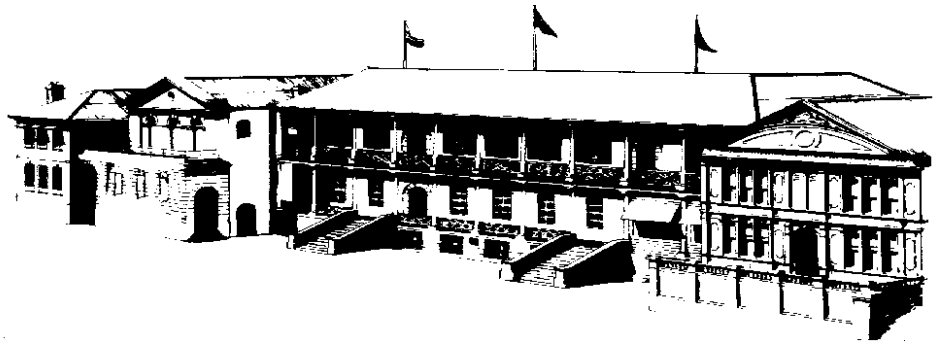
NEW SOUTH WALES



Legislative Council

PARLIAMENTARY DEBATES

(HANSARD)

FIFTY-FIRST PARLIAMENT
SECOND SESSION

OFFICIAL HANSARD

Tuesday, 17 November 1998

AUTHORISED BY
THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

Tuesday, 17 November 1998

The President (The Hon. Virginia Chadwick) took the chair at 2.30 p.m.

The President offered the Prayers.

LOCAL GOVERNMENT AMENDMENT (COMMUNITY LAND MANAGEMENT) BILL

Third Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.30 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 21

Mrs Arena	Mr Macdonald
Dr Burgmann	Mr Primrose
Ms Burnswoods	Ms Saffin
Dr Chesterfield-Evans	Mrs Sham-Ho
Mr Cohen	Mr Shaw
Mr Corbett	Ms Tebbutt
Mr Dyer	Mr Tingle
Mr Egan	Mr Vaughan
Mr Johnson	*Tellers,*
Mr Jones	Mrs Isaksen
Mr Kelly	Mr Manson

Noes, 16

Mr Bull	Rev. Nile
Mrs Forsythe	Dr Pezzutti
Mr Gallacher	Mr Ryan
Miss Gardiner	Mr Rowland Smith
Mr Gay	Mr Willis
Mr Hannaford	
Mr Kersten	*Tellers,*
Mr Lynn	Mr Jobling
Mrs Nile	Mr Moppett

Pairs

Mr Kaldis	Dr Goldsmith
Mr Obeid	Mr Samios

Question so resolved in the affirmative.

Motion agreed to.

Bill read a third time.

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

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Final Report on the Inquiry into the Motor Accident Scheme (Compulsory Third Party Insurance)

The Hon. B. H. Vaughan, as Chairman, tabled the report of the committee entitled "Final Report on the Inquiry into the Motor Accidents Scheme (Compulsory Third Party Insurance)", dated November 1998, together with minutes of the proceedings, transcripts and submissions.

Report ordered to be printed.

The Hon. B. H. VAUGHAN [2.42 p.m.]: I move:

That the House take note of the report.

Two and a half years have passed since the committee began its inquiry into the motor accidents scheme—compulsory third party insurance [CTP]—in April 1996. The inquiry would have concluded in December 1997 but for the committee's desire to withhold recommendations on the issue of legal costs in the CTP scheme until the results of the empirical research conducted by the Justice Research Centre [JRC] on this issue became available. The issue of the effect of legal costs in the CTP scheme on premiums has been controversial. Anecdotal observations and political motivations have fuelled a debate on this issue over the past 18 months, debate which, on a few occasions, reached an almost hysterical pitch. However, the research of the JRC has made it very clear that legal costs are not the significant cost driver in the scheme, as previously claimed by CTP insurers.

