence. Because these officers are usually the first at the scene of an accident, it makes good sense to allow them to administer the initial breath test. Should the result be positive, the person will be taken to the nearest place where a police officer can conduct the evidentiary breath analysis.

I point out that before these officers commence administering breath tests under schedule 1 to the bill they will receive intensive training similar to that provided to police officers to prepare them for this task. Training will not occur overnight because the very nature of these matters requires careful planning. The training will encompass also issues associated with the powers of arrest that will need to be exercised if a person refuses to submit to a breath test. This Government is not about making legislation for legislation's sake and ignoring the points of view of stakeholders.

Honourable members will be aware that during the historic reform of the timber industry in this State, that project received input from many disparate groups to reach a consensus. The successful outcome of that project required sensitive and proper management. Therefore, consistent with the consultative process which has been the hallmark of this Government, this bill was released for public comment. This gave the commercial and recreational boaters around the State, the maritime industry, and the general public an opportunity to peruse the bill and provide comments. It was important to have an appropriate period for public comment because, as I have already mentioned, this bill is a consolidation of five marine safety Acts and is designed to ensure that the high standards of safety in the ports and waterways of this State are maintained. I commend the bill to the House.

The Hon. J. H. JOBLING [3.51 p.m.]: The Opposition does not oppose the Marine Safety Bill. The bill will revise and replace existing legislation governing marine safety. Following consultation with the Opposition in the other place the Government conceded to include several amendments that will allay the concerns of many members of the boating public. Marine legislation is contained in five separate Acts and 12 associated regulations, which makes the administration of marine safety very confusing. Commercial, recreational and trading vessel operators must all be familiar with the many different pieces of legislation.

The Marine Safety Bill will remedy this by modernising and simplifying legislation governing the operation of vessels on New South Wales waterways. The bill will encompass and supersede many Acts, such as the Commercial Vessels Act 1979, Marine (Boating Safety—Alcohol and Drugs) Act 1991, Marine Pilotage Licensing Act 1971, Marine Services Act 1935, Maritime Services (Amendment) Acts 1981 and 1984, and the Navigation Act 1901. The bill will determine how marine accidents will be investigated. A vessel involved in an accident will be detained pending investigation. However, a vessel will not be detained for longer than 48 hours except by order of a magistrate.

The Minister will be able to grant approval for the renewal of aquaculture leases for navigable waters taking into account the equitable use of our waterways by aquaculture farmers and recreational users. The bill extends the existing alcohol and drug testing procedures to persons engaged in waterskiing, aquaplaning and paraflaying, including the observer in a waterskiing vessel who is required to observe the person being towed and to report anything to the driver that would affect the safety of the waterskier. All of these activities require great concentration and physical skill, which would be adversely affected by the influence of alcohol and drugs and would clearly endanger participants and others in the vicinity.

The bill incorporates provisions relating to marine pilotage and harbourmasters which are presently contained in parts 6 and 7 of the Ports Corporatisation and Waterways Management Bill. A person is prohibited from operating a vessel in any waters while under the influence of alcohol or any other drug. In addition, the master of a vessel must not permit a person to operate the vessel if the person is under the influence of alcohol or any other drug.

The Opposition in the other place was successful in negotiating with the Government solutions to many concerns about the bill introduced in May. The provisions were amended in relation to emergency and rescue vessels. Rescue vessels were defined as commercial vessels because they needed to be of a high standard to be capable of rescuing persons in distress at sea and often at times in extremely dangerous conditions. However, this definition meant also that rescue operators, who are mostly volunteers, would have to pay a registration or licence fee. After consultation with the coalition, the Government has exempted rescue vessels from licensing fees and has removed them from the definition of commercial vessels.

The definition of navigable waters has been amended also to include flood waters. It is not uncommon to see people operating watercraft on flood waters. Legislation must cover those instances to ensure the responsible use of vessels. A further amendment was made to allow evidence obtained by using speed-measuring devices to be produced in court. The amendments that were passed through the Legislative Assembly and incorporated in the second print clearly improve the bill and consolidate the various marine safety Acts to ensure the equitable and safe use of the magnificent waterways of New South Wales. The Opposition supports the bill.

The Hon. R. D. DYER (Minister for Public Works and Services) [3.55 p.m.], in reply: I thank the Hon. J. H. Jobling for his support for this measure. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CARBON RIGHTS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 10 November.

The Hon. D. F. MOPPETT [3.57 p.m.]: In my short address to the House yesterday I indicated the reasons people throughout the world, and particularly in Australia, should be circumspect about the conclusions drawn from the so-called greenhouse effect, which has been the subject of much public debate. I believe I gave substantial reasons why people should examine the responses with healthy skepticism and considerable circumspection. I refer now to the effect of those responses on commercial areas, particularly on the forestry industry, and the way this bill seeks to address some commercial issues.

Whenever taxes or fines are imposed and are associated with some benefit or relief from another activity which can be netted against the offence, a commercial value will be attached to the so-called credit side. A simple example is the development of an extensive industry in selling companies with accumulated taxation losses.

Even at the early stage of the development of the concept of control of greenhouse gases some pre-emptive action has been taken in trading between organisations that will have carbon credits and those that wish to mitigate their carbon dioxide and other greenhouse gas emissions. That is very much akin to the development of our other

exchanges. It will be done initially between two companies and will become a tradeable contract, which this bill seeks to acknowledge, if not facilitate.

This legislation is following with alarming speed the finalisation of the first contracts between at least two organisations of which I am aware. The Opposition appreciates that enormous potential exists in this area. Hundreds of years ago the exchange between people who had something to buy and something to sell in the area of capital markets started off in coffee houses and that was celebrated quite recently as the origin of our modern stock exchanges. There has been a phenomenal growth in the trading in stocks and shares and, more recently, with futures contracts, where no actual share in a company is traded, the derivatives of which sometimes bewilder the ordinary layman.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. J. P. HANNAFORD: My question without notice is directed to the Treasurer. Is it a fact that in evidence provided to the General Purpose Standing Committee No. 1 inquiry into the New South Wales electricity industry, Mr Allan James from Deutsche Bank stated:

We would see the long-term consequences of continued Government ownership of the electricity industry being increased exposure to risk and potentially in the medium to longer term potentially falling returns from those investments once the market is fully contestable.

Do you agree with the statements of Mr James?

The Hon. M. R. EGAN: I saw a newspaper report of the matter but I have not been following the transcripts of General Purpose Standing Committee No. 1. I understand that that committee will report to the Parliament, initially by 12 November. However, I am aware that Opposition members of that committee have been asking a number of questions supplied to them by Yallourn Energy Pty Ltd.

TOTALIZATOR AGENCY BOARD CENTRAL MONITORING SYSTEM

The Hon. R. T. M. BULL: I address my question without notice to the Treasurer, Minister for State Development, and Vice-President of the

Executive Council. Following my question two weeks ago, will the Minister now confirm whether under the deal entered into between the Government and the TAB, the TAB was contracted to link all machines in New South Wales with a central monitoring system which would also provide venues the opportunity to participate in statewide links? Is it a fact that now only a small number of larger venues will be linked to central monitoring, thus denying many venues the opportunity to be part of statewide links?

The Hon. M. R. EGAN: I recall the question by the Deputy Leader of the Opposition. Just before question time I recalled that he had asked me that question and it occurred to me that I had not yet received any information on it. I will follow up the matter.

WAVERLEY WAR MEMORIAL

The Hon. B. H. VAUGHAN: I direct my question without notice to the Minister for Public Works and Services. Has the Minister's department responded to the vandalism of the war memorial statue in Waverley Park?

The Hon. R. D. DYER: The question of the Hon. B. H. Vaughan raises a matter of serious public concern, particularly as today is Remembrance Day. Earlier this week an attack was made on a statue of an Anzac soldier which has stood for 80 years in Waverley Park. Any vandalism of war memorials is shameful but an attack on this statue is particularly repugnant given its age. I understand the statue was first erected in the park only a few months after the signing of the armistice in 1918. It is certainly one of the oldest World War I memorials anywhere in Australia. The statue was attacked by vandals, who broke off the rifle and sections of the helmet from the statue and scattered the pieces about the park. The vandals also tore up the gardens and landscaping surrounding the statue.

The Hon. Franca Arena: Was it at night-time?

The Hon. R. D. DYER: Very probably it was at night-time. The damage was discovered yesterday by Waverley Council officers when they attended the cemetery to prepare the site for Remembrance Day ceremonies today. The discovery occurred less than 24 hours before the scheduled commencement of Remembrance Day services to mark the eightieth anniversary of the armistice. Regrettably, the Waverley Council stonemason was away on holidays and, in any case, I am advised that the scope of work was far in excess of what a single stonemason could have achieved in such a short time.

The attack was strongly condemned by the Returned Services League, individual veterans and members of the public. It represents a childish and repugnant attack on the values and memories of the Anzacs who gave their lives so many decades ago. In response to an urgent request for assistance from the Premier, I authorised stonemasons from my department to attend Waverley Park and assess and repair the statue. Repair work commenced in the early afternoon and was completed under lights at about 10.30 last night. Pieces of the helmet and rifle were collected from the park grounds and reconstructed at the Department of Public Works and Services stone yard in Alexandria before being returned and reattached to the statue.

In addition to the repair work, my department arranged for the statue to be cleaned and restored to its original appearance. Repair work was conducted by the Department of Public Works and Services chief stonemason, Alfie Pires, and Department of Public Works and Services employees Paul Thurlough and Bob Cavanagh under the overall direction of the heritage services manager, Bill Fletcher. I pay tribute to the efforts of Mr Fletcher, who was on holidays with his family but who returned to work to oversee this important work. It is also important to note the efforts of a private company, Tube and Rigging Services Pty Ltd, which provided scaffolding at very short notice to allow the stonemasons to work on site.

The cost of repair work is being met from the Premier's discretionary fund. The statue was fully restored in time for Remembrance Day services today. Both Waverley Council and the Returned Services League have expressed their warmest appreciation to workers of the Department of Public Works and Services for their swift and efficient response. I am sure honourable members would join me in congratulating Alfie Pires and his stonemason team on their dedication in ensuring that this work was completed so quickly and efficiently and for ensuring that Remembrance Day services at Waverley Park were not tarnished by this disgraceful act of vandalism.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. J. M. SAMIOS: I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council a question without notice. Is it a fact that, in evidence provided to General Purpose Standing Committee No. 1, Mr Allan James from Deutsche Bank stated that with continued government ownership of electricity assets in a fully contestable market "pressures to improve operating efficiencies would most likely lead to reduction of staff numbers"? Does the Treasurer agree with this statement of Mr James?

The Hon. M. R. EGAN: I refer the Hon. J. M. Samios to my earlier answer to the Leader of the Opposition. If the honourable member wants the opinion of anyone, he might seek it from Yallourn Energy Pty Ltd.

CONSUMER CREDIT CODE

The Hon. A. B. MANSON: My question without notice is to the Attorney General, and Minister for Fair Trading. Will the Minister for Fair Trading inform the House in what way amendments to the consumer credit code, passed on 20 October in the Queensland Parliament, will improve the operation of this important consumer legislation in New South Wales?

The Hon. J. W. SHAW: Honourable members will be aware that the Consumer Credit (New South Wales) Act 1995 was one of the first pieces of legislation passed by the current State Government. That Act adopted the consumer credit code, which is uniform in all States and Territories, to protect consumers of credit in this State. Under the uniformity agreement the law was initially introduced into the Queensland Parliament and, when passed, automatically applied in those jurisdictions which chose to put in place template legislation. New South Wales was one of those States. Under the Australian uniform credit laws agreement the amendments that were passed on 20 October will become the law of this State.

However, although the uniformity agreement provides for consumer credit legislation to be passed and amended by the Queensland Parliament, this does not mean that New South Wales is not involved in the development of those laws. On the contrary, the New South Wales Government has played a pivotal role in the development of the code and in the ongoing review and amendment of that legislation.

The consumer credit code is most important to everyone who takes out credit for private purposes. The code requires that consumers be given all relevant information about the cost of credit, and their obligations under the contract, before they commit themselves. This allows potential borrowers to shop around, compare offers and satisfy themselves that they can afford the credit product they are contemplating. The code also requires that consumers be given appropriate notice of any changes, or other action taken by the credit provider, during the life of the loan.

Another important provision of the legislation is the ability of consumers to seek relief in the event

of hardship, so that the contract can be kept on foot wherever possible. There are also redress mechanisms for consumers, and substantial civil and criminal penalties can be imposed on those who do not comply with the law. When the code came into effect on 1 November 1996 fair trading Ministers in all jurisdictions agreed to canvass industry and consumer representatives, legal bodies and academics in an endeavour to finetune the legislation. Honourable members will appreciate that legislation of this type is necessarily detailed and, in spite of substantial consultation with stakeholders, some technical problems with the legislation became apparent only after it was implemented.

All fair trading Ministers have acknowledged the need to ensure the legislation does not impose unnecessary costs on industry, since these would be passed on to consumers anyway. Fair trading Ministers also recognise that any changes that would impact on computer systems should be kept to a minimum, especially while institutions are coming to grips with the year 2000 problem. One reason for introducing amendments at this time is the imminent sunset of the special transitional regulations which have been used to put in place any necessary technical adjustments to date. The Consumer Credit (Queensland) Amendment Act now makes permanent certain amendments previously made by special transitional regulations. These will commence on 1 November. The remaining amendments will commence next year when Western Australia has passed its legislation.

The amendments essentially streamline operations or clarify the drafting of the code. One of the most important aims for both industry and consumers is to reduce the amount of paper generated by the code. No doubt honourable members will appreciate that the constant receipt of unnecessary documents is an irritation for consumers as well as a cost burden for industry. The amendments take a number of steps to reduce duplication of documentation. Joint debtors can make choices as to whether each of them is to receive all documentation or whether they wish to nominate one or more individuals to deal with the paper stream.

Another important change is contained in the provisions relating to guarantees. The code originally allowed a broader interpretation of the circumstances in which a guarantee could be enforced than had been envisaged by fair trading Ministers. These circumstances have now been narrowed to reflect the original intention. The amendments will also give far greater clarity to the code's advertising provisions, which were previously cast in broad terms and

therefore open to a range of interpretations. These developments highlight the involvement of the New South Wales Government in advancing uniform credit legislation across Australia. I commend these changes to the House and I will keep honourable members informed of any further progress in this important area of consumer protection.

ELECTRICITY INDUSTRY LEASING

The Hon. PATRICIA FORSYTHE: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister confirm whether he is giving consideration to a proposal for the long-term leasing of segments or units of the electricity industry in New South Wales? Does this examination involve the payment of an up-front lump sum for leasing rights?

The Hon. M. R. EGAN: As honourable members will be aware, this Government, the previous Government and governments in other States have from time to time entered into what is known as cross-border leasing.

The Hon. D. J. Gay: What is the difference between that and a sale?

The Hon. M. R. EGAN: The honourable member should know that. That is a silly question because he knows there is no relationship at all. The biggest cross-border lessor in this State is not this Government; it was the previous Government when the Hon. Peter Collins was Treasurer. He did a pretty smart thing; he obtained a financial benefit for this State of many tens of millions of dollars.

The Hon. J. P. Hannaford: Is this the way you privatise without going back to the Labor conference?

The Hon. M. R. EGAN: No, it is not privatisation at all.

The Hon. D. J. Gay: What is the difference? They are not convinced.

The Hon. M. R. EGAN: But you are, so it is a silly interjection. On a previous occasion during the term of office of this Government we cross-border leased plant at one of the electricity power stations—I think it was Bayswater. In the 1997-98 budget we planned to derive about \$100 million net benefit from cross-border leasing. Unfortunately, as it turned out, that was not available to us because of various changes in tax rulings by the Australian Taxation Office.

My understanding is that the ATO has now issued new tax rulings or at least has altered the earlier advice it was providing to State governments, and naturally the Government would be interested in exploring those possibilities. They have the potential of transferring literally tens of millions of dollars, if not hundreds of millions of dollars, from United States of America taxpayers and taxpayers in other countries to taxpayers in New South Wales.

LICENSED PREMISES GAMBLING PROMOTION

The Hon. FRANCA ARENA: I ask the Minister for Public Works and Services, representing the Minister for Gaming and Racing, a question without notice. Is the Minister concerned that people are enticed into hotels during lunchtime with a promise of free food, drinks and cigarettes in order to play the poker machines? Can the Government take any action to discourage these promotions?

The Hon. R. D. DYER: I will refer the Hon. Franca Arena's question to my colleague the Minister for Gaming and Racing, obtain a response and convey it to her.

STAMP DUTY OFF-THE-PLAN CONCESSIONS

The Hon. A. B. KELLY: My question is to the Treasurer, and Minister for State Development. Will the Treasurer advise the House of the recent stamp duties concessions for off-the-plan real estate purchases?

The Hon. M. R. EGAN: I am pleased to advise the House that there is now a new stamp duty deferment plan for what are called off-the-plan real estate purchases in New South Wales. That simply means that families can buy now and pay the stamp duty later. In the past few years, as I am sure most honourable members will be aware, off-the-plan purchasing of property has taken off, particularly in the home unit market. More than 70 per cent of home units are now sold before they are built. With off-the-plan real estate purchases booming in Sydney's central business district and also moving to suburban areas in the Olympic corridor, the concession will further encourage building development in New South Wales. This type of buying will also have an increasingly important part to play in the regional New South Wales housing market.

The change to the Duties Act will simply leave money in the pockets of buyers until they are ready

to move in. The deferment plan applies to home unit developments and off-the-plan house and land packages. The new arrangements mean that 5 per cent of the stamp duty is paid up front, with the balance paid on completion. A family purchasing, for example, a \$180,000 home and land package will now pay only \$180 of stamp duty up front and the balance when the family moves in.

The Hon. D. J. Gay: They still have to pay the lot.

The Hon. M. R. EGAN: Yes, absolutely. I made it quite clear that the family would pay the remainder when it moves in. Similarly, a person buying a home unit for \$215,000 will initially pay \$300 stamp duty and the final payment when the unit is complete. Previously stamp duty on the property was paid when the contracts were signed or within a specified period of the contracts being signed. The Government's plan will encourage growth in an already dynamic property and construction industry and help to create jobs.

The initiative also gives valuable assistance to home buyers. Previously the need to pay stamp duty—which is sometimes a sizeable amount of money—12 or 18 months before people actually moved in to a newly purchased property meant that they were paying for that stamp duty either before they had the benefit of the sale proceeds from another home or whilst they were paying rent. Clearly, that was an onerous burden on them, and I am pleased to inform the House that the Government has removed that burden on home buyers.

LISMORE COURTHOUSE EXTENSIONS

The Hon. D. J. GAY: I ask the Attorney General a question without notice. Why was the Attorney late for the official opening of the Lismore courthouse extensions, given that he has had more than three years to prepare for the event, as the extensions have been in use since early 1995? Is the look given to the Attorney by the Hon. Janelle Saffin, depicted in the *Northern Star* of 7 November, one of reproach, as she was forced to step in and open the extensions in the Attorney's absence?

The Hon. J. W. SHAW: Imperfection is endemic in the human condition.

The Hon. D. J. GAY: I ask a supplementary question. When the Attorney finally attended the Lismore courthouse extension opening, why did he then deny Opposition claims of cutbacks to District

Court sittings, given that this week he issued a media release confirming cutbacks in five New South Wales towns?

The Hon. M. R. Egan: On a point of order. The question is in no way a supplementary question. The first question was stupid, and the supplementary question is completely out of order.

The Hon. D. J. GAY: On the point of order. The point of order has no validity whatsoever. The supplementary question was completely within the rules. You could not base a decision on the Treasurer's hardly objective criticism.

The PRESIDENT: Order! My gentle nature has indeed allowed latitude in the application of supplementary questions, and both sides have benefited. I do not uphold the point of order.

The Hon. J. W. SHAW: The question is misconceived.

DEPARTMENT OF EDUCATION AND TRAINING CASE MANAGEMENT UNIT

The Hon. A. G. CORBETT: My question without notice is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for Education and Training. Will the Minister inform the House about the current state of negotiations between the Teachers Federation and Department of Education and Training negotiators with regard to the federation's concerns about the case management unit, in particular what the department is doing in a practical sense to protect teachers from false and malicious allegations, which admittedly are small in number but are nevertheless devastating to the innocent teachers concerned?

The Hon. J. W. SHAW: I will refer the Hon. A. G. Corbett's question to the Minister for Education and Training for a response.

LAGOONWATCH

The Hon. DOROTHY ISAKSEN: I ask the Minister for Public Works and Services a question without notice. What research work is the Department of Public Works and Services undertaking for the protection of Narrabeen lagoon, and what are the practical applications of that research?

The Hon. R. D. DYER: I commend the Hon. Dorothy Isaksen for her longstanding interest in the marine environment along the northern beaches. The

Department of Public Works and Services performs a great deal of marine research work around New South Wales, particularly involving wave and tide data acquisition. Two weeks ago I outlined to the House the operations and advantages of the Waverider buoy system and the proposed upgrading of the north coast buoy to directional status. Given the revelation at that time that so many honourable members, including, to my surprise, the Treasurer, were keen early-morning surfers, it is timely that I draw to the attention of the House a number of other research projects that are under way in the Sydney region.

The Department of Public Works and Services operates an extensive scientific research station at the Manly hydraulics laboratory. The laboratory performs research tasks on contract for clients such as government departments, local councils and others. One such project is Lagoonwatch, which monitors the health of Narrabeen lagoon on behalf of Pittwater and Warringah councils. The Lagoonwatch project is a joint research effort between the Manly hydraulics laboratory and the water research laboratory. Honourable members would be aware that coastal lagoon systems are extremely sensitive to rainfall and oceanic flooding, especially where residential development has added to run-off into the river system. These factors impact on the water quality in the lagoon and its long-term stability and ecology.

As part of the protection effort for Narrabeen lagoon the Manly hydraulics laboratory has developed the Lagoonwatch system, which views existing environmental conditions and predicts future storm events. The system is instrumental in determining flood mitigation requirements and the likelihood of mechanical entrance breakout operations should the mouth of the lagoon be sealed following a storm. The system is composed of three elements: real-time data acquisition, including rainfall, stream flow, ocean swell, tides and lagoon levels; alarm facilities, which awaken Lagoonwatch when predetermined environmental conditions are exceeded. Lagoonwatch then initiates real-time data acquisition predictions and transmits that information to the laboratory.

The Hon. C. J. S. Lynn: At the same time?

The Hon. R. D. DYER: I suggest that what the Hon. C. J. S. Lynn needs is not Lagoonwatch but preselection watch; he needs to keep a close eye on his preselection prospects. I am very concerned about his welfare. The final element of the system

consists of lagoon flood level simulations, using a hydrological model of the catchment and flood routing based on previous flood events. Predictions are made for the next 10 hours for abating, persisting and worsening environmental conditions. The pre-selection conditions of the Hon. C. J. S. Lynn are not abating; they are worsening.

Data from Lagoonwatch is also used to monitor longer-term stability and hence planning for dredging operations, and can be interpreted in a general sense for other lagoon systems along the coastline. The Lagoonwatch system has been instrumental in ensuring the long-term health of the Narrabeen lagoon, and I commend the work of the hydraulics laboratory and the water research laboratory in generating and maintaining this essential marine data project.

WORKCOVER RESTRUCTURE

The Hon. M. J. GALLACHER: My question is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is it a fact that the Labor Party policy document "NSW Labor's Industrial Relations Policy for the 1990s" includes at page 12 a promise to "Restore specialist units in [the] restructure of WorkCover for asbestos, toxic chemicals and building industries . . ." ? Is it also a fact that WorkCover New South Wales is dismantling its scientific services branch? What action will the Minister take to ensure the safety of New South Wales workers against a catastrophe such as that which happened at the Esso plant at Longford, Victoria?

The Hon. J. W. SHAW: Obviously, government agencies superintending workplace safety ought to be astute to avoid the kind of catastrophe that occurred in Victoria. The honourable member is right about that. I shall take this matter up with WorkCover to ensure that there are the specialist scientific services that adequately superintend all enterprises that need such safety supervision. The honourable member may be assured that there will be nothing happening in WorkCover New South Wales that in any way, shape or form diminishes the superintendence of the government agency of various enterprises that can lead to a lack of safety to the public. This Government has in the past three or four years upgraded the inspectorate, inspectorate powers and penalties that apply for breaches of safety. The Government has no embarrassment whatsoever about that. The Government has enhanced the position of WorkCover vis-a-vis enterprises that might be on the fringe of safety breaches.

LOCAL GOVERNMENT SOCIAL DEVELOPMENT PLAN

The Hon. Dr A. CHESTERFIELD-EVANS:

I ask a question of the Minister representing the Minister for Local Government. Will the Minister confirm that social planners are being employed by the Department of Local Government or the Department of State and Regional Development to prepare a social development plan for local government? What is the cost of that exercise? Is the Minister aware that money is needed urgently for many initiatives such as home and community care, meals on wheels, after-school care and public transport? Could the money spent on items such as social planning not be put to better use if it were given directly to services already identified by local government that are urgently in need of funds?

The Hon. J. W. SHAW: I shall refer this question to the Minister for Local Government and obtain a response from him.

CHRISTMAS CREDIT CARD DEBT

The Hon. J. KALDIS: My question is directed to the Minister for Fair Trading. What advice can the Minister give consumers about using credit cards as Christmas approaches?

The Hon. J. W. SHAW: I have some expertise in the management of credit card bills and I have taken an active interest in this matter. Traditionally, Christmas is a time of goodwill, peace and festivities with family and friends. But we do have a problem, and it is a serious problem, of the blow-out of credit card debt at Christmas time. This is not a matter about which Opposition members ought to be facetious. This is a serious social problem that ought to be discussed seriously. For many cash-strapped families it is fortunate that Christmas comes but once a year, because there can be gaping holes in already stretched household budgets. The temptation to rely on credit cards is almost irresistible, and credit is convenient if it is used wisely. But Christmas time can be a danger time for overcommitment in the use of credit cards.

According to the Reserve Bank, we as a nation now owe nearly \$10 billion on our credit cards alone. That is a \$1.8 billion increase over the figure for the same period last year. This figure is confined to bank credit cards; it does not include other credit cards such as American Express, Diners Club or various in-store cards. Perhaps even more worrying is that from November to December last year credit card debt increased by \$450 million. Many

consumers may also be tempted by an interest-free period or offers of no payment for six months. The danger with those types of schemes is that consumers may be required to spend a set minimum amount that may be more than they would otherwise spend.

Consumers may misunderstand the nature of the interest-free loan. If a loan is not completely paid off in the time stated—usually six or 12 months—consumers are generally required to pay interest on the whole amount borrowed, not just the amount outstanding at the end of the set period. The Department of Fair Trading therefore advises consumers to think carefully about whether they will be able to pay Christmas gifts off within the set period. If not, 1999 may be spoilt for them by punishing interest rates on top of the cost of the goods.

The Department of Fair Trading does not just give advice; it offers practical assistance. The Department funds numerous community-based financial counselling services throughout the State. Bearing in mind the adage that prevention is better than cure, those services can help families to arrange their household budgets with the aid of personal financial plans. However, Christmas shopping is not all doom and gloom. While it might be difficult to keep a level head during the pre-Christmas buying spree, clever consumers can reduce their exposure to debt. For a start, with a few weeks of shopping left before Christmas, there is still time to take advantage of the lay-by scheme—perhaps an old-fashioned idea. I remember my mother using lay-by schemes in order to buy goods on a reasonable basis.

The Hon. M. R. Egan: Have you never put anything on lay-by?

The Hon. J. W. SHAW: No, I have not, but my mother did. Lay-bys have been around for many years and they still make a lot of sense. If consumers start shopping now, the cost of gifts can be spread into manageable amounts and shoppers will not incur interest charges. Consumers who want to get on top of their shopping rights and take advantage of tips about paying by credit, mail order and Internet shopping should consult two publications of the Department of Fair Trading, "A Consumer's Guide to Shopping" and "A Consumer's Guide to Shopping from Home". Copies of the booklet, which are available free from Department of Fair Trading centres all over New South Wales, could be a good gift for people to give themselves in the lead-up to the coming festive season.

DISTRICT COURT COUNTRY SITTINGS

The Hon. M. R. KERSTEN: My question is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is it a fact that both Hay and Cobar district courts will no longer have hearings? Is the Minister aware that for people in these towns who have to attend court the round journey will be approximately 300 kilometres and 600 kilometres respectively? Is it a fact that in a media release from his office yesterday he said that the reason for the closures was merely the result of insufficient work to warrant sending a judge to these centres? If that is the case, how does the Minister account for the increase in the number of weeks in which the Griffith District Court will hold criminal sittings next year—an increase of four weeks, triple the amount of time allocated this year?

The Hon. J. W. SHAW: It is not right to say that certain courts in particular towns or cities will no longer have any hearings. That is a misconstruction of what happens. Under this Government no courthouses have closed down; all courthouses have been maintained. Each year the judges determine their calendar for sittings in particular towns and areas of New South Wales. It will vary. Surely, no-one would suggest that it should not vary. It varies in accordance with demand.

The Chief Judge of the District Court, Judge Blanch, a very good court administrator if I may say so with respect, each year determines where the need is. Because there might be no sittings or limited sittings in the civil or criminal jurisdiction in a particular town in a particular year does not mean there will be no sittings next year. It is not a final decision. It is something that varies from year to year, as it should. Is it suggested that the District Court ought to go to a town where there is not a demand for sittings either in the criminal or civil list? Surely not.

These matters are rationally determined in accordance with demand, as they should be. District courts are sitting more in the country and in rural and regional areas of New South Wales than they were under the coalition Government, and that is a good thing. The Supreme Court is sitting in the country. The Court of Criminal Appeal is sitting in Newcastle for the first time. Justice in rural and regional New South Wales has been enhanced under this Government.

FOREST CONSERVATION

The Hon. R. S. L. JONES: I ask the Treasurer, representing the Premier, whether he is

aware that the outrageous cave-in to Boral's blackmail will mean that wilderness nominated areas, high quality, old-growth forests, will now be logged? Does the Premier seriously expect to have credibility with the New South Wales conservation movement if he buckles under Boral's threat? Does the Premier not understand that Milo Dunphy must be turning in his grave at this disgraceful betrayal?

The Hon. M. R. EGAN: It seems to me that the Hon. R. S. L. Jones is actually participating in a debate rather than seeking information.

WORKPLACE BULLYING

The Hon. JAN BURNSWOODS: My question is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Violence against young people in the workplace is a practice that can no longer be tolerated. Will the Minister inform the House what is being done to curtail bullying in the workplace?

The Hon. J. W. SHAW: WorkCover New South Wales has funded a timely and worthwhile project in this key area to address workplace bullying, particularly involving young trainees and apprentices, especially in blue-collar trades. The National Children's and Youth Law Centre has begun an 18-month project called a "Secure Workplace for Young Australians". The project has been made possible through a grant under the WorkCover New South Wales injury prevention, education and research grants scheme. Recent newspaper reports have related some rather vicious pranks and so-called initiation ceremonies visited on young workers—it is really bullying.

Bullying can range from verbal abuse, threats, sarcasm, continuous intimidation and criticism through to physical assault. Employers and workers do not have the right to abuse or assault workers. Bullying has no place in the workplace. Employers should be aware of the potential legal consequences of violence in the workplace. They have a clear responsibility to provide a safe working environment. They are also responsible for workers who may bully and abuse other company workers.

The National Children's and Youth Law Centre aims to curtail workplace bullying by raising the employer awareness. The project will give employers effective and practical strategies to reduce the likelihood of bullying in their workplaces. The project aims to educate young people. They are to be made aware of their rights. They do not have to accept behaviour that places them at physical risk, or that hinders their capacity to perform their duties. Nor do they have to accept behaviour that causes them anxiety and distress.

The project will make significant inroads into this problem in New South Wales by adopting a three-pronged approach. Each phase has a valuation component. The first phase comprises forums and workshops for employers and professionals who work closely with youth. The second phase is an expansion of the web site of the National Children's and Youth Law Centre, and the third is a public communications campaign. This relevant project will cover 72 weeks.

There was significant media and public interest in the forums run last week in Wollongong and Newcastle and yesterday at the Masonic Centre in Sydney. Another seminar will be held at Parramatta on 12 November at the Parramatta Stadium. Each workshop covers awareness, legal consequences, intervention and prevention. Participants take the key messages with them in the form of a comprehensive information kit detailing practical strategies.

The resource kit for employers will also be available after the forums. The centre's web site currently records more than 2,000 Australian requests each day. The revamp will add information for young people, providing actual case studies to help them identify illegal workplace activities. It will tell young people their rights as workers and encourage harassment victims to speak out against perpetrators. The site underscores resolution in the workplace first but gives useful contacts for those who have exhausted this avenue. It also has an electronic mail help line.

The public communications campaign comprises advertisements and community announcements in major newspapers, trade journals and on radio stations. Ideally, posters, stickers and pamphlets will support the message. WorkCover New South Wales, with the National Children's and Youth Law Centre is determined to make significant inroads into dealing with this problem in the interests of young people working in New South Wales.

AMBULANCE OFFICER SAFETY

The Hon. C. J. S. LYNN: My question without notice is to the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs. Is the Minister aware of an incident that occurred during the evening of Saturday, 1 November, when two ambulance officers were the subject of an attack from two youths who fired projectiles at their ambulance as they were returned from Gosford Hospital to Bateau Bay? Will the Minister outline to the House what action has been

taken to ensure the safety of ambulance officers, not only on the central coast but throughout the State?

The Hon. R. D. DYER: I am not aware of the circumstances of the incident as detailed in the honourable member's question. However, if the facts are as stated, it is a matter of concern. I will refer the matter to my colleague the Minister for Health and obtain a response for the Hon. C. J. S. Lynn.

WIDE-BORE NEEDLES

The Hon. I. COHEN: I refer the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, to a question I asked on 22 September, the response to which I received on 27 October, about wide-bore needles. What consultation took place between the Government and needle providers? Will the Minister supply evidence of the reduction of infection by reducing the availability of wide-bore needles, as stated in the response of 27 October? What measures are being taken to deliver methadone services generally?

The Hon. R. D. DYER: I recall conveying a response from my colleague the Minister for Health to the Hon. I. Cohen about wide-bore needles. The honourable member now has some further inquiries regarding the matter. I will approach the Minister for Health again with a view to obtaining the information. When I have it I will convey it to the Hon. I. Cohen.

AUSTRALIAN FILM AND TELEVISION INDUSTRY

The Hon. Dr MEREDITH BURGMANN: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Minister inform the House of the latest developments in the New South Wales film industry?

The Hon. M. R. EGAN: The Hon. Dr Meredith Burgmann has asked an important question. A thriving film and television industry in New South Wales means, amongst other things, and I emphasise that, quality long-term jobs. The New South Wales film, television and video industry, an important industry, presently employs 17,000 people, which is a large number of people. As a member of the Opposition foreshadowed earlier, New South Wales has scored a coup for the State's film industry—a coup that has been described by some commentators as out of this world. Lucasfilm Ltd and Fox Studios Australia have announced that *Star Wars*, episodes II and III, will be made at the

excellent Fox studios in Sydney. That is simply great news. I did not see the original *Star Wars* but I will make sure that I see the second and third episodes because they will be made in Australia. This is great news for jobs and great news for investment in New South Wales.

I recently had the pleasure of meeting *Star Wars*' director, George Lucas, who cited Sydney as a wonderful location. No-one would doubt that. What location in the world is more magnificent than this great city in this great State in this great country of ours? Mr Lucas cited Sydney's wonderful location and its reputation for highly professional and experienced crews. Sydney has a worldwide reputation for the quality of its professionals.

The Hon. Dr B. P. V. Pezzutti: We have.

The Hon. M. R. EGAN: That is true. I take the point made by the Hon. Dr B. P. V. Pezzutti. And that reputation is developing rapidly. Of course, we now have great production facilities. Those are some of factors that were taken into account by Fox studios when it made its decision. Someone was telling me recently that another factor in favour of Sydney as a film location is that we have good light.

The Hon. Patricia Forsythe: Blue skies.

The Hon. M. R. EGAN: It is not just that we have blue skies; we have what is called good light. That important factor had never occurred to me before. This investment of Fox film studios is expected to generate 1,400 jobs and establish Sydney as a serious alternative venue for big budget international films. Fox Studios Australia is one of the world's most sophisticated film production facilities, with six sound stages—if honourable members have not seen them I suggest that they do so—comprehensive post-production services and tenants drawn from some of the leading providers in the film and television industry.

Honourable members would be aware that the studios were officially opened this year, although I believe that the remainder of the complex—the public part of the complex—will not be opened until August next year. But Sydneysiders and residents of New South Wales will get a pleasant surprise when they visit it.

The studios, which were officially opened this year, have already been used for the two largest films made in Australia to date, *Babe: a Pig in the City*, and *The Matrix*. As Sydney's excellent film production reputation continues to grow the industry will attract greater international investment and

generate more jobs. Opposition members do not like me talking about jobs. Film and television production in New South Wales increased from \$164 million in 1996-97 to \$290 million in 1997-98, in just one year. That compares with \$102 million spent in Victoria, down from \$122 million in the previous year, and \$80 million spent in Queensland.

The industry recently initiated a film and television careers expo to highlight its significant employment scope, especially for young people. The careers expo, which was held at Fox studios, showcased the type of jobs generated both on and behind the camera by the production of movies such as *Star Wars*. The expo complements the New South Wales Government's jobs plan, which makes education, employment and training for young people a priority.

The expanding New South Wales film industry needs a highly skilled work force to continue to be internationally competitive. The Government will continue to work hard to consolidate the lead of New South Wales in the Australian film and television industry. The success of the film industry in New South Wales reinforces the truth about the power of redemption. Our society started out 210 years ago as a convict settlement. I have to concede that my great-great-great-great-great-grandparents were part of that early convict settlement.

[Interruption]

I know who my grandfather is. Believe it or not, my paternal grandfather was born in 1837. I never met him. The fact that our society started out as a society of degenerates and, in most cases, illiterates—

The Hon. Dr B. P. V. Pezzutti: It is your family.

The Hon. M. R. EGAN: Absolutely. Most of my forebears were Irish and Catholic but the two convicts, those on the First Fleet, were English and Protestant to boot. They were great citizens.

The Hon. Elaine Nile: They would have been convicted and transported to Sydney.

The Hon. M. R. EGAN: I have a feeling that my great-great-great-great-great-grandparents might have been, but they became upstanding citizens in the new colony. The fact that our society, which started out as a convict settlement, is now the home—and a very modern home with all the required modern conveniences and the necessary nurturing and welcoming attributes of a good home—

The PRESIDENT: Order! I would be grateful if the Treasurer would address the Chair, because the force is with the Chair.

The Hon. M. R. EGAN: The fact that Sydney has become an excellent home to an activity that is now the dominant entertainment, art and literature forum of our time is testimony to the power of redemption. In my case, my great-great-great-great-grandparents were sentenced to be hanged but had their sentences commuted to transportation. In my case that is a good reason that we should never support capital punishment.

CHARTER VESSEL REGISTRATION FEES

The Hon. J. H. JOBLING: My question without notice is directed to the Treasurer. Has the Government sought to ensure that increases in fees and charges for charter vessels are generally in line with inflation? If so, why have the registration fees increased 382 per cent for vessels up to 15 metres, 642 per cent for vessels up to 25 metres, and 785 per cent for vessels 30 metres and above?

The Hon. M. R. EGAN: I must admit that I am not conversant with registration fees for charter vessels. I understand that many charter vessels use both private and government commercial facilities. However, I know that a number of charges in New South Wales have been decreased, in real terms and in nominal terms.

For example, industry and other consumers in New South Wales are benefiting from price reductions that will exceed one billion dollars in utilities such as water and electricity. That is one of the reasons New South Wales is the economic powerhouse of Australia and, indeed, of the Asia-Pacific region. Our total income in New South Wales is now in excess of \$190 billion a year, and by the advent of the new millennium we can confidently anticipate that the gross State product—

The Hon. Dr B. P. V. Pezzutti: On a point of order. The Treasurer is speaking on his own behalf rather than answering on behalf of the Minister for Transport. The Treasurer should stick to the portfolio of the Minister for Transport rather than dabble in his own excuses.

The PRESIDENT: Order! No point of order is involved. The longstanding practice in this House is that Ministers may answer questions however they choose. Further, the question was directed to the Treasurer in his role as Treasurer.

The Hon. M. R. EGAN: I was going to convey to the House a fascinating piece of information about the strength of the New South Wales economy. However, as the Hon. Dr B. P. V.

Pezzutti is not at all interested, I will not share the good news with him. I will share it with other honourable members on another occasion.

CODE OF CONDUCT FOR MEMBERS

Reverend the Hon. F. J. NILE: I ask the Attorney General a question without notice. Is it a fact that New South Wales Cabinet Ministers and members of Parliament are required to observe the recently adopted code of conduct? Is it a fact that four British Labour Cabinet Ministers have recently been identified as homosexuals?

Is it a fact that there is now an intense debate in Britain as to whether Cabinet Ministers and even members of Parliament should indicate their sexual orientation before voting on controversial legislation, such as same sex de facto relationships, same sex marriages or age of consent bills, because of a possible conflict of interest? To avoid a possible conflict of interest, will the Government consider such a requirement of New South Wales Cabinet Ministers and members of Parliament debating such bills, in the same way that they must disclose their shareholdings?

The Hon. J. W. SHAW: I do not find the proposition attractive logically or in any other way.

ASPECT TELECOMMUNICATIONS REGIONAL HEADQUARTERS

The Hon. CARMEL TEBBUTT: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister give the House details of the latest information technology company to invest in Sydney?

The Hon. M. R. EGAN: The information technology sector in New South Wales continues to grow, despite economic problems in Asia and elsewhere.

The Hon. Dr B. P. V. Pezzutti: Were you at the Association of Consulting Engineers Australia dinner?

The Hon. M. R. EGAN: Last night I was performing my duties as a Minister of the Crown in the home of the bunyip aristocracy. I was here. Were was the Hon. Dr B. P. V. Pezzutti?

The Hon. Dr B. P. V. Pezzutti: I was down there.

The Hon. M. R. EGAN: Did we give the Hon. Dr B. P. V. Pezzutti a pair? Were is the Whip?

There will be no more pairs for him. There will be no more swanning around at dinners. We have legislative work to do. It seems that every week another call centre, information technology company, regional headquarters or financial institution is set up in Sydney. The latest to bring further investment to Sydney is the Californian-based company Aspect Telecommunications. Aspect Telecommunications has expanded its Australasian headquarters in anticipation of a 25 per cent growth in the New South Wales call centre industry in the next year. In a single year Aspect Telecommunications has grown from a single employee in Sydney to more than 20 staff, all of whom work servicing the call centre industry.

While other parts of Asia are experiencing difficulties, New South Wales is increasingly seen by European and North American companies as a stable and secure place to do business in the region. Aspect Telecommunications is also a member of the Government's call centre attraction team. As honourable members would be aware, that team has been set up to attract international call centres to New South Wales. The call centre attraction team is made up of telecommunications companies. Although those companies are in fierce competition with one another, they have joined with the New South Wales Government to form the call centre attraction team because of the advantages to them in attracting call centres to New South Wales. Obviously there are also huge advantages for the people and the economy of New South Wales.

I take the opportunity to thank Aspect Telecommunications and the other companies involved with the team for their support. Aspect telecommunications' managing director for the Asia-Pacific region, Mr Andie Rees, recently said that more than 80 per cent of his firm's Asian revenue last year came from its Australian operation. He said that the firm's Asian revenues increased by about 300 per cent last year. Aspect Telecommunications was founded in the United States of America in 1985 and, I am told, has experienced an annual growth of 40 per cent. Last year its global revenue was \$US390 million. I welcome the new members of the Aspect Telecommunications team to Sydney and I wish them and their company all the best in New South Wales and Australia.

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

FEMALE BOXING MATCHES

The Hon. R. D. DYER: On 14 October the Hon. Franca Arena asked me a question about female boxing matches. The Minister for Sport and Recreation has provided the following answer:

The Minister for Sport and Recreation is aware of this match, which took place in Tasmania under the auspices of the

Amateur Boxing League. Boxing in New South Wales is controlled by the Boxing and Wrestling Control Act 1985. To be registered under the Act, which is administered by the Department of Sport and Recreation, a boxer must be male, over the age of 18 years and subject to regular medical examination. Females are prohibited from participating in boxing matches by the Act. The Act also prohibits the promotion of events that include female competitors.

The match referred to by the Hon. Franca Arena would not have been permitted within New South Wales. As New South Wales is currently the only State within Australia to have legislated the exclusion of female boxing matches, competition between females is permitted and has been reported in other States. Female boxing matches are prohibited in New South Wales. The Minister has previously stated her support for the continued prohibition of female boxing matches.