Indeed, the JRC found that the increase in the amount paid by insurers for claimant legal costs

following the 1990 reforms of the legal profession in New South Wales amounted to less than $5 per motor vehicle registered in the year 1996-97. The committee was disturbed to learn from the report of the JRC that the litigation rate for insurers varied significantly from 20 per cent to 70 per cent. The JRC's report stated that insurers most frequently involved in litigation incurred significantly higher legal costs and compensation costs. It is therefore clear that insurers are responsible to a large degree for the increasing costs of the scheme and that it is somewhat disingenuous for them to constantly point the finger at lawyers and medical practitioners.

The research of the JRC in this area has highlighted two important issues for the New South Wales CTP scheme, namely, the absolute need to reduce substantially the rates of litigation in the scheme, and the serious need for better information in many areas of the scheme, including the objective and empirical assessment of trends and developments in the scheme. Therefore, the twin themes of the final report for this inquiry can be encapsulated in the catchcry "less litigation, more information". In this sense, the final report carries over a part of the philosophy of the first two reports for this inquiry. Many of the recommendations in the interim report and the second interim report were concerned with better-quality information and better access to information relating to the finances of the scheme, the handling of claims, medical evidence, legal costs and dispute resolution.

In addition, a primary focus of the inquiry has always been the provision of proper compensation for the most seriously injured motor accident victims. Therefore, the committee could not conclude the inquiry without revisiting the issue of section 45 of the Motor Accidents Act 1988. My attention, and indeed the attention of the committee, was captured by the case of Jackson Stubbs, which was taken as far as the High Court of Australia. As honourable members may recall, Jackson Stubbs was three months old when he was thrown from a car in a head-on collision. He sustained very serious brain and spinal cord injuries, and he lost both of his parents in the accident. The case highlighted serious deficiencies in the provision of interim payments to motor accident victims before the finalisation of their claims.

Whilst these deficiencies have been partly addressed with the recent introduction of the Motor Accidents Amendment Bill, the committee has put forward a proposal for the resolution of section 45 disputes which provides for a non-adversarial, accurate and objective assessment of a claimant's interim rehabilitation and care needs, at minimal cost to the scheme. As a legal practitioner who formerly practised in the area of personal injury, I have found this inquiry to be immensely interesting and thought provoking, and I have greatly enjoyed the interaction with the various interest groups in the past couple of years.

On behalf of the committee I thank all those individuals and organisations that have been of assistance to the committee during 1988 and throughout the whole inquiry. I have always held the view that one of the major benefits of committee inquiries of this nature is that groups and individuals that appear to have conflicting interests can be brought together and common ground can often be found. This report is another confirmation of the importance of committees in a parliamentary system.

On behalf of the committee I also thank the committee secretariat for their work in the preparation of the report and for their assistance during the inquiry. The staff of the committee are: Mr David Blunt, committee director; Ms Vicki Mullen, senior project officer, who drafted the report; and Ms Phillipa Gately, committee officer, who was responsible for the presentation and formatting of the report. I note as well the ever-present support of my researcher, Fiona Cameron. Finally, I thank again fellow members of the Standing Committee on Law and Justice for their continued spirit of bipartisanship. As with the interim report and the second interim report, this final report has the unanimous support of all members of the committee.

Debate adjourned on motion by the Hon. B. H. Vaughan.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE BILL (No 2)

CHILD PROTECTION (PROHIBITED EMPLOYMENT) BILL (No 3)

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

Second Reading

Debate resumed from 12 November.

The Hon. A. G. CORBETT [2.52 p.m.]: When passed these three important bills will establish the Commission for Children and Young People, and provide greater protection for children through an employment screening process for those people working in child-related employment. I

wholeheartedly support the establishment of the Commission for Children and Young People, which will be a significant achievement. Community groups and other agencies have been calling for such an agency for some time, and its establishment was finally precipitated by the Wood royal commission.

The Government is to be congratulated on its endeavours to establish a commission, and that commission should be supported by members of this House and by the community. I acknowledge the commitment set out in the bill to the involvement and participation of children and young people, and the various obligations on the commission to exercise its functions in such a way as to fulfil that commitment.