UNIVERSITY OF NEW SOUTH WALES ST GEORGE CAMPUS SITE

The Hon. J. W. SHAW: On 14 October Reverend the Hon. F. J. Nile asked me a question about tertiary education premises at the St George campus. The Minister for Education and Training has provided the following answer:

The Minister for Education and Training has been informed by Kogarah Municipal Council of its decision to seek rezoning of the St George campus site to prohibit its use for any purpose other than tertiary education. The Minister has received a letter from the University of New South Wales advising him that Trinity Grammar School is the preferred bidder for the St George campus site. The need for the university to consider selling or leasing the St George campus site is a direct result of major Commonwealth funding cuts to higher education. The bottom line is that the campus requires funding if it is to be retained in the public education sector, and therefore the responsibility for the campus's future clearly lies with the Federal Government.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Postponement of Business

Committee reports orders of the day Nos 1 to 3 postponed on motion by the Hon. Dorothy Isaksen on behalf of the Hon. A. B. Kelly and the Hon. Jan Burnswoods.

MINES LEGISLATION AMENDMENT (MINES SAFETY) BILL

In Committee

Consideration resumed from 27 October.

Schedules 1 and 2

The Hon. J. H. JOBLING [5.10 p.m.], by leave: I move in globo Opposition amendments Nos 2 and 10 on the revised sheet:

No. 2 Page 5, schedule 1[18]. Insert after line 12:

- (6) An inspector or mine safety officer must, when exercising functions under subsection (1) (a), observe the rules of natural justice.

No. 10 Page 23, schedule 2[9], proposed section 36A. Insert after line 31:

- (6) An inspector or mine safety officer must, when exercising functions under subsection (1) (a), observe the rules of natural justice.

Amendment No. 2 requires an inspector or a mine safety officer, when exercising the functions under subsection 1(a), to observe the rules of natural justice. Natural justice is a particularly important matter, and the Minister for Mineral Resources alluded to it in his second reading speech in the other House. He indicated that he agreed with the concept and that it would be adhered to, and I would find it more than strange should the Government oppose this amendment at this stage.

The Hon. J. R. Johnson: Never ceases—

The Hon. J. H. JOBLING: Certainly the Government never ceases to amaze me, as the Hon. J. R. Johnson says. He is quite right in that regard.

The Hon. J. R. Johnson: I didn't say that at all.

The Hon. J. H. JOBLING: "Natural justice" has a very particular meaning and a very particular requirement at law. We have received letters from the Construction, Forestry, Mining and Energy Union, the Coalminers Managers Association, the Australian Collieries Staff Association and the Australian Workers Union, all of whom can see the benefits of incorporating this amendment in the bill. *Butterworth's Australian Legal Dictionary*, 1997 edition, defines "natural justice" as "the right to be given a fair hearing and the opportunity to present one's case; the right to have a decision made by an unbiased or disinterested decision-maker and the right to have that decision based on logic or probative evidence".

There are definitions in many other legal journals, but I do not propose to read all of them onto the record. *The Dictionary of Law*, 1997 edition, has an equally good definition which, as honourable members would expect, deals with the rules of fair play. That is what it is all about. I repeat: The Minister for Mineral Resources agreed that natural justice should apply and quite frankly there is absolutely no reason why it should not.

The Government should accept this amendment, thereby meeting the requirements of all the people in the industry. It will in no way delay, hamper or cause any problems relating to the question of mine safety. There is nothing in the amendments that would cause any problems in that regard. The Opposition does not seek to cause difficulties, despite the bleatings we heard from the Minister in the other place. The Opposition commends the amendments to the Committee.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.12 p.m.]: Given the events that occurred on the previous occasion I will make some brief introductory remarks setting out the Government's approach to the Committee stage of the bill. I want to briefly articulate the Government's intentions so that the Committee, and particularly the Opposition, is in no doubt about our position. The Government opposes each of the amendments. Further, the Government will seek to recommit the bill and will move an amendment to delete the amendments made to schedule 1[5] and schedule 2[4] in Committee on 27 October. The peak bodies, representing mine owners, management and labour, have been consulted about the bill and have given their support for it in its unamended form.

The bill is directed at improving and streamlining the investigation of accidents and other serious incidents in mines, and work practices in mines that might compromise the safety of mine workers. The fruits of those investigations are intended to be put to use in improving the standards of safety in the mines and quarries of this State. To this end, reports of investigations and inquiries conducted under the Coal Mines Regulation Act and the Mines Inspection Act will be prepared and the general policy will be to make those reports publicly available.

There will be occasional exceptional circumstances when the whole or part of a report may be restricted; for example, when a prosecution is under consideration. There may be other circumstances as well. However, when public access to a report or part of a report is refused, the policy of the Department of Mineral Resources will be to provide written reasons for the refusal.

The Government believes that these amendments do not demonstrably advance the prime purposes of the bill. They contain scope for those who fear the consequences of an investigation to frustrate it on abstruse legal grounds. Inspectors' powers are provided for a purpose, and this purpose

is widely recognised and universally accepted in the industry. The Opposition has not been able to explain amendment No. 2 adequately and obviously it does not understand its implications. The amendments cut across the inspectors' legitimate powers and are inconsistent with them.

Furthermore, inspectors are not acting judicially or quasi-judicially when investigating. The principles of natural justice more appropriately belong to judicial or quasi-judicial action. If the words "natural justice" are to be inserted in legislation it is important that members know what they mean. The words will be construed according to the legal understanding of "natural justice". It is not the amorphous, generalised conduct that some may naively think.

The law recognises only a limited number of rules in this regard. They are of such antiquity that they are encapsulated in two Latin maxims that are usually translated as "the other party has a right to be heard" and "no-one can be a judge in his own cause". Stripped of the Opposition's mystique and rhetoric it can be seen that these rules apply only to situations in which a person is on trial or legal rights are in the balance. This is simply not the case when a mere investigation is taking place. It is for some other tribunal or judicial process to decide the weight and appropriateness of evidence. Attempting to include the concept of natural justice in the inspector's role adds nothing to the process. The Committee will appreciate from what I have said that the Government is opposed to these amendments.

The Hon. J. H. JOBLING [5.17 p.m.]: The reason for including the rules of natural justice is quite clear. The Opposition is not attempting to set up a new judicial function. It is not attempting to do many of the things that have been argued by the Government. I remind the Minister that in the other place the Minister for Mineral Resources said:

The procedure at boards of inquiry is intended to be as informal as possible. A board will not be bound by rules of evidence, and it will have discretion as to whether or not parties may have their legal representative present. It goes without saying, though, that the board will treat people fairly, and observe the principles of natural justice.

The Minister in the other House is quite clear about the meaning of "natural justice". He is quite clear about that principle being included in the bill. He is quite clear about it operating. Therefore, despite this Minister's obfuscation in this House, the inclusion of the rules of natural justice in this legislation will in no way create the problems projected by the Minister or endanger the proposals to ensure, after

Gretley, that safety is paramount. I again commend the amendments and I again remind the House of what the Minister in the other House and all those people said. On the day after the bill was stopped in this House it was made very clear to the Minister that one of the major unions had said, "Why did you pull it? There is nothing wrong with the propositions in the bill." I ask the Committee to accept the amendments.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 14

Mrs Arena	Mr Ryan
Mr Bull	Mr Samios
Mrs Forsythe	Mr Rowland Smith
Mr Gallacher	Mr Willis
Mr Gay	
Mr Kersten	<i>Tellers,</i>
Mr Lynn	Mr Jobling
Dr Pezzutti	Mr Moppett

Noes, 22

Dr Burgmann	Rev. Nile
Ms Burnswoods	Mr Obeid
Dr Chesterfield-Evans	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mrs Sham-Ho
Mr Dyer	Ms Tebbutt
Mr Egan	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	
Mr Kelly	<i>Tellers,</i>
Mr Macdonald	Mrs Isaksen
Mrs Nile	Mr Manson

Pairs

Dr Goldsmith	Mr Johnson
Mr Hannaford	Mr Shaw

Question so resolved in the negative.

Amendments negatived.

The Hon. J. H. JOBLING [5.28 p.m.], by leave: I move in globo Opposition amendments Nos 3 and 11 on the revised sheet:

No. 3 Page 9, schedule 1[35], proposed section 93C. Insert after line 32:

(2) A person is not to be appointed as an investigator unless the person is, in the opinion

of the Director-General, appropriately qualified, competent and capable of exercising, without bias, the functions of an investigator.

- (3) An investigator must, when investigating accidents or occurrences, observe the rules of natural justice.

No. 11 Page 28, schedule 2[17], proposed section 47H.
Insert after line 6:

- (2) A person is not to be appointed as an investigator unless the person is, in the opinion of the Director-General, appropriately qualified, competent and capable of exercising, without bias, the functions of an investigator.
- (3) An investigator must, when investigating accidents or occurrences, observe the rules of natural justice.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.28 p.m.]: The Government opposes the amendments for substantially similar reasons to those previously articulated regarding the amendments the Committee has just considered.

The Hon. J. H. JOBLING [5.29 p.m.]: The Opposition believes that both these amendments should be adopted. A person should not be appointed an investigator unless the person is, in the opinion of the director-general, appropriately qualified, competent and capable of exercising without bias the functions of an investigator. Again, these amendments have been put to the people who are in the industry, who have considered them. They are satisfied that the amendments are valid and should be made to the bill. We believe that again the Government is taking a particularly short-sighted view. I commend the amendments to the Committee.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.30 p.m.]: The amendments do not belong in the bill or the Acts it seeks to amend. Investigators as defined will be appointed under part 2 of the Public Sector Management Act, so the requirements of that Act will have to be applied. The issues arising in respect of these amendments are the same as for amendments Nos 1 and 9. I reiterate the Government's position on the appointment of investigatory staff. The power to appoint investigators is not conferred in this legislation but rather in the Public Sector Management Act.

Section 26(1) of the Public Sector Management Act, together with the disciplinary provisions in section 66(1)—in particular section 66(1)(e)—provides the appropriate safeguards. The Hon. J. H. Jobling said in an earlier debate that section 26(1) makes "absolutely no reference" to the absence of bias. He is only half right. The section requires things such as "standard of work performance and personal qualities" to be taken into

account. These words are wide enough to cater for consideration of any bias or prejudice that a candidate for employment may have, and to allow that candidate to be rejected if such bias or prejudice could prove detrimental.

If some inherent bias is inappropriate, selection criteria will not be met and the person in question will not be employed. It is as simple as that. Honourable members opposite have freely admitted that this motherhood amendment does not really need to be in the legislation. They are right; it does not. Nor does it improve the bill in any way or enhance mine safety even remotely. The Public Sector Management Act is a complete code for employment in the public service. This bill will contain a small part of the selection criteria and an even smaller part of the employment code included in the Public Sector Management Act.

It is poor legislative practice to upset the status of the Public Sector Management Act as a code by introducing additional principles for employment of public servants in another Act. The amendments, if enacted, would also be unworkable. They put an onus on the director-general of the department to decide whether a candidate for appointment will discharge the duties of the office without bias. There is no comeback if the officer fails to discharge those duties in that way. The director-general will be permitted to make a subjective judgment, which will not be amenable to judicial review once it is made.

Apart from that, the words "without bias" could hinder a mine safety officer's clear right and duty to have a mind-set in favour of safety. This is a bias, albeit a benign and legitimate one. The argument in favour of the amendment is frivolous. The amendment concerning natural justice is as pointless and inappropriate as amendments Nos 2 and 10. It does not apply where a mere investigation is taking place. All it will do is allow the unscrupulous, fearful of discovery, to frustrate the investigation. The Government's view is that parliamentary time is being wasted by people with unfounded insecurities about the integrity of public officials. The Government opposes the amendments.

The Hon. J. H. JOBLING [5.32 p.m.]: The Opposition argues that, for the sake of mine safety, the requirement to be "qualified, competent and capable of exercising without bias" should have been reinforced in this bill. The Government should not simply rely on the Public Sector Management Act, which the Opposition believes does not deal with that matter in any shape or form.

Amendments negatived.

The Hon. J. H. JOBLING [5.33 p.m.], by leave: I move in globo Opposition amendments Nos 4 and 12 on the revised sheet:

No. 4 Page 10, schedule 1[35], proposed section 93E.
Insert after line 30:

- (2) A consultant is not to be appointed under this section unless the consultant is, in the opinion of the Director-General, appropriately qualified, competent and unbiased.

No. 12 Page 29, schedule 2[17], proposed section 47J. Insert after line 7:

- (2) A consultant is not to be appointed under this section unless the consultant is, in the opinion of the Director-General, appropriately qualified and is competent and unbiased.

The Opposition again argues that a consultant should not be appointed under this section unless the consultant is, in the opinion of the director-general, appropriately qualified, competent and unbiased. Earlier the Committee agreed on the word "unbiased" and I hope it will continue to do so.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.34 p.m.]: The Minister has made it clear that "consultant" means a suitably qualified and competent expert. Those persons engaged as consultants will have specialist skills, experience and knowledge which is not available in the Department of Mineral Resources or which requires a different perspective. "Competence" in this sense includes a capacity for objectivity, so there is no need to fear malignant bias. The Department of Mineral Resources, as with any prudent employer engaging consultants, uses written terms of engagement that deal expressly and comprehensively with conflicts of interest, requiring them to be disclosed in detail so that appropriate choices can be made in selecting or continuing the engagement of consultants.

Again, the amendment seeks to put an onus on the director-general to make a subjective judgment which cannot be readily reviewed. Its purpose is more for comfort than effect. There are already effective controls on the mischief sought to be addressed by these amendments. They are covered by prudent business practice and binding contractual arrangements. Partiality or malignant bias also forms part of the definition of "corrupt conduct" in part 3 of the Independent Commission Against Corruption Act. Section 8(1)(a) of that Act provides that corrupt conduct includes:

any conduct of any person (whether or not a public official)—

those words will catch people who are not appointed under the Public Sector Management Act—

that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of

official functions by any public official, any group or body of public officials or any public authority.

If a consultant's conduct falls within this or any of the many other examples of corrupt conduct under the Act, redress is available. There is no need to confuse the issue by making these amendments.

Amendments negated.

The Hon. J. H. JOBLING [5.36 p.m.], by leave: I move in globo Opposition amendments Nos 5 and 13 on the revised sheet:

No. 5 Page 12, schedule 1[37], proposed section 94A.
Insert after line 11:

- (2) A person is not to be constituted as a Board of Inquiry under this section unless the person is, in the opinion of the Minister, appropriately qualified, competent and unbiased.

No. 13 Page 30, schedule 2[17], proposed section 47L.
Insert after line 9:

- (2) A person is not to be constituted as a Board of Inquiry under this section unless the person is, in the opinion of the Minister, appropriately qualified and is competent and unbiased.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.36 p.m.]: The Minister in another place said in his second reading speech:

The board is constituted by a person nominated by the Minister. This gives some flexibility as to who is to be appointed, but of course the person appointed must be suitably competent, qualified and unbiased.

The Minerals Council, the peak body of industry employers, has accepted that this amendment is not necessary. The Government is not going to take the risk of appointing an incompetent or prejudiced person to head a board of inquiry. It is nonsense to suggest that it would do so. In constituting a board of inquiry the Minister has an expectation, indeed a right, to be advised on a matter of considerable public importance in an objective, insightful, competent manner. Selection of board members and assessors will obviously be made on this basis.

A body similar to a board of inquiry already exists in the mining industry. I refer to the administrative jurisdiction of mining wardens under part 15, division 7 of the Mining Act 1992. These provisions deal with inquiries by wardens on factual issues resulting in the production of a report. Although wardens sit as courts in other circumstances, under section 336 it is not mandatory to exercise the powers of a warden's court when conducting an inquiry. There is no motherhood provision relating to natural justice in the Mining Act. As with this legislation, it is not necessary.

Section 337 provides that there is no appeal from any decision or determination of a warden on an inquiry or in respect of any other function exercised by the warden acting otherwise than as a warden's court. This is because the outcome of the inquiry is a factual report, not a judgment on anyone. As is the case with this bill, there is nothing to appeal against. The provisions dealing with boards of inquiry are not such a radical innovation that members should be worried or concerned about what are entrenched first principles. They can work in the existing and accepted framework of mining legislation. Warden's inquiries provided one of the models for this legislation. The provisions dealing with boards of inquiry are drawn widely to accommodate, as far as is reasonably possible, any contingency that may arise. They are underpinned by a fundamental social norm that good faith and goodwill on all sides will prevent abuses.

Amendments negated.

The Hon. J. H. JOBLING [5.40 p.m.], by leave: I move in globo Opposition amendments Nos 6 and 14 on the revised sheet:

No. 6 Page 13, schedule 1[37], proposed section 94A.
Insert after line 8:

(10) A Board of Inquiry must, when conducting an inquiry, observe the rules of natural justice.

No. 14 Page 31, schedule 2[17], proposed section 47L.
Insert after line 8:

(10) A Board of Inquiry must, when conducting an inquiry, observe the rules of natural justice.

This matter has been dealt with before. The Minister has indicated his intention, and the Opposition believes the amendment is reasonable.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.40 p.m.]: I have previously explained to the Committee what the principles of natural justice mean in the context of the matter now being considered. The common law already requires a judicial or quasi-judicial body to observe those principles. While a board of inquiry cannot pass judgment on anyone, in some cases its reports could reflect adversely on an individual. It is axiomatic that any such criticism could not be supported if the person criticised had not had the opportunity to answer it. A board of inquiry acting competently and fairly, as legally it must, would have afforded that opportunity. The board will have to observe the principles of natural justice because the law already requires it. There is no need to repeat that provision in the legislation.

The Opposition has previously suggested that the amendments are desirable because a similar provision appears in a Queensland bill. That is mere stylistic convention used by the Queensland parliamentary draftsman. All the Opposition is really contending for is a mere drafting convention. In the Government's view the amendments have no substance and unnecessarily restate entrenched principles of the common law. They are an exercise in time wasting, motivated, one assumes, by people who do not want the bill to be passed. Those people are in the minority. The vast majority, the key players, are happy with the bill in its unamended form, and that is the form in which the bill should be passed today.

Amendments negated.

The Hon. J. H. JOBLING [5.42 p.m.], by leave: I move in globo Opposition amendments Nos 7 and 15 on the revised sheet:

No. 7 Page 14, schedule 1[37], proposed section 94D.
Insert after line 21:

(3) Nothing done by a Board of Inquiry affects any right of any person to make or defend any claim, or any right of action or other right of any person, in respect of a serious accident or dangerous occurrence the subject of a special inquiry conducted by the Board of Inquiry.

No. 15 Page 32, schedule 2[17], proposed section 47O.
Insert after line 21:

(3) Nothing done by a Board of Inquiry affects any right of any person to make or defend any claim, or any right of action or other right of any person, in respect of a serious accident or dangerous incident the subject of a special inquiry conducted by the Board of Inquiry.

Those words are clear in their intent and spell out the Opposition's attempt to ensure a better bill in regard to mine safety.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.43 p.m.]: The amendments appear to be put forward on the premise that civil action or, presumably, insurance or other claims should not be put on hold while an official inquiry is taking place. Associated with that is the apparent concept that a board of inquiry should have no power to stay proceedings or postpone them by injunction. At the risk of being repetitious, a board of inquiry is not a court of law. As such it has no inherent power, and obviously no express statutory power, to issue injunctions or to stay proceedings in real courts.

Alternatively, the amendments might seek to provide, by indirect means, that the findings of a board of inquiry cannot be used as conclusive evidence of any fact in a court of law. If that is the objective of the amendments, they are similarly unnecessary. The judges and magistrates of this State were not born yesterday; they will not judge an issue on the basis of an uncritical analysis of the information before them. That includes evidence gathered by a previous board of inquiry, or indeed the findings of the board. Judges and magistrates will test the issues and the whole of the evidence in order to satisfy themselves. They will not base a judgment on material excluded from that evidence because of successful objections by council for a party appearing before them.

It would be an insult to members of the judiciary to suggest that they would be so naive and unprofessional, so careless of their independence, to behave in any other way. I am advised that if the purpose of the amendments is to seek to make boards of inquiry amenable to judicial review, they would fail to achieve that purpose. In any event, the jurisdiction of the Supreme Court to review decisions of inferior tribunals, if it is to be abrogated, requires unequivocal and express words of abrogation. There are no such words in the bill, and there is no need to support the jurisdiction by more pointless motherhood statements. The Government is at a loss to know why the Opposition seeks such frivolous amendments.

Amendments negated.

The Hon. J. H. JOBLING [5.46 p.m.], by leave: I move in globo Opposition amendments Nos 8 and 16 on the revised sheet:

No. 8 Page 14, schedule 1[37]. Insert before line 22:

94E Draft findings

Before reporting to the Minister under section 94D, the Board of Inquiry may:

- (a) issue, in such manner and to such persons as the Board of Inquiry thinks fit, a draft of its findings as to the accident, dangerous occurrence, practice or matter the subject of the inquiry, and
- (b) invite comment on those findings to be made within a specified time, and
- (c) take into consideration any such comments received within that time.

No. 16 Page 32, schedule 2[17]. Insert before line 22:

47P Draft findings

Before reporting to the Minister under section 47O, the Board of Inquiry may:

- (a) issue, in such manner and to such persons as the Board of Inquiry thinks fit, a draft of its findings as to the accident, dangerous occurrence, practice or matter the subject of the inquiry, and
- (b) invite comment on those findings to be made within a specified time, and
- (c) take into consideration any such comments received within that time.

The aim of such inquiry is to efficiently and accurately determine the causes of a serious incident. It is likely that complex matters may be misunderstood, given that there is no right of appeal. It would clearly assist in achieving the best outcome if a draft of the findings and reasons were released to interested parties for comment prior to the finalisation of such findings. Such process is intended and would clearly allow inaccuracies to be identified and resolved.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.47 p.m.]: It has been accepted that a board of inquiry is bound by applicable principles of natural justice and procedural fairness. These include concepts such as the right to be heard and, where appropriate, the right to make final submissions. However, the time always comes when an inquiry must conclude. The amendments presume to put off that day. They also erode the independence of the inquiry and the board's right to control the proceedings.

I cannot think of any other place where parties, after participating in an inquiry, are given the additional privilege of helping the board to write its report. This is more than is demanded by the legal concepts of natural justice. It is open to abuse by unscrupulous people attempting to introduce new evidence by stealth, and it can make a chaotic nonsense of the inquiry, with every party jostling to have the last word. It almost happened in the submissions phase of the Gretley inquiry, but Judge Staunton, sensibly, put a stop to it.

The amendments suggest that a board of inquiry is some interior process that requires review of its report before it proceeds. This is an insult to the operation of a board of inquiry and is totally unnecessary and without precedent. A board of inquiry will have an inherent responsibility to ensure that its procedures work towards getting the facts right and that technical advice is correct and appropriate. The latter is part of the function of the assessors. There is no justification for the amendments, which are bad, unworkable law deserving of rejection.