I look forward to the implementation of those provisions as one way to better address the needs and interests of children and young people in New South Wales. I am particularly pleased that the bill will bring the Child Death Review Team [CDRT], which is currently administratively linked to the Child Protection Council, under the auspices of the commission. I note that the Commission for Children and Young People will also become the convener of the CDRT and I hope that it will be possible to retain the expertise of the current convener of that team, Professor Kim Oates.

The Government has undertaken an extensive consultation process in developing these bills. The production of a green paper in December 1997 and an exposure draft bill earlier this year invited submissions which have led to improvements in the provisions of the bills. That consultation process is to be applauded. I know that many young people, community organisations and other agencies have responded to the invitation to participate in the consultation process. That demonstrates how important and significant the establishment of the commission is to children and young people, and to those working to promote the best interests, safety, welfare, wellbeing and rights of children and young people.

I acknowledge that a number of issues raised in submissions in response to the green paper and the exposure draft, including my own, have been addressed in the substance of the bills. While the establishment of the Commission for Children and Young People to assist in employment screening is significant, a number of issues still need to be addressed. Some of those issues may be addressed with the implementation of the functions of the commission and some may be resolved as the commission undertakes its functions on a day-to-day basis.

However, it should also be acknowledged that the bills in their current form represent a starting point for the development of the Commission for Children and Young People rather than a complete fulfilment of everybody's aspirations for the functions of that commission. Some of those issues which are yet to be addressed may be addressed by amendments to the bills in this session of Parliament or by actions of the commissioner when he or she is appointed. This could be achieved through such methods as the commission providing reports to each House of Parliament under clause 24(2), the appointment of advisory committees under clause 8(3) or, ultimately, by further amendment after the bills are enacted.

Those amendments could be initiated by the commissioner under clause 11(d) or by the parliamentary joint committee under clause 28(1), or at the instigation of a member of this House or a member in the other place during a parliamentary session at any time in the future. I remain concerned about a number of issues which relate to the independence and effectiveness of the proposed Commission for Children and Young People. They include the functions of the commission, its powers, the level of ministerial control over the commission's activities, its lack of an advocacy role and guaranteed financial resources for the commission.

Rightly, much of the debate and scrutiny of the commission prior to and upon its establishment will centre on the resource allocation made to it. It is important that Parliament and the community can be assured that the commission is given every opportunity and assistance to take on the functions entrusted to it. There must be guaranteed funding for the commission which is tied to the work of the commission. An independent review of the resources allocated by the Government to the commission may be necessary. In addition, there needs to be ongoing budgetary segregation of funding for the commission. Ideally, this should distinguish between funding for the employment screening functions and funding for other functions.

That is necessary due to the likelihood of the employment screening function overwhelming the other numerous functions of the commission. Although we are constrained in our power to guarantee an amount of funding for the commission, during the Committee stage of debate on these bills I will be moving an amendment to at least draw attention to this issue and provide the commissioner with some legislative authority for any requests for funds to fulfil the functions of the commission. One issue that has been expressed by some community organisations who have participated in the

consultative process relates to whether the employment screening process should be part of the commission's functions.

There is some support for the idea that the employment screening function could be undertaken by a separate probity unit. I have two initial concerns about the employment screening process being part of the commission's functions. The first, as mentioned earlier, is based upon the likelihood that the most available funds for the commission could be taken up by the employment screening function. The second is that the employment screening work may attract controversy to the commission as individuals complain about risk assessments thereby detracting from the commission's other work. In addition, there are issues of confidentiality that will require strategies for ensuring that only members of the employment screening unit have access to confidential information. Nevertheless, the Government has linked the employment screening function to the commission.

Turning to the specifics of the bill, clause 3 to the bill defines "children" as persons under the age of 18 years. The only mention of young people is in the commission's title. It is important to acknowledge that young people, as distinct from children, are part of the commission's role, and I support the inclusion of young people in the commissioner's title. Part 2 of the bill relates to the constitution of the commission. I support clause 5, which provides for the commissioner's term of office to be increased from three years to at least four years, with the appointment limited to only two such terms. In regard to the appointment of the commissioner, I commend the practice in Queensland relating to the appointment of the children's commissioner. In that State the children's commissioner is appointed following the recommendation of a selection panel consisting of the Minister, the shadow minister and the public service commissioner. It is important that the commissioner have the confidence of the whole of Parliament.