The Hon. J. H. JOBLING [5.49 p.m.]: The Minister attempted, rather seriously I suggest, to misrepresent the Opposition's views on this matter. We are not dealing with the situation the Minister referred to; we are dealing with a draft finding which is already an established practice. The Independent Commission Against Corruption is one place where a draft report is issued to ensure that the veracity of the report is correct, that inaccuracies are identified and resolved, and that there is absolutely nothing to delay the issuing of a finding, as has been suggested by the Government. A draft finding is a sensible thing that ensures one gets it right. I believe that is what an inquiry is all about.

Amendments negatived.

Schedules as amended agreed to.

Bill reported from Committee with amendments.

Adoption of Report

The Hon. R. D. DYER (Minister for Public Works and Services) [5.51 p.m.]: I move:

That the report be now adopted.

Amendment by the Hon. Dorothy Isaksen agreed to:

That the question be amended by omitting all words after "That" and inserting instead "this bill now be recommitted for the further consideration of schedules 1[5] and 2[4]."

Amendment agreed to.

Motion as amended agreed to.

In Committee (Recommittal)

Recommitted schedules 1[5] and 2[4]

The Hon. R. D. DYER (Minister for Public Works and Services) [5.53 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

- No. 1 Page 3, schedule 1[5], proposed section 12A(2) (as inserted by amendment in Committee). Omit the proposed subsection.
- No. 2 Page 20, schedule 2[4], proposed section 35(2) (as inserted by amendment in Committee). Omit the proposed subsection.

As I have previously advised, the power to appoint mine safety officers is not conferred in this legislation but rather in the Public Sector Management Act. As indicated in the debate in

relation to amendments 3 and 11, section 26(1) of that Act, together with the disciplinary provisions in section 66(1), especially in 66(1)(e), provided the appropriate safeguards. It is not necessary to repeat the arguments here, except to say that the amendments the subject of my proposed amendments are superfluous and do not improve the bill or enhance mine safety.

The Hon. J. H. JOBLING [5.54 p.m.]: The Opposition does not agree with the Government's contention. The amendments were moved with careful consideration and were the correct amendments. At this stage it is obvious that the Government has persuaded a number of people to change their position. Unfortunately, I suspect that the Government's amendments will be carried.

Amendments agreed to.

Recommitted schedules as amended agreed to.

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

CARBON RIGHTS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. D. F. MOPPETT [5.57 p.m.]: Earlier I was developing a proposition that the rights established by contract to offset credits against emissions of greenhouse gases were predicted to reach substantial proportions in the near future. The Opposition appreciates the potential of this market, but expresses considerable anxiety about the nature of the development of these rights and about the tremendous risk for people who enter into contracts, and particularly those who trade in the rights.

The Opposition concurs with the legislation. It is an attempt by the Government to pre-empt the development of other States, other parts of the world and particularly the Pacific region so that New South Wales will become a primary focus for trading in these rights. That potential for New South Wales is not to be sneezed at. The Opposition will not place any barriers in the way of any attempt to rationalise this sort of trading. I said at the outset that this bill is innocuous. If ever there were a temptation for me to simply read the explanatory note to the bill and sit down, this was such an occasion.

The Hon. R. D. Dyer: Could I encourage you to be tempted?

The Hon. D. F. MOPPETT: I am being tempted again but I will resist it. The bill succinctly deals with the Conveyancing Act, so that this somewhat ambiguous area of conveyancing is more clearly defined and legitimised. The bill, through amendments to the Forestry Act, the Electricity (Pacific Power) Act and the Energy Services Corporations Act, will enable New South Wales Forests and energy authorities to trade in these rights. The Government has attempted to provide a framework to deal with the many risks involved in this industry and to eliminate legislative risks. Concerns have been expressed about the consolidation of this legislation to facilitate trading in this area and to put in place greenhouse gas emission controls.

We anticipate a further conference in Buenos Aires, which could more closely define the nature of carbon credits and substantiate anticipated trading. Equally, it could take away the assets in which these various organisations will trade. I said earlier in debate that the Government is not seeking to underwrite trading in any way or to legislate for value in this trade; it simply wants to eliminate the marginal risk that trading in these rights could be struck down through legal interpretations. I reiterate another concern that I have. When the Commonwealth's response is finally worked out, it will override whatever this State does.

The Hon. R. S. L. Jones: We will change the legislation to suit the Federal legislation.

The Hon. D. F. MOPPETT: I accept that. We might change the legislation in response to the Commonwealth and in response to the suggestion made by the Hon. R. S. L. Jones. However, if the legislation is substantially changed by Commonwealth initiatives, some people might lose a substantial amount of money. Clearly, that will be done at their own risk. This legislation focuses on carbon credits through forestry activities only; through the sequestration of carbon into wood so that carbon dioxide emissions are removed from the air and appear as wood products. We are concerned about the way in which those products will be treated, but that is not something that can be dealt with in this legislation.

The New South Wales Government, in endorsing this narrow area of dealing with greenhouse gases, is saying, "Perhaps that is the only way to deal with greenhouse gas and carbon dioxide emissions." It certainly is a problem. We

must not simply say that those who are burning fossil fuels or emitting carbon dioxide from whatever source can go ahead willy-nilly, provided they secure some credits. The New South Wales Government must do everything it can to reduce the unnecessary burning of fossil fuels and the emission of carbon dioxide from other sources. The Government must, without regret—a term coined by the Commonwealth Government—reduce any other greenhouse gases in the process.

The Government must achieve efficiency and economy and not impose additional taxes and disincentives which can be traded off. This legislation will be of tremendous interest to commercial interests which have substantial financial resources and which will be operating in such a way as to distort land values—some may say to the benefit of existing land-holders—by raising the value of land which currently is cleared for farming or other purposes and which might be taken up as forestry land to gain carbon credits. That could have a serious impact on the value of land.

This legislation might also jeopardise forestry development which is directed towards producing useful, millable timber. There is evidence to suggest that other species of trees would be more efficient in carbon sequestration, but they would be of lesser use if they were ultimately harvested for no reason other than the timber product. That is a matter about which we should all be concerned. The most important concern that arises from this legitimising of the carbon credits trade is the impact it might have on Australia's indigenous oil-refining industry. If we acknowledge the trading in carbon credits we have to limit the emission of carbon dioxide from the usage of petroleum products or, more particularly, the refining of petroleum products—flares and other parts of the petroleum refining process. However we will be placing a cost burden on those industries which have to secure relief by buying credits or paying the taxes which are imposed.

I made passing reference earlier to the fact that the refining industry in Australia is perilously placed in relation to imports from other countries. I said that those who predicted that the world's oil resources were drying up at the time of the Organisation of Petroleum Exporting Countries crisis are confounded by the present market circumstances. Oil prices—not only refined oil products but also crude oil—are at an all-time low. We in Australia are seriously threatened by oil imports from developing countries that have oil resources and are also importing crude oil and refining it. Those countries, which have new plants and larger markets,

already have an economic advantage over Australian plants.

On the research that I have done, if this system of carbon debits is imposed on Australia's oil refining industry, it is likely that all our petroleum products will be imported at tremendous cost to the Australian community and to employment and technology in that industry. The Opposition has serious concerns about legislating at this early stage for carbon rights trading in Australia. If it comes to pass we hope that it will be centred in New South Wales. The Opposition is prepared to support this legislation. I understand that the Government intends to move an amendment, so I will reserve my detailed comments for debate in Committee.

I signal that the Opposition is concerned about any move that will restrict the generality of this bill. It is obvious in all that I have said that it is likely there will be substantial changes in the nature of these carbon credits. This legislation needs to be as flexible as possible. The Opposition will be speaking against the Government amendment. Also, we will not be supporting the Greens amendments because we believe that not only are there misconceptions in the proposed amendments but also they tend to unnecessarily restrict the enabling nature of this legislation.

We need to remind ourselves that this legislation does not set up the rights to carbon

emission relief. In effect, it simply makes it possible for those who have been bold enough to offer to trade in carbon a legitimacy in the actual ownership of the rights that are established. If that is the case and a market is to be established in New South Wales, it is important that the legislation be kept as simple as possible to enable a wide range of modifications without subsequent amendments. I am sure the Minister for Public Works and Services fully understands this matter and will comment about it in the Committee stage. The Opposition will support the passage of the bill.

The Hon. R. S. L. JONES [6.11 p.m.]: In his contribution to this debate yesterday, the Hon. D. F. Moppett talked about various aspects of Australia's production of greenhouse gases and how to reduce greenhouse gas emissions. In a document published earlier this year, Paul Kay of the Science, Technology, Environment and Resources Group refer to the terms agreed in the Kyoto protocol. Most people do not realise that Australia did not want an actual reduction in greenhouse gas emissions because of our population increase. With our current immigration rate, Australia's population will increase by about 30 per cent between 1990 and 2020, whereas the European countries we are compared with have only 3 per cent population growth. Australia will have an automatic increase in its carbon emissions through population growth. That is explained in a chart in that paper. I seek leave to have that chart incorporated in *Hansard*.

Leave granted.

Year	Energy and other Emissions Mt (C02.e)*	Land Clearing Emissions Mt (C02.3)*	Total Emissions Mt (C02.e)*	% of emissions due to Energy and Other Sources	% of Emissions due to Land Clearing
1990 Base Year	379.6	122.6	502.2	75.6	24.4
1995	402.4	84.6	487.0	82.6	17.4
% Increase on Base Year	6%	-31%	-3%		
2012 (Forecast) Target Year	457.8	84.6	542.4	84.4	15.6
% Increase on Base Year	21%	-31%	8% Kyoto Protocol		

* Million tonnes Carbon dioxide equivalent

The Hon. R. S. L. JONES: The chart illustrates why Australia wants an increase rather than a reduction in its greenhouse gas emissions. In real terms on a per capita basis Australia will be reducing greenhouse gases at a greater rate than Europe. A great deal of misinformation has been spread about the Kyoto conference. From looking at scientific documents it becomes much clearer why Australia sought an increase. However, the fact should be made abundantly clear that it was not a per capita increase, it was a significant per capita reduction.

The document expresses concern about the rate of land clearing. The Hon. D. F. Moppett questioned the estimates on land clearing. The document refers to a land clearing rate in Queensland of about 260,000 hectares per annum. Forest areas all over the world are regrowing naturally. In northern Russia there has been a significant increase in tree cover. Large areas of trees are growing because of the reduction in ice cover and the melting of the permafrost. Globally, whilst there is an increase in pine and birch tree cover in northern Russia, there is a decrease in cover elsewhere. The overall net loss is not as great as people might imagine.

The real problem is the loss of high value conservation forests, such as the Amazon forests. However, it has been discovered that with the increase in carbon dioxide in the atmosphere the Amazon forests are growing at a faster rate than in the past. A media release published by the CSIRO earlier this year states that because of a carbon dioxide fertilising effect the Amazon forests are growing faster and larger than previously. A media release entitled "Greenhouse Impact on Australia's Forests" by Julian Cribb states:

An atmosphere richer in carbon dioxide is expected to encourage tree growth across Australia, with increases ranging from 10 per cent in the cool, wet south to over 50 per cent in the wheat belt and semi-arid regions.

That opens up the potential for growing forests in areas where they are not currently viable.

The Hon. D. F. Moppett: Do you think that rainfall, rather than carbon dioxide, would be the limiting factor in the wheat belt?

The Hon. R. S. L. JONES: It may be, but there will be increased rainfall in some areas from the greenhouse effect, as we saw recently in Nicaragua and Honduras. The greenhouse effect will change the climate. Although it may have bad environmental effects, it will also bring good environmental effects. We should look at the good side as well. The bill before the House is world-

breaking legislation. There has been talk overseas about this legislation. In an article entitled "The trade in clean air" Adele Ferguson said that the carbon trading business would probably be worth between \$US100 billion and \$US200 billion within three years.

The markets in Chicago, New York, London, Sydney, Tokyo and elsewhere will start trading in the carbon business soon. They are not trading in it yet. In fact, when the carbon business was discussed recently the reaction was absolute silence. They knew nothing about it because trade was not yet happening. A Sydney Futures Exchange conference recently discussed the carbon emissions contract. The State Government, with the support of the Opposition, is breaking ground around the world. Overseas companies will come to Australia to alleviate their carbon problems by investing in forests in New South Wales. That will provide a big bonus to New South Wales. We are the first cab off the rank and hopefully will be the first to benefit. No doubt other States, New Zealand and other countries will follow but we are the first.

Hopefully, Sydney will become a global centre for carbon credit trading. We are already the centre for the headquarters of a number of companies in the Asian region, and this industry will be a desirable addition. Pacific Power has purchased the rights to 1,000 hectares of New South Wales State Forests hardwood plantations on the north coast, and Pacific Power and Delta Electricity have signed carbon credit vouchers. Trade is beginning, which is a positive step. It will benefit country people, who will be able to get income from this source as well as their existing businesses.

In the latest issue of the *Bush Telegraph*, which honourable members would be aware of and read avidly, there is an article in which appears one of my neighbours from up north. Judy Aiken, a joint venture land-holder with State Forests, planted 40 hectares of eucalyptus grandis and eucalyptus pilularis—flooded gum and blackbutt—just around the corner from where I live, for two reasons: one, to prepare the land and provide habitat for wildlife during the growth of the trees; and, two, for the benefit of her grandchildren.

She is enjoying watching these trees growing and at the same time making money. The article also refers to a grazier, Steve Ibbott, who runs 1,600 head of cattle in the Upper Clarence Valley. He says here that he did a few sums on the back of his envelope and found he could earn more money under the joint venture than from cattle grazing. He is one of the far-sighted farmers who will be doing

both. The front cover of the magazine shows young trees with his cattle among them. After a couple of years the cattle can go back and graze among the trees and they will not damage them.

The Hon. D. F. Moppett: Have they got harvest grants?

The Hon. R. S. L. JONES: He will have a harvest grant, yes. No question about that. We can also see that Grafton City Council is getting behind this. The back of the magazine says "Trees plus your land equals annual income." The whole point of this legislation is to make this plantation much more viable, adding further dollars and cents. One or two problems have been raised by land-holders in the area. They want to see adequate diversity of plantation, not just monoculture species. They would prefer diversity, but they would also prefer to have local indigenous species. Sometimes they are putting eucalypts in rainforest country and that is not as good as putting rainforest trees in rainforest country.

I have been talking to State Forests about rainforest plantations and logging in the future. I have friends in the timber business who log rainforests on their own land. They sell the product and they do it environmentally well and no-one is questioning it. They take out some trees here and there and they make quite a bit more money than the eucalyptus harvesters, bearing in mind that rainforest trees grow at a much slower rate than eucalypts, but if you are patient they are also worth much more down the track.

The Hon. D. F. Moppett: If you are able to harvest.

The Hon. R. S. L. JONES: They are able to harvest them and I am quite certain that will happen. At that stage, in 30 or 40 years time, those arguments will be long gone. I am quite sure that will be case. If it were the case that there was support locally for conserving the forests, it may well be that these forests will be bought and be able to remain there. That has happened already. Some 30 or 40 years ago a plantation was planted at, I think, Murwillumbah and it was a rich wildlife haven. The owner sold it as a wildlife reserve and I think he made \$1 million or \$2 million on it. So it has happened before.

At the moment carbon emissions are trading at about \$US11 per tonne, about \$A17, but this is the very early stages. I suspect that price is going to go up considerably beyond that. I think we would be looking at more like \$100 per tonne. Les Hosking of

the Sydney Futures Exchange agrees that the annual turnover of trading emissions could be some \$100 billion globally. There seems to be unanimity in the belief that there will be enormous trade in carbon credits.

Clive Hamilton, who is well known in Canberra, wrote a paper entitled "Will emissions trading save Australia's native forests?" He talks about the Kyoto protocol and its influence on the level of disturbance of Australia's native forests. He talks of making profits from plants as a result of carbon trading, and says:

As for the economics of plantations in the new environment, an idea of the magnitude can be obtained from some simple calculations. A hectare of *Pinus radiata* established on grassland may sequester around 110 tonnes of carbon in perpetuity, but this needs to be "discounted" by up to 50 per cent to account for emissions associated with plantation establishment, harvesting and processing and the limited time before the carbon is released back into the atmosphere. Although a full-scale market for credits is some years off, the currently quoted price for an emissions credit is US\$5.00-5.70 per tonne of CO₂.

That is already higher, of course. He continues:

This converts to around A\$30 per tonne of carbon, giving an emission credit value of around \$1600 for each hectare of plantation. This converts to around Australian \$30 per tonne of carbon. Given the emission credit value of around Australian \$1,600 for each hectare of plantation, this bonus for plantation establishment is likely to give plantation and timber products a significant competitive advantage.

I strongly support the legislation because I believe it will have a very positive effect on putting in suitable plantations or suitable species in the right areas and hopefully will eventually take the pressure off our native forests, which will then be allowed to regrow where they have already been damaged. The House of Representatives Standing Committee on Environment, Recreation and the Arts, chaired by the Hon. I. R. Causley, the former State member for my area, issued an interim report entitled "Regulatory Arrangements for Trading in the Greenhouse Gas Emissions" in August 1998. The report refers to the potential for carbon trading as follows:

Plant growth is recognised as a potential sink in the Kyoto Protocol. As it stands at present, however, the protocol refers only to deforestation, afforestation, and reforestation since 1990—

hence the Green's amendment—

which suggests that the international emissions trading scheme might be limited to these categories of growth. The Australian scheme could develop more inclusive rules, such as acknowledging native forest and the growth since 1990 of trees established earlier.

The Hon. D. F. Moppett of course wants to oppose the Green's amendment, presumably to allow for greater flexibility in the scheme. The report continues:

The drawback to such an arrangement is that the credits derived from non-Kyoto vegetation types are likely to be tradeable only on the Australian market. They would not be valid internationally in the first commitment period of 2008-2012, although changes to the protocol for later commitment periods might allow their subsequent inclusion.

I believe we will be able to trade internationally because it is to the advantage of many companies to come here and trade carbon rights on the local market and help to develop suitable plantations in areas that are now very heavily degraded. So we will be seeing a significant increase in native species and hopefully mixed native species and not exotics. As I say, this will not only lock up carbon for a significant period and bring a lot of trade to Australia, but will also provide an incentive to farmers to repair their land. We will then see a significant reparation and provision of habitat, albeit sometimes for limited periods of 40 or 50 years, but there will be constant growing and regrowing of forests in this area, providing very significant habitat areas through the State of New South Wales.

The Hon. J. H. JOBLING [6.27 p.m.]: As has been stated, the Opposition will support the bill. We agree that essentially the idea is to create carbon sinks through mainly plantations that will absorb carbon dioxide as an offset to greenhouse gas emissions from industries using fossil fuels. This clearly is a highly desirable objective. Quite obviously in dealing with this we need to clarify the question of forestry rights and covenants in a carbon dioxide context. We need to amend the Forestry Act to make sure that State Forests acquires the trade in such rights, provides services to investors and incorporates a corporation, whether by joining with one person or otherwise to assist in exercising its function and amend the Electricity and Pacific Power Act of 1950 and the Energy Services Corporation.

The arguments for this legislation are very straightforward and very simple. Carbon trading will provide significant environmental benefits in reducing or slowing greenhouse emissions. It will certainly stimulate new investment in plantation timber which will benefit regional New South Wales, and that is highly desirable. It will provide land-holders with an additional source of income through what might be called agroforestry. As has been alluded to, it will enable the Sydney Futures Exchange to position itself as the hub for emissions

trading in the Australasian region. I would like to see the Government reinforce the assurance that when these trees come to harvesting age they will be able to be harvested.

I ask the Government two questions that have been posed to me by concerned people. AGL has expressed a concern on a broad industry view about emission tradings. It is concerned that the tradings would not be considered as a viable alternative when looking at another type of carbon tax, and that emission tradings would be ineffective on a State level. It argues that, if introduced, it would have major ramifications to the level of industry investment in Australia, and industry has an extremely complex issue to look at. I believe, and would hope, that it would develop into the rest of Australia.

The oil refining industry is greatly concerned that it does not find itself in a situation that creates burdens that are not carried by its overseas competitor. It also expresses another view: that carbon taxes and tradeable quotas would make Australasia and Australian refineries uneconomic. Be that as it may, the industry should take that matter up with the Government, and I would hope the Government has addressed it.

In conclusion I say that as a concerned State we need to be leading the way nationally and internationally to find new and what I would describe as innovative solutions to climate change, particularly in the area of carbon sinks and planted forest or plantations as they are better known. These initiatives will provide for new environmentally beneficial investment opportunities which in turn will place New South Wales and Australia as the world leader in the rapidly emerging carbon trading business and thus in the reduction of greenhouse gases.

[The President left the chair at 6.32 p.m. The House resumed at 8.00 p.m.]

The Hon. I. COHEN [8.00 p.m.]: In what might be somewhat of a surprise, the Greens oppose the proposed legislation. The bill will enable the New South Wales Government to trade in carbon rights and will allow, perhaps for the first time, environmental value to be costed in an open market. The measure is premature, pre-empting both international and national policy development. The scientific community is undecided about the net benefit of plantations as carbon sinks. There are major doubts about the delivery of real benefits in emissions balancing.

The Greens believe that the legislation is ill-conceived: it is rushed. The New South Wales Government, in its haste to be among the first in the world to trade in carbon rights, appears to have not drafted the bill as thoughtfully as it could have. The enthusiasm of State Forests to be the architect and financial beneficiary of future carbon trading schemes is worrying for someone like me who has had experience of State Forests for many years and further experience in this Parliament. Enthusiasm from State Forests officials aside, on Tuesday, after the Government announced the scheme, the *Australian* responded:

Carbon trading allows the generators of greenhouse gas emissions to increase their emissions as long as they plant or buy trees.

It is precisely the sort of response the Greens want to preclude from any carbon rights trading scheme in New South Wales. It is incredibly simplistic to expect that the emissions of an enterprise can be offset by the absorption potential of a forest many kilometres away, or in another nation for that matter. Australia has seen an increase of 9 per cent in the past decade, and New South Wales has seen a 3 per cent increase in the rate of growth of greenhouse emissions during the term of this Government.

We cannot afford more emissions. New South Wales has been increasing its rate of emissions under this Government, not reducing emissions. We need to take effective action in response to our national and international obligations by decreasing our emissions, not merely offsetting them. Offsetting of emissions based on dodgy science and even dodgier long-term outcomes is unacceptable to the Greens.