Future consideration may need to be given to a similar selection process in New South Wales. Consideration should be given also to provision being made for members of the proposed parliamentary joint committee to be consulted on the appointment of the commissioner. There is precedent for this in New South Wales in the appointment of the Police Integrity Commissioner, which is subject to veto by the Joint Parliamentary Committee on the Office of the Ombudsman and the Police Integrity Commission. Equally, future consideration should be given to the parliamentary joint committee being involved in the appointment of the members of the expert advisory committee, perhaps by being able to nominate advisory committee members and/or approve of commission nominations.

Whilst it is not my intention to constrain the commission in the nomination of persons to serve on the expert advisory committee, consideration should be given to the number of government and community representatives with expertise appointed to the committee, to ensure a balance of representation. I am pleased to note that in part 3, which refers to the functions of the commission, there has been an addition to the bill to enunciate principles to govern the activities and functions of the commission, including reference to the wellbeing of children being of paramount consideration and the views of children being given serious consideration and being taken into account. It acknowledges also that the relationship between children and their families, and in turn children and their community, is important for the wellbeing of children.

During the Committee stage I will move an amendment to clarify one of the principles that is to govern the work of the commission. Other members will move amendments to add safety and welfare to the wellbeing of children, and I will support those amendments. The bill establishes a number of important and significant functions for the commission. Again I stress that there needs to be some assurance that the commission will be sufficiently resourced to undertake each of these functions.

In regard to the priority matters of the commission, referred to in clause 12, if there is not to be specific reference to children at risk of abuse and neglect—or any other specific group for that matter—I encourage the first Commissioner for Children and Young People to appoint an advisory committee under clause 8(3) to continue the current work of the Child Protection Council. In his second reading speech the Minister stated, "Within the new commission, and beneath a new high profile commissioner, we are confident that the work of the Child Protection Council will be further enhanced." I endorse the Minister's statement and hope that her confidence will be met with concrete action.

I also support in principle a proposed amendment to clause 11, which refers to the functions of the commission, to make it clear that the commission has a role to keep under scrutiny the systems for preventing child abuse. Part 3 of the bill makes no mention of a role for the commission to monitor compliance with the United Nations

Convention on the Rights of the Child within New South Wales. There was considerable consensus among those who participated in the consultation process in connection with the bill that there should be such a role. Its inclusion in the work of the commission would not make the United Nations convention any more enforceable than it would otherwise be. I encourage the first commissioner and/or the parliamentary joint committee to include this issue in their deliberations as part of the role of the commission.

I should mention also the lack of an advocacy role for the commission. Many of those who participated in the consultation regarding the bill were concerned that it does not specifically provide an advocacy role for the commission. I am pleased that the Minister stated in her second reading speech that when the commission is established the Government will immediately give it "the job of reporting on the best means of improving assistance to those children who have no-one to turn to for help". However, specific attention needs to be given to child and youth advocates being attached to the commission. Those advocates could play a useful role in the commission's work, being the outreach of the commission to vulnerable children and young people. This issue may need to be addressed by the commissioner by way of reports to both Houses of Parliament and by the parliamentary joint committee.

Clause 14 of the bill deals with the commission's role to work in co-operation with other agencies, both government and non-government. Notwithstanding that the commission can make arrangements with government agencies to secure co-operation, I am concerned that it does not have adequate powers to access information held by other agencies, including government departments, without having to resort to the use of the special inquiry powers, given that the Minister approved such access. This may limit the commission's effectiveness, especially in making recommendations to government and non-government agencies on legislation, policies, practices and services affecting children. With the bill in its current form one can only hope that such agencies and departments will co-operate with the commission to the fullest extent in the exercise of its function. Again that issue may need to be considered by the first commissioner and/or the parliamentary joint committee, or dealt with by amendments to the bill.