Widespread scientific consensus now exists that the major contributor to climate change is carbon dioxide from fossil fuel burning. Commonsense would have us reduce emissions at source. However, because certain ecosystems, such as forests, remove carbon dioxide from the atmosphere during photosynthesis, acting as sinks, the Kyoto protocol allows parties to meet their emission reduction commitments through both reduction of emissions at source and expansion of sinks.

In theory, establishment of a sink as a carbon credit allows the greenhouse polluter to emit an amount of carbon dioxide equal to the amount of carbon dioxide the sink absorbs without the original emissions having an impact on the atmosphere. However, the whole notion that emissions from industrial sources go into the atmosphere and are then neatly deposited upon the desired plantation

thousands of miles away is hopelessly linear in a climatic system that is as dynamic as it is unpredictable.

Given that trees planted in new sinks and revegetation programs today do not make up for the carbon dioxide released from the tree clearing that has occurred historically and is continuing to this day, one can question how appropriate it is that tree planting should be used to offset the carbon dioxide emitted from fossil fuel burning. Saving an existing forest is a future emission avoided, not an action that reduces existing emissions. Furthermore, the carbon released by fossil fuel burning was deposited over geological time scales, yet it is expected that forests, the lifetimes of which can be scarcely guaranteed over several centuries, will provide an effective solution to the rapid increase in greenhouse gas emissions.

The use of sinks to offset against emission reduction commitments was a contentious issue at Kyoto, not the least because of major uncertainties in measuring the removal of atmospheric carbon dioxide by sinks. Although sinks were included in the protocol, it was decided in subsequent negotiations held in Bonn in June 1998 that these uncertainties warranted a special report by the intergovernmental panel on climate change—IPCC—which will be ready in 2001.

The more recent IPCC report on this topic published in 1995 stated that many uncertainties were involved in working out how much carbon can be taken up globally by forests. These uncertainties include the amount of land available and suitable for tree planting projects, the long-term security of forests as a store of carbon and the viability of some forestry activities in certain regions due to the effects of climate change. The proposed IPCC special report on land use entitled "Land Use Change and Forests" will address these issues, among others.

Young trees absorb carbon dioxide at a faster rate than mature trees. Carbon in old trees can be locked away for a long time if the wood is used for long-lasting timber products rather than burnt or left to decompose. Add these two facts together and one has a climate strategy that is winning converts among forestry authorities, the forest products industry and policy makers alike. Don Young, Chairman of the US (Alaska) House Resources Committee, explained:

Carbon dioxide is kept out of the atmosphere by harvesting the forest before it begins to decompose or burn thus storing the carbon in wood products that are environmentally friendly, as well as providing an economic benefit to society.

United States lawmakers claim that it makes more environmental sense to cut down mature forests which are no longer growing quickly and replace them with vigorous saplings which bulk up faster. This is false carbon economy inaction. The IPCC believes that, of all the biomes, the tropics have the potential to conserve and sequester by far the largest amount of carbon. Because of cheap overhead costs tropical areas will undoubtedly be the focus for plantation development. An obvious question which arises is whether the plantation will fix more carbon than that lost by deforestation of mature rainforests. It is estimated that up to two-thirds of the carbon stored in natural forests is released into the atmosphere upon deforestation. To what extent this can be minimised depends on the species used in the plantations, their relationship to the climate and ecosystem and how long timber products from the deforested mature forest will last.

Views vary widely as to the comparative carbon sequestration efficiency of plantations versus natural forest and tend to depend on which methodology is used to evaluate carbon sequestration potential. Studies with multiple aims encompassing biodiversity, conservation and carbon storage potential reveal that the best option is to protect the existing forest rather than replace it with plantations. Studies whose sole focus is on carbon sequestration tend to favour replacement of natural forests with plantations. The question of time is a key consideration. A comparison of plantations with any other forest type that fails to consider time is meaningless. That is because the rotation period for harvesting timber is a key factor in the ability of plantations to remove carbon from the atmosphere over the long term. Many rotation periods do not come close to optimising carbon uptake by plantations. For example, plantation species used to produce paper may have rotation periods of 12 to 15 years, negating the possibility of long-term carbon storage.

Arguments in favour of carbon sequestration projects have raised the issue of the additional benefits plantations will receive from increasing levels of carbon dioxide. It is thought that, under high levels of atmospheric carbon associated with climate change, young trees will thrive to a much greater extent than mature forests. There is little argument that increased levels of carbon dioxide will stimulate plant growth rates, particularly when carbon is the limiting factor under experimental conditions. However, there are serious doubts that this would be the case in the field. For example, nutrient limitations may reduce growth response to elevated carbon dioxide, presenting a long-term constraint. Increased atmospheric carbon dioxide can

cause reduced uptake through photosynthesis. Increased input of carbon in the soil can lead to progressive immobilisation of nutrients in the soil and hence decreased nutrient uptake.

Reduced nutrient uptake, coupled with increased carbon dioxide fixation, will lower the amount of nitrogen in the leaves, lowering the nitrogen to carbon ratio. This, in turn, may lower net primary productivity since photosynthesis is positively correlated with foliage nitrogen content. In addition, a decrease of nitrogen in the foliage means reduced leaf protein on the whole. One consequence is that pests will need to consume more vegetation to acquire adequate protein levels. Add to this the predicted increase, under climate change, in the frequency of outbreaks and the extended range of pests and pathogens in forests and the expected increase in plant production becomes even more uncertain. The question as to whether forests will continue as carbon sinks in the future depends on the relative temperature sensitivity of forest species and the rate of decomposition of soil organic matter.

Climate models that combine the effects of elevated carbon dioxide from 290 to 354 parts per million and a temperature of plus 0.5 degrees Celsius for the period 1960 to 1990 show a decrease in carbon storage in the high latitude boreal forests of Canada and Russia. Such is the extent of warming that Canadian forests have gone from being a net sink for carbon dioxide to a source in two decades. The stark reality is that climate change could result in sinks becoming sources. Tropical forests are extremely sensitive to changes in the amount of moisture and its seasonal distribution. The fact that precipitation is predicted to increase in some areas does not mean that regional precipitation will also increase, nor does it mean that the pattern will be constant. The IPCC points out that regional changes in precipitation may not provide enough to meet the increased demand for water due to the effects of increased temperatures on evapotranspiration.

The deforestation of significant tropical areas will undoubtedly reduce that region's precipitation. Evidence also suggests that rising temperatures will lower water tables, making water in some areas a limiting factor to growth. This could be more problematic for boreal regions than tropical areas, where the effects of warming are predicted to be most severe. The longevity of any forest project is in doubt when one considers the predicted impact of climate change on shifting ecosystems. Deserts are expected to expand, tropical ecosystems are predicted to move towards temperate regions and temperate ecosystems will move into boreal regions.

The rate of poleward movement could be as much as 100 kilometres per decade by the middle of next century. Most tree species migrate at best at only one-tenth of this speed.

In summary, while fast-growing plantations benefit from high levels of carbon dioxide, particularly in the tropics, there is little evidence to suggest that they will benefit more than mature forests from the various changes produced by climate change. In fact, evidence suggests that deforestation, especially of tropical forests, makes a region more susceptible to climate change damage. An urgent call from the IPCC to protect high biomass old growth forests has not yet been answered in the form of the mandatory protection of such forests. This is of particular concern, given its role in climate regulation and its significance for biodiversity. At present, the best protection lies in distinctly related international agreements, such as the 1992 Convention on Biological Diversity, and the Convention on International Trade in Endangered Species.

The New South Wales Government, while being quick off the mark in providing for carbon sequestration rights, has not been as quick or emphatic in providing for the long-term protection of New South Wales high biomass old growth forests. Tonight, the night before the New South Wales Government has to make an historic decision in relation to the destruction of our high conservation old growth forests, we are talking about the other side of the coin. I think that the green movement, the conservationists, will be sorely betrayed on this issue of old growth forests. We are going in the wrong direction in this area of carbon trading. The New South Wales Greens are surprised and disappointed that the Government, given its commitment to a national greenhouse emissions trading scheme, cannot see its way clear to support the changes outlined within my Electricity Supply (Greenhouse Targets) Bill. What a perfect way of ensuring that companies have an incentive to participate in such schemes.

The Government, when attempting to achieve real reductions in greenhouse gas emissions, must ensure that it has a continuing commitment to renewable energy. The Minister for Forestry, Kim Yeardon, pointed out that a job would be created for every 50 hectares of forest planted. The New South Wales Government would do well to look at the Hunter region and see how many additional jobs have been created in the renewable energy sector. The Energy Equity corporation will build a \$30 million wind farm in Victoria next year. Stanwell corporation has a \$9 million renewable

energy scheme planned for far north Queensland. The Sustainable Energy Development Authority estimates that \$43 million is invested in renewable energy facilities, either operational or under construction. Renewable energy equals investment, jobs, training and a better outcome not only for the environment but also for New South Wales.

The Greens have discussed amendments with the Government which relate to the implementation of this carbon rights regime. The first amendment will ensure that the carbon sequestration rights can be claimed only for trees planted post-1990. This is in accordance with articles 3.3 and 3.4 of the Kyoto protocol. The second amendment relates to the New South Wales greenhouse reduction strategy, as required by the Electricity Supply Act. Currently a number of processes are in train which will contribute significantly to the debate on the operations of both carbon trading schemes and their relationship to a number of other processes, including the reduction of greenhouse gas emissions.

It is appropriate that a number of key decisions are factored into the New South Wales carbon trading scheme to ensure that, while it is surfing the crest of carbon rights trading schemes, it does not "wipe out". In Buenos Aires the Federal Government will encounter a number of proposals by nations wanting to place reasonable restrictions on the operations of carbon rights trading schemes and how they can be accessed by nations and/or corporations wanting to reduce or offset their greenhouse gas emissions.

While not wanting to tie the New South Wales Government down to a particular percentage or figure at this preliminary stage, Greens New South Wales believe it is necessary to implement a process which will allow our scheme to develop in step with decisions made at an international level. These decisions may relate to a wider number of areas including: caps on the percentage of a greenhouse reduction strategy which can be sourced from carbon sinks; trees counted within the carbon sequestration scheme to be grown for a period which according to the best available science will afford the maximum benefit, according to article 5.3 of the Kyoto protocol; and marketing of the timber grown for the carbon rights schemes to be restricted to purposes which will not detract from the carbon benefit accrued under the scheme, that is, not to be sold for pulping for use as paper or cardboard or for use as chipboard.

We can assure the Government that a wide number of interest groups which have been involved with State, national and international developments

on greenhouse over the last decade look forward to active participation in public consultation that is associated with the use of carbon sequestration rights and the greenhouse reduction schemes. While the direction may be an interesting step into the brave new world, it needs to be kept in line with international efforts. This development may be premature. Therefore, we oppose this legislation.

The Hon. Dr A. CHESTERFIELD-EVANS [8.20 p.m.]: I was disappointed to hear the Hon. D. F. Moppett speak to this bill.

The Hon. D. F. Moppett: Were you disappointed that I spoke to the bill or disappointed in what I said?

The Hon. Dr A. CHESTERFIELD-EVANS: I was disappointed in what the Hon. D. F. Moppett said. It is always a delight to hear him speak. Science may have been wrong about the problem of manure caused by the development of hansom cabs in the last century. Certain aspects of the science and philosophy of Thomas Malthus may be amusing to look at in retrospect, but we are now dealing with science of the twentieth century—scientific theory assisted by computer modelling and projection and information gathered from the depths of the ocean and relayed to teams of scientists by satellite around the world, not by horse and buggy or by foot messenger. Science is sometimes wrong. But if large deposits of fossil fuel are burned and many trees are cut down, then, unless the basis of the carbon cycle is wrong, carbon dioxide levels in the world will rise.

That result is clearly able to be calculated. While there is a margin of error, it is a growing problem. It is not good enough to have the cheerful but blind optimism of Pollyanna and say, "Something will turn up." It bothers me that so few decisions in this House are argued with facts and figures. The necessity for action is argued by the Ministers who introduce bills, but unfortunately the arguments run roughly like, "We have consulted, and those who know or want have told us what they need." We then hear a string of fine rhetorical speeches, not necessarily including any facts, and a vote is taken. Perhaps the Hon. D. F. Moppett could regale the House with his knowledge of Heinrich events or Rossby and Kelvin waves, climatic phenomena identified by modern science. He may perhaps deal with the theory that the Mayan civilisation was destroyed by a rapid climate change.

Scientific knowledge today is being accumulated at an astonishing rate, but we cannot count on it to get us out of problems if we do not

acknowledge the conclusions that have been already reached. An AAP document dated 5 November, reporting on recent material from the Buenos Aires conference, stated:

Greenhouse emissions from burning fossil fuels may trigger a much faster rise in global temperature than is generally assumed by world policy makers.

Jeff Severinghaus of the University of California said:

We know from ice-core records and deep-sea sediment records that the earth's climate is capable of changing much more quickly than we had previously thought.

According to Clive Hamilton—who is presenting a study to the Fourth Climate Change Conference in Buenos Aires this week—Australia, with its deforestation, could come under fire for its greenhouse stance because it had negotiated such a good deal in Kyoto: to increase its harmful greenhouse gases by 26 per cent without exceeding its Kyoto limit. Australia insisted on fine print which allowed the 1990 benchmark level to include land clearing emissions—which lifted the amount of greenhouse gas emissions it was allowed to produce substantially—even though it had the knowledge that its emissions had fallen dramatically in recent years and would continue to do so. The behaviour of the Australian Government is obviously a source of worry.

There is some cause for hope. In a recent article CSIRO scientists suggested that they may be able to artificially duplicate the process of photosynthesis to get rid of carbon dioxide in the same way that plants do. According to Dr John Lowke, this project may take 20 years to achieve, if it is achieved at all. There are many scientific possibilities to reduce our dependence on fossil fuels. My idea—which, disappointingly enough, no-one seems to have taken up—is to use the enzymes in the intestines of ruminants to turn cellulose into glucose, something that humans cannot do, and get sugar out of plants. Honourable members may not be aware that the only difference between foodstuffs such as starches and sugars and indigestible food residues is the bonds between the glucose molecules that make up the cellulose. If a different enzyme were put to work, as it is in the ceca of cattle—

The Hon. D. F. Moppett: It is the ceca in horses and the rumen in cattle.

The Hon. Dr A. CHESTERFIELD-EVANS: I thank the Hon. D. F. Moppett, it is the rumen in cattle. That would allow a large amount of extra glucose to be available for human nutrition, which

would lessen the number of steps in the food chain and increase food availability. The point is that the world has to take a balanced look at its resources. Even if we plant more trees, Australia is relatively short of phosphate. Without enough phosphate trees do not grow very well. If Australia underwent a phosphate balance test we would find that it was short on phosphate and its balance was negative. Another problem is the loss of large amounts of phosphate from ocean outfalls.

It is apparent that oil supplies are running out. If people want scientific evidence of that, they should observe the move towards hybrid cars, which are less efficient than petrol-driven cars in energy transfer. People are moving towards hybrid cars because those in the know recognise what will happen: there will be a shortage of oil and alternatives need to be found before the supply runs out. There is cause for hope through changed behaviour, recognition of the finiteness of resources, and scientific endeavours. Still we must face reality. The rising level of carbon dioxide is a real fact that needs to be addressed. In this context the Australian Democrats are pleased to support the carbon rights legislation. We have to assemble a workable framework for carbon trading, which will eventually become a global trade, and identify and solve difficulties that may become apparent further down the track.

Progress has been made by this Government in New South Wales and it is to be commended for establishing the Sustainable Energy Development Authority so that further advances in energy savings, and thus carbon emissions, can be achieved. It is an absolute disgrace that the world's largest solar power generation plant is in Denmark and not in Australia—a country with abundant solar energy to harvest. Need I say more about the vision of our political leaders and bureaucrats? Fortunately the Democrats have produced a greenhouse strategy entitled "Saving Face at Kyoto", a well-considered response to the Federal Government's pathetic efforts to reduce our greenhouse emissions. Whilst this policy paper may be critical of Government responses thus far, it offers constructive and practical solutions to tackling the problem. It details the environmental consequences of greenhouse gases and the likely effects of this phenomena on Australia. It says:

The growing accumulation of greenhouse gases in the atmosphere is adding to global warming. Research by CSIRO, accepted by the Australian Government, suggests that temperatures will rise in Australia by between 0.3 and 1.4 percent by 2030, rising by up to 3.8 degrees by 2070; winter rainfall will fall by up to 20 per cent over most of mainland Australia by 2070; significant reductions in snowfalls in

southern Australia, with impacts on alpine flora and fauna, tourism, hydro-electricity and irrigation; a rise in sea levels with significant impacts on the Great Barrier Reef and coastal weather patterns. The best international research, collated by the United Nations and supported by 2,500 scientists and experts including 98 of 138 Nobel laureates, suggests that extreme weather conditions will become more common, with global warming contributing to an increased incidence of drought, floods, hurricanes and rising sea levels. Global warming will also see the spread of tropical diseases like malaria and cholera, with much international research focusing on the increased public health and insurance costs of a changing world climate. Agricultural production will also be severely affected, particularly by the lower rainfall expected over much of eastern Australia.

These changes are preventable, they are being caused by human activity and can be prevented by changes to those human activities. The impact of human activity on global warming is now accepted as solid science. From the fuels we burn, to the land we clear, to the industries we establish, our behaviour has indisputably contributed to the phenomenon known as greenhouse effect. While governments argue about the economics of acting on or ignoring greenhouse gases, the dire consequences of global warming on the environment are already becoming far too apparent. Coasts and waterways, entire ecosystems and arable land are all under threat from global warming as droughts, floods, storms and unpredictable weather patterns increase and intensify. Australia, with its heavy reliance on primary production and its predominantly coastal habitation, is not immune. When the Federal Government talks about so-called costs (mostly disputed) of cutting greenhouse gas emissions, they ignore the heavy toll global warming will have on the land, our industry and agriculture and they ignore the long-term benefits arising from early action.

Diverse ecosystems—including Australia's rainforests and reefs—will be affected by global warming. Many species of flora and fauna will fail to adapt to the changes inflicted on their habitats. With the anticipated loss of many of the world's forests, we will also be losing a necessary tool for absorbing carbon dioxide. Scientists agree that global warming will push many species to the edge of extinction. Rising sea levels already threaten small island nations and it is predicted that entire populations on smaller islands and low lying deltas will be displaced. It is predicted coastal areas will experience storm surges, rising sea levels and erosion, while coastal waterways will be subject to increased salinity. Industry, agriculture and suburbia will all suffer the environmental consequences of global warming. Increased drought potential (reducing the availability of water to all sectors), flood damage and diseases are predicted to severely damage Australia's agricultural sector.

Australia is still not doing enough to tackle this problem. The policy paper continues:

Australia contributes about 1.5 per cent of the world's greenhouse gas emissions even though our country has just 0.3 per cent of the population. On a per capita basis, Australia produces the highest level of greenhouse gas emissions caused largely by the energy intensity of our industrial sector, land use changes and road transport. At the Rio Earth Summit in 1992, the world committed to stabilising greenhouse gas emissions at 1990 levels by the year 2010. But, since 1990, Australia has increased its greenhouse gases by 6 per cent to more than 430 million tonnes. Indeed, the Australian Conservation Foundation forecasts at that rate Australia's greenhouse gas emissions will grow by 15 to 30 percent to the

year 2010, well above the Rio target. With such a poor record, Australia is in no position to lecture the world on greenhouse.

It is quite incredible that in this day and age the authorities require more insulation to be included in a German piggery than is required in an Australian home. Houses across Australia should be fully insulated at the construction stage to keep cold out and warmth in when necessary, thus requiring far less energy use—a major contributor to greenhouse gas emissions. The Australian Democrats have prepared a complete response to how Australia can improve our performance with regard to reducing greenhouse gas emissions. To save the time of the House and the patience of honourable members I suggest they visit these solutions at our web site at www.democrats.org.au/democrats/statements/1997/greenhouse.htm. I challenge the major parties to adopt our multipronged approach to tackling this international problem so that we can lead the world in developing workable and practicable solutions.

The Hon. R. D. DYER (Minister for Public Works and Services) [8.35 p.m.], in reply: I thank honourable members for their contributions to the second reading debate on this bill. When my colleague the Hon. Kim Yeadon spoke in reply to the second reading debate on the bill in another place he made several key points about the innovative nature of this bill. It is a manifestation of the New South Wales Government's efforts to find practical solutions to what is possibly the most comprehensive business and environmental challenge facing the world today—global climate change. As signatories to the United Nations Framework Convention on Climate Change, Australia and other industrialised countries have agreed to implement measures aimed at reducing the emission of greenhouse gases into the atmosphere. We are deliberating on this bill at a time when the world's nations are also currently meeting at the fourth conference of the parties to the Framework Convention on Climate Change in Buenos Aires, in Argentina.

As a reminder of the magnitude of the climate change challenge, in 1994, according to the industry commission, the world's nations emitted the equivalent of around 23 billion tonnes of carbon dioxide into the atmosphere, representing around 4 tonnes of emissions for every person in that year. If we need further reminding of the effect of this distortion of the world's environment, the chairman of the International Panel on Climate Change, that is the world's panel of scientists, informed the Buenos Aires conference last week that over the next century the world can expect average global temperature rises of between 1 degree and

3.5 degrees and sea level rises of 15 to 95 centimetres. The principal power conferred by this omnibus bill recognises carbon as an entity and is an important step to enable carbon trading and carbon forestry investments by the private and public sectors.

The timing of the bill is perfect. Last night this House heard from the Hon. D. F. Moppett that the bill is an attempt to respond to speculation about climate change. The reality of those comments today is exquisitely highlighted by the report in *New Scientist* that American and Norwegian businesses have started a scheme to pay farmers in Costa Rica to plant trees for carbon credits. That is, the market is emerging elsewhere than in Australia.

The Hon. D. F. Moppett: That doesn't guarantee its future.

The Hon. R. D. DYER: Perhaps not, but at least there is a trend in that direction. Since the bill was introduced the Government has received praise for its initiative from many quarters. In just one acknowledgement, KPMG said:

We note that this bill has bipartisan support from both the Government and the Opposition in the New South Wales Parliament and we are pleased to see that such ground-breaking legislation is supported in this way. We understand it is the first legislation to deal with this subject anywhere in the world.

KPMG went on to say:

It is our view that this bill could be used as a model for legislation elsewhere, including overseas. We would expect that the legal profession in New South Wales would support this legislation and it will receive strong support from those who seek to participate in this commercial activity.

The Government's leadership efforts on greenhouse have also been noticed by other organisations. As members are aware, just two weeks ago the Government and the Sydney Futures Exchange hosted Australia's first emission trading roundtable meeting.

The Hon. D. J. Gay: Some of your answers in question time have been directly responsible for enlarging the hole in the ozone layer.

The Hon. R. D. DYER: I am very interested to hear that my remarks in question time have such a dramatic impact.

The Hon. D. J. Gay: So much hot air.

The Hon. R. D. DYER: I could name a member opposite who emits a lot more hot air than I do.

The PRESIDENT: Order! The Minister will address the Chair.

The Hon. R. D. DYER: Madam President, earlier today we were debating a proposal to declare noxious animal plans. I will consult my colleague the Minister for Agriculture on how I can activate a plan for that member.

The Hon. D. J. Gay: The Hon. Dr B. P. V. Pezzutti is not here to defend himself.

The Hon. R. D. DYER: The Hon. D. J. Gay has nominated a member. He does not know whom I am talking about, although he might have a reasonable suspicion. At the emission trading roundtable meeting there were representatives of industries that own greenhouse gas emitting assets or whose businesses are affected by greenhouse-related issues. The objective of the meeting was to commence a process to design an eventual emission trading scheme for Australia. Australian industry welcomed the opportunity to participate with the Government and in this respect the chief executive of the Sydney Futures Exchange made the point of supporting the Government's initiative in commencing the process of developing an emissions trading framework for the nation.

The Sydney Futures Exchange and the Government recognise the potential for Sydney to become the centre for greenhouse gas emissions trading in the Australasian region, attracting more investment into Australia and providing more jobs in the financial sector in Sydney and more jobs in the forestry sector in New South Wales. Members should not underestimate the practical benefits of the bill to our efforts to find creative solutions to climate change. In this regard I note that the conservation movement, through the North East Forest Alliance, recently stated that:

... a carbon credits trading scheme offers real potential to offset the costs involved in large-scale tree planting for ecological purposes as well as for commercial plantations.

As such, the emergence of substantial carbon credit investment funding from the corporate sector is the single most significant development in the economics of natural resource management.

I have doubts about whether I should quote from that document given that people from the North East Forest Alliance are emitting strange animal noises in the Domain immediately behind my office, which I find rather disturbing.

The Hon. D. J. Gay: Michael Egan might be smoking on your balcony.

The Hon. D. F. Moppett: There is a branch meeting out there. You should be over there.

The Hon. R. D. DYER: Madam President, perhaps I should complain to you about these strange animal noises.

The Hon. I. Cohen: They might be endangered—

The Hon. R. D. DYER: They might be endangered if they do not tone down the noise a bit. There appears to be, at its highest, a split or, at a more moderate level, a difference of approach in the Green movement regarding this matter, as evidenced by the remarks of the Hon. I. Cohen this evening and the North East Forest Alliance statement I have just read. The Government shares a similar view to that expressed in the statement. For example, in the forestry sector alone, for each 50 hectares of new plantation established, one new job is created. Should State Forests be able to successfully attract investment for carbon forestry business activities, for every additional 10,000 hectares of new plantations around 200 new jobs will be created in rural New South Wales.

As members have noted, certain amendments will be moved in Committee. The Government will move an amendment that the definition of a carbon sequestration right obtain only for trees or forests planted after 1990. I again thank members who contributed to the second reading debate in this Chamber. The Government believes that with this bill we are entering an exciting new era. We need to continue to seek out innovative ways to solve climate change. The bill is another example of the innovation that can be applied to meeting our international obligations on greenhouse gas reduction. It does that in a way that is positive from an economic, environmental, community and regional development perspective. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The CHAIRMAN: Order! The Government and the Hon. I. Cohen have circulated conflicting amendments. To assist the Committee to decide which amendment to vote for I will allow them to be moved and debated concurrently. I will then put the question on the Government's amendment. If that

amendment is passed I will not put the question on the amendment of the Hon. I. Cohen. If the Government amendment is not passed I will put the question on the amendment of the Hon. I. Cohen.

The Hon. R. D. DYER (Minister for Public Works and Services) [8.47 p.m.]: I move the Government amendment as circulated:

Page 3, schedule 1[3], lines 20-24. Omit all words on those lines. Insert instead:

carbon sequestration right, in relation to land, means a right conferred on a person by agreement or otherwise to the legal, commercial or other benefit (whether present or future) of carbon sequestration by any existing or future tree or forest on the land after 1990.

The amendment has been moved following consultation between the Government and the Hon. I. Cohen in particular. It provides that a carbon sequestration right can be recognised only if the trees or forests existed on the land after 1990. The amendment is consistent with the provisions of the 1990 base line in the Kyoto protocol.

The Hon. I. COHEN [8.48 p.m.]: I move Greens amendment No. 1:

No. 1 Page 3, schedule 1[3], lines 20-24. Omit all words on those lines. Insert instead:

Carbon sequestration right in relation to land, means a right conferred (in accordance with the Kyoto Protocol to the United National Framework on Climate Change as in force from time to time) on a person by agreement or otherwise to the past or current legal, commercial or other benefit of carbon sequestration by any tree or forest on the land that is or was planted on the land after 1990, being land that has been cleared since before January 1970 or for at least 20 years before the tree or forest is or was planted (whichever is the most recent).

The Greens amendment is more detailed and takes the issue a little further than the Government's very similar amendment. The effect of the Greens amendment would be to define carbon sequestration rights in accordance with the Kyoto protocol, which recognised that carbon sinks could play a part in addressing emission reduction.

It was acknowledged at Kyoto that for sinks to deliver real reductions in emissions there must be certain limits on their operation. As much of the science surrounding the effectiveness of sinks had not been collated, analysed or examined for scientific robustness there was a degree of uncertainty with regard to the implementation of a carbon credit scheme. The resolution was to allow the International Panel of Climate Change to review

and assess the effectiveness of sinks, and to report in May 2000. International discussions will then take place and certain limits on the schemes will be put in place to ensure that only sinks that deliver true carbon sequestration will be able to participate in greenhouse emission trading schemes.

In interim reports concern was expressed about the difficulty of ensuring long-term protection of forest sinks and the possibility of climate change causing sinks to become net emitters of carbon rather than absorbers. Thus the New South Wales legislation must ensure that it is consistent with any likely international obligations that arise as part of our commitment to the Kyoto protocol. Otherwise it runs the risk of being inconsistent with the international and national commitments that will be given in the next two to three years. The Department of Foreign Affairs and Trade is advising caution with regard to any sinks for precisely this reason.

Two limitations that have been recognised internationally as fundamental to the success of a greenhouse sink scheme are, first, that carbon sequestration rights can only be claimed on trees which have been planted post-1990, and second, only on areas which have not been cleared in the past 20 years or since 1970, whichever is the earliest. These limitations are necessary to ensure that there is no false economy or double counting in the establishment of plantations for carbon sequestration. One of the major contributors to Australia's greenhouse emissions is land clearing.

Australiawide there has been a reduction in rates of land clearing, but some States, including Queensland, have been unable to deliver a reduction, clearing at a rate of 262,000 hectares per annum. It would be sheer folly and internationally laughable to enable carbon sequestration rights on land that has been cleared prior to the establishment of a plantation upon which carbon sequestration rights will be sold. This expanded definition of a carbon sequestration right will ensure that in our rush to be the first in the world with a carbon trading scheme we will not allow our scheme to become redundant within two to three years because we did not develop it in accordance with our national and international obligations.

I suggest to the Committee that to protect the Government's international reputation, as well as our State as an appropriate place in which to invest, we must include reference to the Kyoto protocol and future international requirements in this legislation. I commend the Greens' amendment as being more detailed and watertight to guarantee that care is taken with this new pioneering development, which

could go horribly wrong and which may be premature. However, this amendment goes a long way towards creating a fail-safe situation.

The Hon. R. D. DYER (Minister for Public Works and Services) [8.52 p.m.]: The amendment of the Hon. I. Cohen seeks to substitute a revised meaning of "carbon sequestration right". The amendment differs from the current provision in a number of ways. The intent of the amendment is to align the bill with the provisions of the Kyoto protocol and contemporaneously impose an additional requirement otherwise not included in the Kyoto protocol. The Government is prepared to accept the amendment only in so far as to include the words "after 1990", and I have moved an amendment to that effect.

The Government cannot accept the other arms of the amendment of the Hon. I. Cohen in relation to tying the carbon sequestration right explicitly to the Kyoto protocol to the Framework Convention on Climate Change as enforced from time to time, nor in relation to that part of the amendment requiring land to have been cleared since 1970 or at least 20 years before the tree or forest is planted. To accept that part of the amendment would be to effectively emasculate any trading in carbon sequestration rights without an emissions trading scheme established pursuant to the Kyoto protocol.

The effect of accepting that other part of the amendment requiring land to have been cleared since 1970 or at least 20 years before the tree or forest was planted would restrict the ability of New South Wales to establish carbon sinks and thereby create jobs in rural New South Wales. If this amendment were to be accepted we would be handicapping our State in the international sequestration market, with obvious consequences. As honourable members know, the objective of the bill is to give statutory recognition to carbon sequestration as a kind of legal right—in fact, a forestry right—and to provide for a statutory system for trading in that right.

The effect is to allow for early action in carbon sequestration business activities ahead of an emission trading scheme expected to be established by the Commonwealth pursuant to the exercise of its constitutional external affairs power in ratifying the Kyoto protocol. Accordingly, I moved the Government's amendment and I ask the Committee to support it rather than the Hon. I. Cohen's amendment, which is in far wider terms.

The Hon. D. F. MOPPETT [8.55 p.m.]: This is not only a paradox, it is almost a double paradox. It seems that the Government has reached an accommodation with the Greens. The Hon. I. Cohen

said in the second reading debate that basically the Greens are against the introduction of the legislation at this stage, but in accepting that the bill would be introduced they have sought to define the sequestration rights in careful and precise terms. I can understand where the Greens are coming from.

As a compromise the Minister has said that the Government will accept a narrowing of the definition to the point where it coincides with the existing indications that came out of the Kyoto conference. The Opposition was prepared to support that part of the legislation which enabled trading to get under way and for adaptation to take place if, as this process developed from Kyoto onwards, it redefined carbon sequestration rights in a different form.

The Opposition felt that if the Government's position has to be accepted it is far better in its initial form because it does not restrict it only to the type of carbon credits that had been agreed and had been initially outlined in Kyoto. There is a possibility those will be amended and any attempt to define these rights more closely before the Commonwealth moves is to limit the usefulness of this bill. The Opposition would have to support the Government in opposition to the amendment of the Greens. However, the Opposition's fundamental position is that the legislation would be better without the reference to "after 1990" and for it to remain as it was originally worded.

The CHAIRMAN: Order! The Committee has before it concurrently the Government's amendment and the Hon. I. Cohen's amendment No. 1. The question is, That the Government's amendment be agreed to.

Government amendment agreed to.

The CHAIRMAN: The Government amendment having been agreed to, I will not put the question on the Greens amendment.

The Hon. I. COHEN [9.00 p.m.]: I move Greens amendment No. 2 as circulated in my name:

No. 2 Page 4, schedule 1[4], lines 22-26. Omit all words on those lines. Insert instead:

- (a) the profit from the land is taken to be the past or current legal, commercial or other benefit of carbon sequestration by any tree or forest that is the subject of the carbon sequestration right,

For similar reasons there must be further discussion as to how carbon sequestration rights from sinks will operate within a total greenhouse gas reduction

strategy. It must be decided, for example, to what extent sinks can be relied upon for carbon credits. Clive Hamilton, of the Australian institute, analysed the likely evolution of the global emissions trading market in terms of the long-term supply of and demand for emission allowances. He predicts that the next few years will see the demand for allowances grow strongly as firms hedge against the possibility that they will not be able to meet their domestically imposed emission limits.

Clive Hamilton predicts that after 2005 new technological developments will provide opportunities for large reductions in emissions, and this will drive down the world price of allowances. The more technological progress that is made in renewable energy and energy efficiency, the lower will be the price of allowances. Clive Hamilton also predicts a future where conservationists and some elements of the business world will have a shared objective. Holders of emission allowances will see the value of their assets rise with more stringent emission targets. The *Australian Financial Review* of 19 June reported a wide range of reactions to the New South Wales Government's announcement. David Harrison, of Environment Australia, warned that the company was at least 18 months away from establishing a trading scheme and that "there's no real need for a national trading scheme until 2008 to 2012".

The CHAIRMAN: Order! The member's comments must be relevant to the amendment before the Committee. He may not deliver what is in effect an extension of his second reading speech.

The Hon. I. COHEN: I assure you that my contribution directly relates to the amendment. Victorian power generator Hazelwood Power commented on Pacific Power's investment of \$35,000 in 1,000 hectares, which is expected to lock up approximately 2,400 tonnes. The bill is pre-emptive in a most irresponsible manner. Hazelwood is correct with regard to the potential risks and the fact that any New South Wales scheme runs the risk of being inconsistent with what is developed nationally and internationally. One wonders who would invest in a scheme whose best benefits will be seen in the next 10 to 20 years but will fall over after just two to three years of operation. The amendment allows sequestration rights to be made available only upon past and current carbon sequestration to be utilised in any emissions trading scheme. Until a real and measurable emissions reduction benefit has been delivered, it should not be tradeable. I commend Greens amendment No. 2 to the Committee.

The Hon. R. D. DYER (Minister for Public Works and Services) [9.05 p.m.]: The amendment moved by the Hon. I. Cohen seeks to limit the profit from the land that has come about from a carbon sequestration right to that of a past or current benefit. The Kyoto protocol has a commitment period presently defined as the five-year period from 2008 to 2012 inclusive. Whilst carbon sequestration has many environmental values, the principal commercial value will be the role carbon sequestration will play in an eventual greenhouse gas emission trading scheme under the Kyoto protocol. It is therefore important to realise the current and future value of carbon sequestration, and not, as the amendment proposes, a past benefit. Accordingly, the Government cannot accept the amendment.

The Hon. D. F. MOPPETT [9.05 p.m.]: The Opposition has consulted with the Commonwealth Government and the various agencies set up to consider this matter. Their advice is that the effect of the amendment would be an unwelcome move in the development of this embryonic idea in New South Wales. Therefore, the Opposition does not support the amendment.

Amendment negatived.

Schedule as amended agreed to.

Schedule 4

The Hon. I. COHEN [9.06 p.m.], by leave: I move Greens amendments Nos 3 and 4 in globo:

No. 3 Page 8, schedule 4[3], line 13. Omit "this Act". Insert instead "Part 4A".

No. 4 Page 9, schedule 4[4]. Insert after line 16:

33D Public consultation on use of carbon sequestration rights in greenhouse reduction schemes

- (1) Before a greenhouse reduction scheme is implemented by or on behalf of the State, the Minister is to require the advisory authorities to prepare jointly and deliver to the Minister a report prepared in accordance with this section.
- (2) If required to do so under subsection (1), the advisory authorities must prepare a report that makes recommendations concerning the greenhouse reduction scheme that include (but are not limited to) recommendations with respect to the following:
 - (a) the appropriate percentage of actual greenhouse emission levels that may be offset by reference to a person's holdings of carbon sequestration rights,

- (b) the carbon sequestration value (determined in accordance with the Kyoto Protocol) of trees or forests planted on land that may be the subject of the scheme or on any other land considered relevant by the advisory authorities,
 - (c) the harvesting and marketing of timber on land that is the subject of a carbon sequestration right,
 - (d) the need to preserve in perpetuity areas of land planted to foster carbon sequestration by trees or forests on the land.
- (3) Before delivering the report to the Minister, the advisory authorities are to publish a notice in a newspaper circulating throughout the State:
- (a) stating that the report is being prepared, and
 - (b) inviting submissions from the public on the matters referred to in subsection (2), and
 - (c) specifying a date (not being less than 40 days after the notice is published) by which submissions may be lodged, and
 - (d) indicating where submissions should be lodged.
- (4) The advisory authorities are to have regard to any public submissions they receive by the specified date.
- (5) The report is to be prepared and delivered to the Minister within 3 months after the date by which submissions may be lodged.
- (6) The Minister is to release the report publicly within one month after receiving the report.
- (7) In this section:

advisory authorities means the Director-General of the Department of Energy and the Sustainable Energy Development Authority.

greenhouse emission means:

- (a) carbon dioxide, or
- (b) any other greenhouse gas referred to in Annex A to the Kyoto Protocol.

greenhouse reduction scheme means a scheme:

- (a) that enables carbon sequestration rights to be used to offset greenhouse emissions into the atmosphere, or
- (b) that provides for the trading of entitlements to release greenhouse emissions into the atmosphere, or
- (c) that otherwise regulates greenhouse emissions into the atmosphere.

Kyoto Protocol means the Kyoto Protocol to the United Nations Framework Convention on Climate Change as in force from time to time.

Minister means the Minister for Energy.

The purpose of Greens amendment No. 3 is to limit the ability of State Forests to form a corporation in exercise of any of the State Forests functions to simply being able to form a corporation for the purpose of implementing a carbon sequestration rights scheme. A number of the functions of State Forests are simply not appropriate for a corporation to be formed. The Greens do not believe that this bill should give unlimited power to State Forests to form corporations. In order to prevent sinks from undermining progress in the renewable energy industry, caps must be put on the proportion of emission reduction allowable from sinks.

Greens amendment No. 4 recognises the fact that this legislation is too premature in terms of what is happening internationally and nationally. It provides that the Minister must require both the Sustainable Energy Development Authority and the Department of Energy to prepare a report, which will have a public consultation process attached to it. This will ensure that further developments at a national and international level will have to be considered in conjunction with key stakeholder views. Given that the New South Wales Government is trying to ride the crest of a carbon credits trading scheme, this amendment ensures that when the Minister implements a greenhouse emissions reduction scheme it does so in full recognition of what is occurring globally and locally. I commend Greens amendments Nos 3 and 4 to the Committee.

The Hon. R. D. DYER (Minister for Public Works and Services) [9.08 p.m.]: Greens amendment No. 3 seeks to remove the ability of State Forests to form a corporation or partnership for the purpose of carrying on the business of forestry. Honourable members should note that the current provisions of the Forestry Act 1916 already provide for State Forests to form a subsidiary company with another person. The inclusion of schedule 4[3], lines 10 to 14, is designed to remove the obligations currently prevailing to form a subsidiary company with another person. In other words, the provision allows State Forests to form a subsidiary company without the need for the involvement of another person. This provision will bring section 11(1)(m1) of the Forestry Act 1916 into line with the current Corporations Law in that respect. In effect, it modernises the Forestry Act 1916 in this regard.

I am advised that some honourable members have expressed concern that this amendment will

provide the Government with the power to corporatise State Forests. I assure them that it does not have that effect. To accept the amendment as moved would disadvantage State Forests in the commercial market. For that reason the Government does not accept Greens amendment No. 3. Greens amendment No. 4 inserts a new section 33D relating to the Forestry Act 1916. The intent of the proposed amendment is to require the Government to do certain things prior to the implementation of a greenhouse emissions reduction scheme that provides for carbon sequestration rights.

The New South Wales Government has been active in developing options for a national emissions trading scheme. On 26 October the Government publicly released a consultancy report dealing with the national emission trading scheme. The Government is currently considering the report, and matters such as those included in the proposed amendment will be dealt with in that process. I am advised that the annual report soon to be tabled by State Forests for the reporting period just ended will report on carbon business activities. For those reasons the Government does not support Greens amendment No. 4. The intent of the amendment will be addressed in the greenhouse emission trading context currently under way within the New South Wales Government.

The Hon. D. F. MOPPETT [9.10 p.m.]: The Opposition knows where the Greens are coming from. They have a clearly defined position, which is different from that of both the Government and the Opposition. In seeking to adjust the bill to suit their purposes for control of greenhouse emissions they seriously undermine the practicality of the bill to serve the real purpose for which the bill has been presented. We do not support the amendments.

Amendments negatived.

Schedule agreed to.

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

Message forwarded to the Legislative Assembly seeking its concurrence with the Legislative Council's amendment.

RESIDENTIAL TRIBUNAL BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.14 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Residential Tribunal Bill restructures the Residential Tenancies Tribunal, renames it the Residential Tribunal and provides for improved procedures. Primarily the Residential Tribunal Bill updates the legislative framework for dispute resolution in the residential area. This update is required to keep pace with an expanding jurisdiction and high volume of applications, and to maintain a quality service for the community.

The Residential Tenancies Tribunal was established under the Residential Tenancies Act 1987 as the primary dispute resolution body for residential tenancies in New South Wales. Part 6 of the Act provides for the constitution, jurisdiction and functions of the tribunal. In recent years the jurisdiction of the Residential Tenancies Tribunal has expanded from primarily dealing with residential tenancy matters to dealing with disputes between residents and retirement village management, and matters in relation to caravan parks and relocatable homes.

In addition, members of the Residential Tenancies Tribunal sit as members of the Strata Schemes Board and Community Schemes Board. In the last financial year the Residential Tenancies Tribunal received more than 37,000 applications. This represents an increase of approximately 15 per cent on the number of applications received the previous year and continues a trend in recent years of annual increases in the order of 15 to 20 per cent. The increase cannot be explained as the result of new allocations of jurisdiction but is largely the result of increased activity in the residential tenancy market.

This increase in volume of applications has prompted a number of improvements to the operation of the Residential Tenancies Tribunal. The tribunal has over the last two years examined its registry structures and general procedures and sought regular client feedback. As a result of these initiatives and in an endeavour to improve overall services to clients the tribunal has made a number of operational changes. These include the commencement of Saturday hearings and improved delivery of services to the regions with the establishment of Penrith, Newcastle and Port Kembla registries.

The tribunal also proposed to make a number of procedural changes and institute an improved case management strategy. However, the tribunal has been hampered in making these improvements by the current legislative structure which does not allow it sufficient flexibility to institute the necessary changes. In addition to these changes which have been identified internally by the tribunal itself, there has also been an independent review of all tribunals in the Fair Trading portfolio: the Commercial Tribunal, Consumer Claims Tribunal, Building Disputes Tribunal, Motor Vehicle Repair Disputes Committee and Residential Tenancies Tribunal.

The review concluded that there were significant advantages to amalgamating all the tribunals into a new Fair Trading Tribunal, except for the Residential Tenancies Tribunal. The establishment of the Fair Trading Tribunal is the subject of a separate bill. The review recommended that the Residential Tenancies Tribunal not be amalgamated into the Fair Trading Tribunal but instead be restructured and renamed the Residential Tribunal.

The review also recommended a number of procedural improvements be made to the operation of the tribunal, but did not find that the jurisdiction to deal with tenancy and residential accommodation disputes would be enhanced by the merger into the proposed Fair Trading Tribunal. Although it was found that there was significant stakeholder support for all the tribunals examined, there was particularly strong support for retention of the Residential Tenancies Tribunal as a separate tribunal to deal with residential tenancy issues and accommodation matters more generally.