Part 4 of the bill deals with special inquiries by the commission. Whilst I appreciate the Government's intention in relation to ministerial approval for the conduct of a special inquiry, considering the commissioner's significant coercive powers I have reservations about the level of ministerial control for the conduct of special inquiries proposed by clause 17. Put simply, the commission must be fully independent and, more importantly, be seen to be independent. The Minister should be able to nominate areas for investigation, as should the joint committee, but I am concerned that the commission cannot initiate an inquiry of its own volition.

I support in principle a procedure to permit any person or group to make a request for the commission to conduct a special inquiry into an issue, with the commission ultimately deciding whether such a review is necessary, possible or desirable, and for the commission to be required to provide the appropriate party with reasons for the request being declined. Nevertheless, I am aware that the Government considers this ministerial control as fundamental. Therefore, as a compromise position, I will move an amendment at the Committee stage to clause 23(2) to require the commission to provide in each annual report a description of any request made by the commission to conduct a special inquiry that was not approved by the Minister, if other amendments are not passed to adequately address this issue.

Part 6 of the bill deals with the parliamentary joint committee. I support an examination of the benefits that might result from the proposed functions of the joint committee, as set out in clause 28, being extended by, first, allowing the committee to participate in the appointment of the commissioner and members of the expert advisory committee; second, recommending to the commission that a special inquiry be conducted on a particular matter; and, third, advising on the making of regulations under the Act. I ask that the commissioner and/or the committee address these issues. The appointment of only three members of the Legislative Council is insufficient to adequately permit the representation of the views of members of this House. I understand that the Hon. Franca Arena proposes to move an amendment to address the issue. It is important that the commission be given an opportunity to consider and respond to the parliamentary joint committee's reports to both Houses of Parliament. At the Committee stage I will move an amendment accordingly.

Part 7 of the bill deals with the employment screening function. This is an important yet difficult part of the legislative package and, in conjunction with the Child Protection (Prohibited Employment) Bill (No 3), also needs scrutiny. The comments made in this respect apply also to the Ombudsman Amendment (Child Protection and Community

Services) Bill (No 3). It is desirable that employment screening take place for all those who work with vulnerable people, not just with children. I realise that the policy direction of these bills will ensure that the employment screening function remains with the commission, but it is important that from the outset it be established as a separate entity within the commission so that at some future stage employment screening can deal with a broader category of employees than simply those who work with children, for example, people with disabilities—especially intellectual disabilities.

As I stated earlier, consideration should be given to making a distinction in the budget allocations to the commission for its employment screening functions and for the other aspects of its work. Concerns about the amount of funding for employment screening have been expressed by some community organisations which wish to engage the commission to undertake employment screening under clause 36(1)(c) on their behalf. I foreshadow that I will move an amendment to clause 36(1)(e) to add "advice" as one of the functions of the commission in respect of employment screening.

Some community organisations have expressed uncertainty also as to whether the employment screening process will apply to those not in paid employment with children but who have responsibility for children or the opportunity to have unsupervised contact with them. This applies to volunteers, foster carers and organisations which engage—if not necessarily employ—people to work with children. Apparently these issues can be dealt with adequately by regulations under clause 37(6), yet concern still seems to continue among some community organisations, particularly relating to staff engaged by churches where they are not technically employees.

Some concern is also felt about the use of the word "primarily" in relation to child-related employment. The narrowness of the word "primarily" in relation to child-related employment creates a potential loophole by which employers could define positions as not primarily involving direct unsupervised contact with children to avoid the cost of screening, or inadvertently people could avoid scrutiny when they should be subject to checking. Another area of concern is that there appears to be no obligation on employers to notify the employment screening unit of the commission of a resignation of an employee tendered to avoid disciplinary proceedings in respect of child-related employment. There is an argument that such a situation—in which nothing has been established or proven satisfactorily, and the person has resigned—may allow a person to move on to another child-related employment position.

The operation of the employment screening functions of the bills needs to also ensure that natural justice principles are applied. There needs to be respect for the civil and industrial rights of employees whilst maintaining a child's right to protection from abuse and exploitation. I am pleased that under part 8 of the Commission for Children and Young People Bill (No 2) there will be a major review of the legislation after five years, but as there is no explicit requirement for consultation by the Minister, I will propose an amendment to clause 53 regarding the review of the Act to ensure community consultation is part of that review. Finally, there is no doubt that the bills will bring about a significant step forward in the co-ordination and provision of services for children and young people in New South Wales. The bills have the potential to contribute to the wellbeing and development of children and young people.