Disputes relating to housing and accommodation are viewed as particularly serious matters for the individuals involved and the community in general, and consequently are best dealt with within a specialist tribunal. The Residential Tribunal Bill aims to incorporate the changes necessary for continued improvement, identified by both the review and the Residential Tenancies Tribunal itself. This bill does not affect the nature or scope of the tribunal's jurisdiction.

It renames the tribunal to more accurately reflect its jurisdiction, introduces certain features and improves the overall procedural flexibility to deal with its expanding and varied jurisdiction. The features and procedures of the Residential Tribunal are in line with those for the proposed Fair Trading Tribunal.

The Residential Tenancies Tribunal is currently organised into specialist divisions. These divisions are: the general (residential tenancy) division; strata division; caravan parks and retirement village division; and the community housing and nuisance and annoyance divisions. This organisational structure facilitates the general case management policies of the tribunal. However, the divisions are informal. There is no legislative basis for their structure, the divisions operate as purely administrative arrangements.

The Residential Tribunal Bill overcomes this deficiency by providing that the tribunal may operate in specialist divisions. Within the divisions, there will be flexibility to conduct hearings before a single member or to constitute multimember panels depending on the degree of complexity or the nature of the matter in dispute. The Residential Tribunal will have flexible procedures. The Residential Tribunal will have the discretion to adapt its procedures to fit the dispute before it.

It will conduct proceedings with as little formality and technicality and with as much expedition as the requirements of the matter in question permit. The tribunal will not be bound by the rules of evidence, and will have the discretion to inform itself as it thinks fit. Alternative dispute resolution will be an important component of the Residential Tribunal's operations. At present the residential tenancies tribunal's main mechanism to resolve matters prior to a formal hearing is by the use of conciliation. The tribunal's alternative dispute resolution tools will expand with the ability to use other mechanisms such as mediation or preliminary conferences.

A party to a dispute will have the carriage of their own case. The current ability of a landlord's agent to represent the landlord in a tenancy dispute will remain. With respect to other representation, the tribunal will have the discretion to allow representation where, in its view, it is appropriate. Factors such as the value of the matter in dispute, its complexity or the capacity of a party to present their own case, will be considered in determining whether representation should be allowed.

The Residential Tenancies Tribunal currently operates a number of stakeholder committees. These committees ensure

that the tribunal gains valuable feedback from interested parties on a number of procedural issues such as the application forms used, listing arrangements, accommodation and associated registry functions. These committees will be retained by the Residential Tribunal to enable ongoing and effective community consultation. Appeal rights on questions of law are available from the Residential Tenancies Tribunal to the Supreme Court.

The Residential Tribunal Bill provides that appeals on questions of law remain, but to the District Court. This change makes the appeal process less expensive and more accessible. In addition, and as with the Fair Trading Tribunal, the Residential Tribunal will be able to conduct internal rehearings. Leave must be sought of the tribunal for a matter to be reheard. The grounds for a rehearing are identical to those for the Fair Trading Tribunal, namely that the decision made was not fair and equitable, against the weight of evidence or that there is fresh evidence.

In addition, in all instances a party must show that substantial injustice has resulted from the decision. Where leave to be reheard is granted the matter is dealt with afresh, and may be heard before a panel of members. The normal procedures of the tribunal apply to the rehearing. I have outlined the major features of the Residential Tribunal Bill. I believe the new tribunal will provide an improved forum for the resolution of residential accommodation disputes for the people of New South Wales. I commend this bill to the House.

The Hon. J. M. SAMIOS [9.14 p.m.]: The proposed legislation follows an independent review of the Fair Trading Tribunal, which recommended amalgamation of a number of tribunals, except for the Residential Tenancies Tribunal, which had to be restructured. The tribunals proposed for amalgamation include the Commercial Tribunal, the Consumer Claims Tribunal, the Building Disputes Tribunal and the Motor Vehicle Repairs Disputes Committee. It was proposed to make them divisions of the tribunal. But because of the specialised work in the residential area, it was decided to leave the Residential Tenancies Tribunal as a separate tribunal called the Residential Tribunal.

The tribunal will operate much the same as the newly formed Fair Trading Tribunal. The amalgamated tribunal covered by the fair trading legislation will use a centralised registration system to avoid duplication of services and common use of membership and resources. The Residential Tribunal will have its own registry. Other important aspects to note are that the Residential Tribunal will have a mediation and preliminary conferences provision, which will take the place of conciliation, the existing mechanism. It will not be bound by rules of evidence.

The landlord's agent will continue to represent the landlord, as was previously the case. The object of the bill is to establish a Residential Tribunal and to provide for the abolition of the Residential Tenancies Tribunal constituted under the Residential

Tenancies Act 1987, the functions of which will be exercised by the new tribunal. The bill provides for the amendment of the Residential Tenancies Act 1987 so as to repeal the provisions of that Act, which established the former tribunal, and for the consequential amendment of other Acts.

The bill also provides for the transfer to the Residential Tribunal of the powers and functions of the Community Schemes Board constituted under part 5A of the Community Land Management Act 1989 and the Strata Schemes Board constituted under part 3, chapter 6 of the Strata Schemes Management Act 1996 and for the transfer of the functions of the registrar and other staff of those boards to the registrar and the staff of the tribunal.

A right of appeal has now been provided on points of law to the District Court, a less expensive process than appealing to the Supreme Court. Some 37,000 applications were received by the tribunal in the past 12 months, an increase of 15 per cent on the previous year. The bill has attracted some concern from a number of big organisations that do not support dealing with the bill tonight but would rather it go to a committee of inquiry. A letter from the Tenants Union of New South Wales Co-op Ltd dated 11 November states:

Without amendments to the relevant provisions of the Bill, we must oppose the Bill. We recommend that the Bill go to the Standing Committee on Law and Justice, where a full and frank consideration of these issues can take place.

The issues that are referred to are the mediation and neutral evaluation provisions and referrals and appeals to the District Court. In relation to the point dealing with mediation and neutral evaluation the Tenants Union states:

There is no guarantee that a mediator or neutral evaluator will have expertise in tenancy law. In an environment where parties are generally unrepresented, we are concerned that parties will bargain away their rights . . .

Referrals of questions of law and appeals to District Court.

Referrals of questions of law and appeals (which are limited to questions of law only) from the Residential Tenancies Tribunal should continue to go to the Supreme Court. There is not sufficient justification for changing this. Any cost saving in going to the District Court would be minimal and does not warrant foregoing the expertise of the Supreme Court.

The letter also states:

Further, appeals from the Residential Tenancies Tribunal on questions of law are administrative law decisions and are best dealt with in the Administrative Law Division of the Supreme Court, as is the current practice.

There are concerns about this legislation. The independent review of the Fair Trading Tribunal,

which was conducted in good faith, recommended amalgamation, except for residential tenancies. It tried to separate residential tenancies from the fair trading legislation. Even the bill dealing with residential tenancies contains problems. Those problems have been referred to by the Tenants Union of New South Wales and the Real Estate Institute, which support the proposed referral of this bill by the Hon. R. S. L. Jones to General Purpose Standing Committee No. 3. The Opposition will support the amendment to that effect to be moved by the Hon. R. S. L. Jones. We believe that this legislation should remain under scrutiny.

The Hon. R. S. L. JONES [9.23 p.m.]: The Residential Tribunal Bill will restructure the Residential Tenancies Tribunal, attempt to improve the procedures of that tribunal and rename it the Residential Tribunal—a provision which I believe most honourable members support. The proposed restructure is based on the major recommendation of an independent review conducted last year of all tribunals in the fair trading portfolio. Specifically, the bill provides for the tribunal to operate through specialist divisions and conduct hearings at varying degrees of formality; to use a wide range of alternative dispute resolution mechanisms, including mediation and conciliation; and to use more flexible procedures to enable hearings to be tailored to the type of matter in dispute.

The bill provides also for the introduction of expanded hearing rights and appeals on questions of law to be heard by the District Court. Honourable members will be aware that I have two significant problems with the bill. The first relates to appeal rights on questions of law from the Residential Tribunal, which will go to the District Court rather than the Supreme Court. The second relates to the fact that parties have to show that a decision was not fair and equitable, which goes against the weight of evidence. They must show that there is fresh evidence in order to get a rehearing of the matter and they must also show that a substantial injustice has resulted from the decision.

While the Government argues that appeals to the District Court will make the appeal process less expensive and more accessible, I am concerned that such moves may advantage landlords and disadvantage tenants. In relation to rehearings, I would have thought that if a party could show that a decision was not fair and equitable, that it went against the weight of evidence, or that there was fresh evidence, that party should have adequate grounds for rehearing. The party should not, therefore, have to show that a substantial injustice has resulted from the decision.

My adviser, Jeni Emblem, raised these concerns with the Minister's office a few weeks ago. We met the Tenants Union, various welfare groups and the Council of Social Service of New South Wales and had considerable consultation with them. The groups met the Minister's staff but, unfortunately, they were not satisfied with the result of those meetings. The groups were initially concerned that the bill appears to have been hastily drafted and, consequently, would benefit from broader consultation and consideration. The groups' initial concerns were that the bill does not give the tribunal power to make orders or require the tribunal to notify parties of the time and place of proceedings. Clause 32(d) will enable the tribunal to restrict or prohibit disclosure of evidence to some or all of the parties to proceedings.

Clause 54 makes mediation compulsory and part 6 removes the right to appeal from the tribunal to the Supreme Court. The Government moved some amendments in the other place which were supported by the Tenants Union, but other amendments were not accepted by the Government. I held negotiations with the Government on my amendments and I am grateful that the Government accepted some of them. Unfortunately, that does not satisfy the peak groups. The Tenants Union is of the opinion that, while the Government's amendments and its support for some of my amendments go some way towards addressing the union's concerns, the crucial matter of restoring the referral of matters of law and appeals to the Supreme Court is still outstanding. As long as that is the position it cannot support the bill.

The Tenants Union is of the opinion that the Government must allow a committee to look at the bill more extensively over the next few weeks and report to the Parliament when it resumes after the next election. The Hon. J. M. Samios referred earlier to some matters dealt with in a letter from the Tenants Union. I will expand briefly on those matters, including the question of mediation and neutral evaluation. The letter states:

The Bill proposes a system where the Residential Tribunal may refer by order matters for mediation or neutral evaluation *"if the Tribunal considers the circumstances appropriate"*.

The provisions of the Bill appear to have been modelled on the mediation and neutral evaluation provisions of the *District Court Act*, with some important exceptions. There is no equivalent to section 164A of the *District Court Act*, which allows referrals to mediation or neutral evaluation *only if the parties consent*. There is also no equivalent section 164B which provides that participation is *voluntary* and that *a party may withdraw at any time*.

In other words, these referrals can be made without the consent of the parties (Clause 54) and there is no provision in

the Bill for a party to opt out of the mediation process once begun.

Voluntariness is an essential element in successful alternative dispute resolution. The Tribunal must ensure that both parties consent to mediation before they are referred.

Further, under the mediation scheme proposed in the Bill, if parties reach a settlement agreement, the terms of which are not within the power of the Tribunal to order, the Tribunal may *dismiss* the application. There is no provision for the application to be listed for hearing or further negotiations (Clause 44(1) & (2)). It is only fair that parties should also be informed that any agreement they reach through mediation may not be enforceable by the Tribunal and that they are able to choose whether or not they want to participate in such a process . . .

There are very few Supreme Court appeals. Those that run to hearing are usually in the nature of '*test cases*' and have significant impact on the rights and responsibilities of tenants and landlords. If appeals from the Residential Tribunal are to go to the District Court there will be no further appeal from the District Court to the Court of Appeal. Under the *District Court Act* there is no further forum for appeal, including no appeal to the Court of Appeal, even on the question of law. The Tribunal will be left with competing single judge decisions and no method of resolving decisions. This would create uncertainty not only for parties before the Tribunal, but for landlords and tenants in general, through their tenancy relationship. This will lead to a diminution of rights by landlords.

The decisions of the Supreme Court are also infinitely more accessible than those of the District Court, enabling parties, advocates and the Tribunal alike to benefit from the guidance provided by precedent.

Further, if the rehearing provisions of the Tribunal are effective, fewer matters are likely to go on appeal to a Court, than is currently the case.

The government has recognised the importance of Supreme Court guidance in the area of residential tenancies law and administrative law, by proposing further amendments to the Bill. However, the proposed amendments establish a cumbersome "two-tier" scheme, whereby a party must first appeal to the District Court and then apply to the Supreme Court for an order that the referral or appeal be removed to the Supreme Court, on the basis that *"the case is of particular difficulty or that it is of general significance"*. This proposed process is unnecessarily complex and inefficient. Further, it is also unclear whether appeals to the Court of Appeal would be possible under such a scheme.

Our position remains that in light of the fact that there are currently few appeals from the Residential Tenancies Tribunal, the majority of which are "*test cases*", the existing referrals and appeals process directly to the Supreme Court is appropriate and must be maintained.

I move:

- (1) That the question be amended by omitting all words after "That" and inserting instead:

this bill be referred to General Purpose Standing Committee No. 3 for inquiry and report.

- (2) That the committee report by the first sitting day in 1999.

The Hon. P. T. PRIMROSE [9.30 p.m.]: The main purpose of the Residential Tribunal Bill is to restructure the Residential Tenancies Tribunal to establish it under its own legislation, to improve its procedures and to rename it the Residential Tribunal. The proposal for the restructuring was a major recommendation of an independent review conducted last year of all tribunals in the fair trading portfolio. The Commercial Tribunal, Consumer Claims Tribunal, Building Dispute Tribunal and Motor Vehicle Repair Disputes Committee were also reviewed. As a result, these tribunals are to be amalgamated into a single Fair Trading Tribunal, which is the subject of a separate bill.

The review found that the volume of applications and the varied nature of the jurisdiction in the residential area, including traditional tenancy disputes as well as strata, retirement village and mobile home matters, would more appropriately fit within a separate tribunal structure. The significant features of the Residential Tribunal are in line with those proposed for the Fair Trading Tribunal.

Essentially this bill provides for a number of matters: to rename the Residential Tenancies Tribunal the Residential Tribunal and to establish it under specific purpose legislation; to provide that the Residential Tribunal may operate through specialist divisions and conduct hearings with varying degrees of formality; to provide that the Residential Tribunal is able to use a wide range of alternative dispute mechanisms, including mediation and conciliation; to provide for more flexible procedures to enable hearings to be conducted relevant to the type of matter in dispute; to enable the use of more effective case management strategies; to provide for the introduction of expanded rehearing rights; and to allow appeals on questions of law to be heard by the District Court rather than the Supreme Court.

I am particularly interested to hear the proposed amendment by the Opposition that the matter be referred to the law and justice committee. As a member of both the Standing Committee on Law and Justice and the Standing Committee on Social Issues I would be delighted to consider any matter. However, on 24 May 1995 this House adopted the proposal that, rather than the law and justice committee, the social issues committee would have responsibility of portfolio matters in housing and consumer affairs. That is an indication of how quickly and haphazardly the amendment has been thrown together by the Opposition.

The bill updates the legislative framework for dispute resolution in the residential area. In recent years the jurisdiction of the Residential Tenancies Tribunal has expanded from dealing primarily with

residential tenancy matters to dealing with disputes between residents and retirement village managers and matters in relation to caravan parks and relocatable homes. For instance, in the past financial year the tribunal received more than 37,000 applications. That represents an increase of approximately 15 per cent in the number of applications received the previous year and continues a trend in recent years of annual increases in the order of 15 to 20 per cent. The increase is largely the result of increased activity in the residential tenancy market.

All in all, the bill streamlines the issues. It eliminates the current divisions and allows for greater flexibility in the procedures to be followed by the Residential Tribunal. Appeal rights to the Supreme Court on matters of law are available from the Residential Tenancies Tribunal. The Residential Tribunal Bill will now provide that appeals on matters of law remain, but go to the District Court. That makes the appeal process less expensive and more accessible. In addition, the Residential Tribunal will be able to conduct internal rehearings. I support the bill.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.35 p.m.], in reply: I thank honourable members for their contributions to the debate. The Government's contention is that the bill should not be referred to a committee because, firstly, the review process and consultation has been extensive. Interest groups have been consulted throughout and have had an opportunity to comment to the department and to my office. Secondly, procedural impediments in the current regime, a jurisdiction that has expanded greatly over the past two years, need to be addressed. Thirdly, the bill streamlines issues and deals with the main concerns about the appeal process. Matters of concern can be addressed in the Committee stage, if amendments are moved to the bill, rather than delaying the important form in principle.

I will deal with matters raised by the Hon. J. M. Samios. As I have stated, the object of the bill is to streamline the processes of the tribunal. Mediation does not replace conciliation. It is an additional dispute mechanism and a feature of this reform. The honourable member quoted the Tenants Union that the referral to the District Court of points of law will cut costs. Why should not the District Court deal with questions of law rather than the Supreme Court? The District Court can adequately deal with such matters. The proposed bill attracted concerns from peak organisations, which asked that it be referred to a committee of inquiry. The Tenants Union opposes the bill without amendment. The Government has already indicated that it will

support several substantive amendments proposed by the Tenants Union. In other words, these matters should be dealt with in the Committee stage rather than this bill being denied a second reading or being referred to a committee. I commend the bill to the House.

Question—That the amendment be agreed to—put.

The House divided.

Ayes, 22

Mrs Arena	Mr Lynn
Mr Bull	Dr Pezzutti
Dr Chesterfield-Evans	Mr Ryan
Mr Cohen	Mr Samios
Mr Corbett	Mrs Sham-Ho
Mrs Forsythe	Mr Rowland Smith
Mr Gallacher	Mr Tingle
Miss Gardiner	Mr Willis
Mr Gay	
Mr Hannaford	<i>Tellers,</i>
Mr Jones	Mr Jobling
Mr Kersten	Mr Moppet

Noes, 17

Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Dyer	Ms Saffin
Mr Egan	Mr Shaw
Mr Johnson	Ms Tebbutt
Mr Kelly	Mr Vaughan
Mr Macdonald	<i>Tellers,</i>
Mrs Nile	Mrs Isaksen
Rev. Nile	Mr Manson

Pair

Dr Goldsmith	Mr Kaldis
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Question so resolved in the affirmative.

Amendment agreed to.

Motion as amended agreed to.

PERIODIC DETENTION OF PRISONERS FURTHER AMENDMENT BILL

IRRIGATION CORPORATIONS AMENDMENT BILL

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

Suspension of standing orders agreed to.

CRIMES LEGISLATION AMENDMENT (CHILD SEXUAL OFFENCES) BILL

Second Reading

Debate resumed from 28 October.

Reverend the Hon. F. J. NILE [9.47 p.m.]: The Christian Democratic Party is pleased to support the Crimes Legislation Amendment (Child Sexual Offences) Bill 1998 and congratulates the Government for bringing the measure forward. The bill deals with sexual offences against children. The object of the bill is to create the following offences: persistent sexual abuse of a child, with a maximum penalty imprisonment for 25 years; and loitering by convicted child sexual offenders near premises frequented by children, with a maximum penalty of 50 penalty units or imprisonment for two years, or both. This new indictable offence is a result of recommendations in the Wood royal commission paedophile inquiry report. Following Justice Wood's recommendation, a new offence has been created in line with the recommendations of the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General.

The new summary offence of loitering by convicted child sexual offenders is similar to an offence created by section 60B of the 1958 Crimes Act of Victoria. The bill creates the offence of engaging in conduct in relation to a particular child that constitutes a sexual offence on three or more separate occasions, each occurring on separate days during a particular period. Sexual offence is defined to include a number of offences under the Crimes Act 1900 including various offences relating to sexual intercourse with children, sexual assault, indecent assault, acts of indecency with or in the presence of a child and other offences of a sexual nature.

The bill will also cover attempts to commit such offences and similar offences committed outside New South Wales. The conduct need not be of the same nature or constitute the same sexual offence on each occasion for the offence to be proved. It is often difficult to gain a conviction, particularly in relation to the sexual abuse of a child, but with the introduction of the new indictable offence of sexual abuse of a child the specific time or day of the offence does not have to be proved, only that the offences have occurred. It is difficult for children to identify the date on which multiple sexual offences have occurred. The bill will close the loophole which has allowed sexual offenders against children to escape the full weight of the law.

The bill will insert in the Summary Offences Act 1998 a new summary offence of loitering without reasonable excuse by convicted sexual offenders near schools or other premises frequented by children. This is a step in the right direction and I urge the Government to consider insertion of an offence of loitering without reasonable excuse by any person around school premises. The person loitering may not be a child sexual offender, a paedophile, but a person who intends to murder a child. A number of brutal child murders have occurred and it has not been clear whether the murderer was a paedophile. We have a right to be concerned if any adult is loitering without reasonable excuse around premises where there are children, even if the person has not been previously convicted.

In 1976, before I was elected to Parliament in 1981, I worked with a number of paediatricians to bring in child pornography laws and other laws to protect children. We became aware of activities of persons with the evil desire to molest and abuse children—sometimes to murder children so that they could not give evidence. Some years ago on the ABC I heard male paedophiles boasting about standing outside school playgrounds over a number of days to watch children to identify a target. They were able to identify children who were lonely, insecure and lacking in love for various reasons. The children may have had problems at home or other problems. Those men then attempted, often successfully, to create a friendship with the children for the purpose of abusing them. The bill defines a convicted child sexual offender as a person convicted of:

- (a) an offence involving sexual activity or acts of indecency . . . against or in respect of a child and that was punishable by penal servitude or imprisonment for 12 months or more,
- (b) an offence under sections 91D-91G of the *Crimes Act 1900* (other than if committed by a child prostitute),

this relates to engaging in or being involved in child prostitution or pornography—

- (c) an offence under section 578B or 578C(2A) of the *Crimes Act 1900*,

this relates to the possession or publication of child pornography—

- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence . . . an offence under a law of a place outside New South Wales that would, if it had been committed in New South Wales, be an offence referred to in paragraphs (a)-(d).