However, I regard the bills as the starting point in the development of the Commission for Children and Young People in New South Wales. There is, I believe, a need for amendments; and we will debate them in Committee. In addition, there is a need for further consideration to be given to many issues, some of which I have mentioned today. Initially these issues may be considered by the first commissioner and also the parliamentary joint committee. I anticipate that this consideration will lead to future amendments of the bills. Nonetheless, the Government should be supported and congratulated on establishing the Commission for Children and Young People in New South Wales.

I draw attention to Tasmania's Act No. 28 of 1997, the Children, Young Persons and Their Families Act. Part 9 of that Act contains a division which deals with the Commissioner for Children, advisory panels and facilitators. This interesting legislation includes sections on the functions and powers of the commissioner. Under the heading "Functions of Commissioner", section 79(1) of the Tasmanian Act states:

> The Commissioner has the following functions . . .
>
> (3) In performing his or her functions, the Commissioner must act independently, impartially and in the public interest.

I hope that will apply to the New South Wales commission; I am sure it will. Under the heading "Powers of Commissioner", section 80(2) of that Act states:

> Without limiting the powers of the Commissioner under sub-section (1), the Commissioner may require any person to answer questions or to produce documents so far as may be relevant to the administration of this Act.

That inclusion ought be kept in mind during the Committee stage on this proposed legislation. I support the bills and congratulate the Government on introducing them. I look forward to the Commissioner being appointed and the parliamentary joint committee being established. This is a terrific series of bills to come before the House and I support them.

The Hon. JAN BURNSWOODS [3.13 p.m.]: With pleasure I support the Commission for Children and Young People Bill (No 2), the Child Protection (Prohibited Employment) Bill (No 3) and the Ombudsman Amendment (Child Protection and Community Services) Bill (No 3). This is an important package of legislation for the care and protection of children, particularly to protect them from abuse. It is important to add this package to other legislation that the Government has introduced to promote the interests of children and young people, particularly those who are most vulnerable.

I will concentrate on a couple of specific aspects of the proposed legislation. Some time ago an article written by Adele Horin appeared in the *Sydney Morning Herald*. Adele, for whom I have the greatest respect, pointed out that children's advocates have lobbied for years for a commission such as this, and it was one of the most important recommendations of the Wood royal commission's paedophile inquiry a year ago. Her article stated:

> Unable to vote, hire lawyers, or form lobby groups, children are entirely dependent on their parents to act in their interests. The most vulnerable children—the ones most likely to get into trouble on the streets, in school, in foster care, and in cruel and neglectful homes—have not been well served by the current political and welfare system.

Probably all of us would agree with that. Adele Horin spoke about the way in which the royal commissioner, Justice Wood, was shocked by the disarray, competitiveness and low morale that he found amongst those sections of government departments which deal with children, particularly those handling abusive children. Justice Wood called strongly for the establishment of a children's commission. Adele Horin, along with many people, has criticism for this legislation. Her article concluded:

> Spurred by Justice Wood, the Government has taken a positive step to promote children's interests. The commission has potential. Finetuning of the bill could make it even better. Properly resourcing the commission to carry out its broad functions will be vital.

I certainly agree with those four sentences. Indeed, the Government has taken a positive step and the commission will be important to the protection of children. Much finetuning of the bill has already been carried out and I congratulate the Government on the process of consultation which occurred in the weeks leading up to this debate, in both the lower House and this House. Tonight when the bills are dealt with in the Committee stage, further amendments that have been the subject of consultation with a number of people will be considered and adopted. I stress my agreement with Adele Horin that this commission and associated measures cannot work unless they are properly resourced. The important issue of resourcing will be dealt with next year.

I deal now with employment screening. I do so because a large part of my involvement with this package of legislation has been in looking at the clauses relating to the screening of employees and the current system for handling complaints against employees. In that respect I have been talking with representatives of the New South Wales Teachers Federation, the Independent Education Union, the Catholic Education Office and other organisations which run schools. Most honourable members would be aware that those groups had considerable concerns about the legislation. I congratulate the Government on the extent to which the bills have been finetuned and on its consultative approach. But more needs to be done.