I thank the Government for introducing the bill. I hope that the bill will be publicised so that its content is widely known and that it will deter convicted child sexual offenders from abusing another child. Whether these men—they are mostly men—will react to the law because of the forces that are driving them on to do what they do, only God knows, but we must do what we can to protect children. This is a commendable attempt. We may need to make it an offence for anyone to loiter near a school or children's playground without reasonable excuse. The penalty for such an offence would be lower than that provided for a person previously convicted of child sexual assault. I commend the Attorney General for introducing the bill.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

LOCAL GOVERNMENT AMENDMENT (COMMUNITY LAND MANAGEMENT) BILL

Second Reading

Debate resumed from 14 October.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.56 p.m.], in reply: I thank honourable members for their contributions to the second reading debate. A number of issues were raised. The Hon. D. J. Gay, on behalf of the Opposition, made a number of allegations. First, he said that there was a lack of consultation. This is wrong. In September 1997 the Minister for Local Government released a green paper containing numerous options for reform of the community land provisions of the Local Government Act. Copies of the green paper were sent to numerous community groups, resident associations, environment groups, sporting clubs, individual councils and peak local government bodies.

Many submissions received during the consultation process were considered by the Government and, in the main, they strongly supported the Government's preferred options in the green paper. The bill is the outcome of the extensive consultation process. It was also alleged that the additional workload required by the bill would result in one council having to prepare 1,400 new individual plans of management. This is again totally wrong. The council concerned, and apparently the Opposition, wrongly believed that generic plans of management—that is, plans applying to more than one area of community land—will be abolished by the bill. To the contrary, councils will retain the ability to prepare generic plans of management for

community land categorised as a sportsground, a park or for general community use. Such categorisations would account for the overwhelming bulk of community land across the State.

However, the bill will ensure that community land categorised as a natural area or an area of cultural significance has its own individual plan of management. This is entirely appropriate given the likely ecological or cultural significance of such land. It will almost certainly be the case that special management strategies will need to be put in place that simply could not be properly addressed in a generic plan.

The Opposition is also confused about the role of the proposed core objectives for each category and subcategory of community land. The objectives, which are a key part of the Government's community land reform package, will provide councils and local communities with a clear indication of the sorts of uses of community land that are compatible with the relevant category or subcategory of community land.

The categorisation and subsequent appropriate use of community land was considered in the case of *Friends of Pryor Park Incorporated v Ryde City Council*. The New South Wales Court of Appeal commented that if there was an attempt to use community land in a way that was manifestly inconsistent with its categorisation, there may well be a legal remedy available to protect the land from any inappropriate use. However, court actions such as these are likely to be extremely costly and time consuming for all concerned, not least the council. The Government therefore considers that the current law is inadequate. The proposed core objectives will help to alleviate the problem.

It should also be noted that the green paper dealt with the option of including the core objectives in the legislation. This was strongly supported by community groups, residents' associations, the general public and, significantly, individual local councils. Of the 65 councils that responded, almost two-thirds gave full or qualified support for this proposal. The final issue raised by the Opposition, and echoed by Reverend the Hon. F. J. Nile, was that the legislation will somehow disadvantage groups such as the scout movement, the Country Women's Association and the like.

The Minister for Local Government has advised me that such groups will not be disadvantaged. It is obviously appropriate for such community groups to be able to use community land, and that use will continue under this

legislation. The Hon. I. Cohen referred to Byron Shire Council and its decisions about the use of community land. By inserting a new section 47D in the Act, this bill closes the loophole in the Local Government Act that that council used to issue a lease for a tourist information centre without having it authorised by a plan of management. The bill addresses the significant concerns that have been raised with the Government about the ease with which a council can allow community land to be alienated for private purposes.

The Opposition asked who raised these concerns? The Minister for Local Government has advised me that he has received many letters and submissions from the public, as well as individual community groups, residents' associations and environmental groups. In opposing this bill in its entirety the Opposition is seriously out of step with local community opinion and local communities that want their parks and open spaces protected by their councils. This bill will increase the legislative protection of community land and ensure that councils are more open and accountable when making decisions affecting such land. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Consideration called on, progress reported from Committee and leave granted to sit again.

ADJOURNMENT

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.07]: I move:

That this House do now adjourn.

ASSOCIATION OF CONSULTING ENGINEERS AUSTRALIA

The Hon. Dr B. P. V. PEZZUTTI [10.07 p.m.]: Last evening the Association of Consulting Engineers Australia, as part of its national meeting, held its awards presentation in Sydney, hosted by the new national president, Mr Ray Young. I am pleased to announce that the Association of Consulting Engineers Australia has a new chief executive officer who is a woman, Therese Charles—a first for the association. In the big world of engineering it is pleasing that a number of women are emerging. The new dean of the engineering faculty at the University of Sydney is a woman, and that indicates that engineering is becoming a much broader field of study.

The awards were fascinating. In the civil category the award of merit—the highest award given in each category—went to Douglas Partners Ltd and the Abigroup-Obayashi joint venture for the big wall on the M2 Motorway. Highly commended was the Port Hedland harbour tunnel, which was built by Transfield Kumagai. In the structural category, the order of merit was presented to the Olympic Park railway station, built by Tierney and Partners Ltd from St Leonards—and anyone who has seen the railway station will understand why it won that award.

Also highly commended was the Mercantile Mutual head office extensions done by Sinclair Knight Merz Ltd. In the mechanical and/or electrical category the order of merit went to Sinclair Knight Merz for the Northparkes E26 copper and gold mine at Goonumbla. This is exciting because it is the first mine of which I am aware that crushes all the ore underground and only delivers the product to the surface—something that is environmentally advantageous.

Highly commended was the Sydney Harbour Casino—a remarkable undertaking by anyone's standards—which was built by Connell Wagner. In the project management category a small firm called Gardiner McGrath and Mortiss received an award of merit for the construction of the Astra pharmaceuticals manufacturing facility. The challenge there was to develop a building that had no dust and was dust-free from the very beginning, to facilitate the manufacture of high-quality drugs. Highly commended was the Ultimo-Pymont light rail transit project undertaken by Gutteridge Haskins and Davey.

Two awards were given in the multidisciplinary projects category. Queensland Cement Ltd received an award for the Gladstone expansion project, which was undertaken by Connell Wagner. Multiplex and Walker Corporation received an award for Sydney Central Plaza temporary works, which was a remarkable co-operation between two major firms, Tierney and Partners and Douglas Partners, each of whom engaged in projects to maintain the heritage part of the building whilst doing major excavation for the construction of a new building.

In the environmental projects category a certificate of recognition was awarded to Sinclair Knight Merz for the Wetalla wastewater treatment plant. Sinclair Knight Merz was also highly commended for Couran Cove Eco Resort—a remarkable achievement following four nominations in this category by one major engineering company

with worldwide recognition. In the overseas projects category a certificate of recognition was awarded for the development of a preconditioned air system for the Chek Lap Kok airport in Hong Kong. Cullen Grummit and Roe (International) was highly commended for Laem Chabang terminal B5, which is a major new terminal. [*Time expired.*]

ANNUAL CITIZENS DINNER

Reverend the Hon. F. J. NILE [10.12 p.m.]: I draw to the attention of the House an important event which was held in the dining room of Parliament House last Monday night, 9 November. I refer to the annual citizens dinner. I am sure all honourable members would be aware of the event, because every year we send invitations to members of both Houses, as well as to other leading citizens, to attend this important function. The Hon. Elaine Nile and I hosted the function in the name of the Australian Federation of Festival of Light community standards organisations.

For many years now Dr Kevin Hume has been the chairman of the function. Dr Hume is a highly regarded member of the Catholic Church, and was in fact knighted by the Pope for his services to the church and the community. Dr Hume is a prominent pro-life campaigner and is also president of Doctors Who Respect Human Life, which is a large organisation comprising 600 members in Australia. Dr Hume has been chairman of the advisory committee of the Festival of Light's community standards organisations from the time the committee was formed in 1974. On Monday night we were all pleased to celebrate Dr Hume's eightieth birthday, which was actually on that day.

During the dinner a number of people were presented with good citizens awards for their services to the community. One of those people was Major Brian Watters, about whom many of us have heard a great deal in the media. Major Watters is an active officer of the Salvation Army. He is a commander of the Salvation Army rehabilitation services in the Australian eastern territory, and he is well known for his concern for those who battle addictions and homelessness. Indeed, the Prime Minister has appointed Major Watters as chairman of the very special drug council to fight Australia's drug problems. Pastor Ossie Cruse, MBE, received an award for service to Aboriginal people. For the past year or so Mr Cruse has been chairman of the New South Wales Aboriginal Land Council, but he has always been a member of that council and has been active on local land councils, the State Land Council, and national bodies of equivalent status. Mr Cruse has also been active internationally on behalf

of the Aboriginal people, for example, as vice-president of the Pacific Asia Council of Indigenous People. My wife and I knew Mr Cruse's father, Pastor Ben Cruse, very well. For many years Pastor Ben Cruse was Minister of the La Perouse Aboriginal Christian Church.

Mr John Bradford received an award for parliamentary service, having been a member of the House of Representatives from 1990 until 1998. Mr Bradford played a major role in the parliamentary Christian fellowship, and strongly opposed the breakdown of family life, illegal drugs, pornography, X-rated videos and other bad influences on society. Mr Bradford was also chairman of the parliamentary committee on the National Crime Authority, which provided him with a great deal of knowledge about the depths of crime in the Australian community, which are very serious.

Lisa Carty received an award for service to the media. Ms Carty is the chief reporter of the *Illawarra Mercury* newspaper in Wollongong. Mrs Susan Bastick-Carter received an award for motherhood and defence of the family. Mrs Bastick-Carter is the New South Wales president of the Australian Family Association and a member of the national executive of that association. The good work of Senior Constable Ron McGown was acknowledged by the presentation of an award to his wife, as Mr McGown tragically died of cancer in June this year after he had been selected to receive the award.

Chaplain Gary Coleman received an award for service to sport. Mr Bede McDougall received the Mother Teresa pro-life award for his services on behalf of the unborn. Warwick Marsh received an award for fatherhood. Reverend Dr Kenneth Meshoe, MP, Leader of the African Christian Democratic Party, received the international leadership award. Dr Meshoe also presented the keynote address on the theme "The Worldwide Challenge to the Christian Faith and Values". Dr Meshoe spoke about the need for the church and Christians as a whole to become more involved in politics. He urged Christians to become active in every area of society, and we appreciated his address. [*Time expired.*]

BURNSIDE POVERTY INFORMATION PROGRAM

The Hon. CARMEL TEBBUTT [10.17 p.m.]: I draw the attention of the House to the ongoing and critical issue of poverty in Australia. In doing so I wish to speak about an activity that Burnside, a child and welfare agency of

the Uniting Church, is undertaking to seek to make the realities of poverty and disadvantage understood more broadly in our community. In 1997, as part of its contribution to the International Year for the Eradication of Poverty, Burnside commissioned the writing of a book to tell the stories of ordinary Australians struggling to live in our society. After two years of research and in-depth interviews with 30 people, the book *They* has finally come together to tell the powerful stories of 10 people. Burnside believes that many people in the community would have far greater empathy for people living in poverty and other difficult circumstances if they had a chance to know the individuals.

Many statistics can be quoted to illustrate how the gap between the rich and the poor is increasing rather than decreasing. The human development report, released by the United Nations in September of this year, again highlighted the gross inequalities between the rich and the poor in member countries. It defined the poverty line as people earning less than 50 per cent of the median annual disposable income. The report is a damning indictment on the position that Australia finds itself in as we reach the end of this century. It indicated that one in eight Australians live below the poverty line; that 1.7 million Australians, that is 10 per cent of our population, are likely to die before the age of 60 because of poverty; and that half the children of single parents live in poverty. Australia rated second worst for the gap between the rich and the poor, being edged out of first place only by the United States.

Income distribution statistics showed that the lowest fifth of households in Australia had an average income of just \$121 per week, while the highest fifth averaged about \$1,485 per week. This means that the richest 20 per cent of Australian society earns 12 times more than the poorest 20 per cent. The book *They* tells the human story behind the statistics. Recently I was fortunate enough to launch the book and hear first hand from some of those whose stories are told. The stories depicted in the book demonstrate the enormous courage of people struggling with really difficult issues. *They* tells the story of the lives of 10 people who have been forced to deal with poverty, illiteracy, abuse, alcoholism, abandonment, isolation and the horrific experience of life in Cambodia.

At the launch Margaret and Kathy spoke movingly of their experiences. I got to meet Sally, whose story was entitled "What's Love Got To Do With It?" I will tell a bit of Sally's story. She was the second eldest of five children whose parents split up when she was very young. She saw little of her

father. Her mother suffered from schizophrenia and severe depression and she abused alcohol. Sally spent her youth in and out of substitute care, separated from the rest of her brothers and sisters. To quote from Sally's story:

I really don't know what love is. I don't know if it's right or wrong or if this is the way you go about it. If you have never had it before then it's like a baby learning how to walk.

The causes of disadvantage are often misunderstood by the general community; so too are the solutions. People are quick to judge and to expect that personal effort will change everything. The book makes it clear that the answers to poverty are not individual but structural. Government and the community must work together for the eradication of poverty. It is Burnside's contention that this aim will receive greater community support if people have a better understanding of what poverty means. Burnside is an organisation that knows what it is talking about. It has a long history of helping those in our community in need.

One of its latest projects is taking place at the Burnside Newpin Centre at Bidwell, where an innovative self-help program is focusing on fostering and improving relationships between parents and their children under five. With funding assistance provided by the departments of Community Services, Health and Housing, this project is a good example of government agencies and the non-government sector working together to meet the needs in our community. A photographic exhibition will accompany the stories in *They* to be held in this place from 14 December to 18 January. I pay tribute to the courage and determination of the 10 contributors and I congratulate Burnside and Rhonda Stein on putting this book together. I urge members to take the time to read *They* and attend the exhibition.

GUN LAW UNIFORMITY

The Hon. M. R. KERSTEN [10.22 p.m.]: I wish to read onto the record the concerns of Mr David Edwards of 34 William Lane, Broken Hill. Mr Edwards wrote to me as a member of the Field and Game Society in Broken Hill. He said:

As a Field and Game member in Broken Hill I was issued with a "C" class licence in 1997 for medical reasons due to a right shoulder operation. My application was applied for and accepted for the Field and Game not the A.C.T.A. I was told that I could shoot here in Broken Hill after I complied with all class 2 safe trigger lock requirements. I did so and at great expense. After using the gun for a few months I was informed by the Field and Game President Geoff Glasson that Broken Hill had only A + B classification and despite my exemption I could not use my gun. Victoria, Northern Territory,

Queensland, and Western Australia Field and Game Clubs have got A B + C classifications with no medical exemptions required at all. Where are the uniform gun laws that Mr Carr thinks he has got.

Now I have a gasoperated shotgun that I cannot use and a genuine reason to use such a gun. A + B shotguns cause me a great deal of discomfort and pain in my right shoulder. Another problem is that younger members wishing to join (eg my daughter) find it difficult to shoot with U-over guns because of the recoil. This will affect our future members.

After continually contacting Firearms Registry and others I recently with Richard Murphy arranged an appointment with Paul Whelan Minister of Police. On attendance to the appointment we were told he was unavailable and given Richard Amery. We have had no reply from him at all. He has not even had the courtesy to send a letter or phone. Richard Murphy has the same problem as I have.

I have since then written to Mr Whelan the one who issued me the "C" class licence. I now have received my registration for the "C" class shotgun but "matters raised are being examined" still after 12 months. We are still getting nowhere. I am not after compensation. I just want to use the gun I am entitled to use under my licence, like the other States. There are medical exemptions for seatbelts and also in sporting clubs such as 303 Club. eg where people have a bad back they can sit at a table to shoot when they have a medical certificate. There are medical exemptions everywhere. Why can't this apply in my situation.

I have included some information. If you require more please ring me. I feel I have been discriminated against by the N.S.W. Government and Bob Carr and I find the Buy Back system a total joke.

Mr Edwards has a genuine desire to pursue his sport, but because of some bureaucratic bungling he is not able to do so. That is discriminatory. He has gone to a great deal of expense to pursue his chosen sport and it is appalling that he is unable to do so. He sent me information about how much money he has spent to comply with the shooting requirements of the New South Wales Government. He has been very responsible. He sent me a copy of a receipt for \$650 for the purchase of a complete gun safe so that he can lock his equipment away and to do the right thing; and a receipt for a gun lock.

Mr Edwards sent me a copy of a letter he wrote to Mr Whelan, to which he has received no reply. Mr Edwards sent me more documentation than I have ever seen. This responsible firearm owner has complied with every requirement. He has medical certificates, copies of which I have, from two doctors stating that if he wants to pursue the sport of field and game shooting he has to use a gas-operated shotgun. Such shotguns have little recoil and therefore do not affect his shoulder.

I want to know why Mr Edwards cannot pursue his chosen sport. He has complied with every

regulation. He has gone to an enormous amount of expense to do the right thing, as most shooters in this State have, yet he is still denied the opportunity to pursue his sport. I will write to Mr Whelan again and forward him a copy of the letter Mr Edwards sent to me. I hope that the Minister will comply with Mr Edwards' request and allow him to use his gun in the way he wants to and pursue his chosen sport.

TAX DISTRIBUTION

The Hon. FRANCA ARENA [10.27 p.m.]: I have been rather amused by the campaign initiated by the New South Wales Labor Government about the amount of taxes that go to New South Wales and other States. The whole episode would have been quite hilarious if it had not cost the taxpayer \$1 million. Therefore I feel that I should make some comment. One could have expected the public to react in a selfish way by agreeing with the Government that our State was unfairly treated. Instead, letters to the editor show that Australians are not as greedy and selfish as some people might think. I will give honourable members an example of what was written in the media recently. Ken Sutherland from Carlton wrote:

As an Australian I am offended by the full-page advertisements in the *Herald* under the heading, "You deserve to know where your taxes go". It has always been evident that the richer States should support the poorer to maintain an infrastructure equal for all.

If we cannot afford to support each other in the Commonwealth of Australia then we have come to a very sad time in our history.

To the question, "Should NSW families support Queensland (and Tasmania and the Northern Territory)?", the answer is yes.

J. Fleming of Koolewong wrote:

If my taxes go towards saving a child's life in a Darwin hospital, that's fine by me. And if my taxes go towards preserving Tasmania's extraordinary wilderness, that's also fine by me.

But when my taxes go towards an expensive advertisement campaign promoting greed and inciting one State against the other, one Australian against the other, then I only have this to say . . . the Australian Labor Party . . . [is] no longer a party I wish to vote for.

Christopher Spiegel from Newcastle wrote:

Good on you, Mr Carr. Why should NSW have to subsidise South Australia or Queensland? In fact, why should Sydney have to subsidise Broken Hill or Bourke? Come to think of it, why should I have to subsidise the pensioners or the unemployed layabout down the street? From now on I'm

looking after number one. Bigger this idea of being part of a community.

They are just some of the letters that have appeared in the daily newspapers. It is an interesting reaction. It reminds me of what happened in Italy a few years ago. Most people are aware that the northern part of Italy is very industrialised and quite rich, while the southern part has suffered a high degree of unemployment and lack of industry.

One could say that the majority of people in the northern and central parts of Italy are reasonably well off, while a large number of people in the southern part of Italy live in conditions that are not in line with an industrialised country like Italy. A few years ago a man called Umberto Bossi formed a new political party, Lega Nord—the northern league—in the north of Italy. That political party wanted to divide Italy in two so that the north, which was wealthy, could look after its wealth and the south, which was poorer, would have to make do with what it had. I am sorry to say that at the time Mr Bossi achieved some success. Many members of his party were elected to the Parliament.

Fortunately, his power waned in the last few years and it continues to wane as people in Italy become more and more opposed to the idea that Italy should be divided in two—the wealthy part in the north and the poorer part in the south. In a way the Carr Labor Government's advertisement has actually asked us to do that—to look after New South Wales and forget about the other States of Australia. I am glad to say not only that I found that unacceptable but that many of my fellow Australians are saying that such a proposition is totally unacceptable. One would have expected less divisive and selfish policies from a Labor government. I hope that it has learned some lessons from this debacle.

AUSTRALIAN CENTRE FOR EQUITY THROUGH EDUCATION

The Hon. JAN BURNSWOODS: [10.30 p.m.]: I draw attention to an article in today's *Daily Telegraph* by Maralyn Parker. I do not always agree with her comments on education, but what she had to say today was very interesting. She quoted a letter from the Australian Centre for Equity through Education that went to our Federal leaders during the election campaign. She referred in the *Daily Telegraph* article to the signatories to that letter, to the stature that they had in the education community and to the seriousness of a number of statements they made about a number of social issues besides education. I will refer to some of those statements.

Referring to the letter from the centre, the article states:

It warns that if governments continue to promote the privatisation of schooling (as seen in Victoria and as is emerging in Queensland) they will create a divided society.

A society more divided than we have at present. The article states:

It points out that expenditure on private schools in Australia is now higher than in most other OECD countries.

At the same time public schools now need an additional \$2 billion just to be able continue to function efficiently.

I take that to mean at the level at which they were functioning before this shift of funding from public to private schools occurred. The article then states:

Public education is no longer provided at no or low cost to working-class families.

Not all that long ago the New South Wales Parliament was considering changes to the Education Act 1880 to ensure that the provision stipulating that education should be free remained in the Act. That provision remained in the Act, but it has not been particularly well honoured. Other problems referred to in the article relate to the incredibly low rate of participation in preschools in Australia compared to most Organisation for Economic Co-operation and Development countries. That participation rate is dropping because of the cuts being made by the present Federal Government to child care and all other preschool areas. A number of points are then made in the article that apply to some States rather than others, for example the increasing tendency by some States to put teachers on annual contracts and the effect that that will have on the teaching profession.

Many people are already predicting that there will be sizeable shortages of teachers in the near

future because we are not training many teachers, and we are not making sure that teaching continues to be an attractive profession. I was struck by this article today because I recently read the parents and citizens journal and the review by Ray Kavanagh, the former Deputy President of the New South Wales Teachers Federation, of a book recently edited by Alan Reid, entitled *Going Public: Education Policy in Public Education in Australia*, published by the Australian Curriculum Studies Association and Centre of Study of Public Education at the University of South Australia.

Ray Kavanagh points out that that book contains a number of interesting articles about the current state of public education and the dangers facing public education at the moment. In his comments Ray Kavanagh draws attention to the process of residualisation in primary schools, let alone in secondary schools, where that process has been under way for some time. He draws attention to what he calls "some of the dopier aspects of the choice formula", and to the way in which the media, in particular, regularly use so-called literary crises to generate essentially false debates about what is really going on in our primary schools and ignore far more important systemic problems.

I could continue with this theme, but I recommend Ray Kavanagh's review. I have even ordered the book. I saw Ray Kavanagh today in Parliament House at the launch, in which the Attorney General participated, of the biography of Jennie George. Jennie is a famous former President and Secretary of the New South Wales Teachers Federation. I appreciated being able to talk today to people with such a commitment to public education. [Time expired.]

Motion agreed to.

House adjourned at 10.35 p.m.