The unions have been concerned that the proposed screening system allows for consideration of often vexatious complaints and matters which, even after a disciplinary investigation, have been found unproved. Unions are concerned that the information gleaned in that disciplinary process will be passed on and perhaps prevent a teacher, child-care worker or health worker from ever working again. The unions are concerned that people who work with children will not, for instance, be able to touch children, as teachers so often do. Following a playground accident it is necessary for a teacher to give a child a hug, to help the child to his or her feet, and so on. But there is certainly a real concern in those professions that teachers may find themselves fearing to touch a child, to comfort a child, because of the risk of an allegation.

Obviously, this legislation should do nothing to put teachers in fear of prosecution for their innocent actions, but some of its broader clauses do provide grounds for fear. In the past failings of the New South Wales Department of Education have been apparent. The royal commission drew attention to mishandling by the department's case management

unit, particularly involving one high school. The royal commission expressed concern that not only were matters not investigated in the interests of the children affected but also the way in which the process had been carried out over a number of years had unfairly destroyed careers and, at least in one case, the life of the teacher involved.

Strong reasons support the concerns of some groups of employees. The Government has met with the unions a number of times to discuss those concerns. The last in that series of meetings, organised by the Labor Council, took place last week. I am pleased that a variety of assurances have been given in respect of the concerns raised. We must protect our children, but we need also to protect the rights of employees. The consultative process has helped in that respect. Some matters that have been the subject of negotiation include access to information resulting from the screening process. There was fear that employers, simply on request, could get sensitive information about an employee that had been gathered in the process—particularly as the relevant employee may eventually be found innocent. This legislation will ensure that only employers approved by the Minister will have access to information resulting from the screening process.

The second matter I would mention is the considerable concern about the inclusion of the word "completed" in the term "completed disciplinary matters"—in other words, matters have been investigated following an allegation, the information has been tested, the employee has had the opportunity to refute a charge, and a finding has been made. That has been a particular concern of unions representing workers because the word "completed", depending on how it is defined, may include matters found to be "not proven" or where the charge eventually has been dismissed for lack of evidence.

I am pleased that, following this consultative process, it has been agreed that the matters included under the definition of completed disciplinary proceedings have been narrowed down to matters specifically involving acts of violence. That is a sensible limiting of what could have been a quite dangerous clause. Other important protections are afforded by the bill. Those include the requirement that applicants be advised of any adverse information about them obtained during the screening so that they have the chance to discuss and/or correct the information. Information thrown up by a screening must be subjected to risk assessment so that a person is not automatically excluded from employment.

In respect of all the matters I have mentioned, guidelines will be very important. I note that the Government has given a firm commitment that unions and other key groups will be involved in the development of regulations and procedures that will contain the detail of the system. The legislation in the form now before the House provides the framework for this package of measures to protect children from abuse, but the regulations and guidelines will play a key role in determining exactly how the system will work and exactly what types of disciplinary information must be notified to the children's commission.

Among the issues that need to be resolved is whether or not all vexatious complaints should be excluded. It is argued that that is a good way to go. On the other hand, some argue that if vexatious complaints are to be excluded some employers, in order to protect themselves, may cease to make such a finding and may instead make a finding of unproven. As that finding must be notified, perhaps employees would be worse off than they otherwise might have been. Those kinds of exclusions need to be narrowed down and specified precisely in the regulations and guidelines. As I said earlier, the amendments that the Attorney General will move later today are part of the process of refining the protective mechanism.

It is an important point that the Minister will be required to publish the guidelines relating to procedures and standards for employment screening at or before the commencement of the legislation, and that within two years those procedures and guidelines will be reviewed, again in consultation with the relevant parties. With new and ground-breaking legislation like this, it is sensible to write into legislation from day one that these legislative measures will need amendment, and acknowledge that the system will not be perfect. Therefore it is important and sensible that there be a commitment to carry out a full-scale review within two years.

I will not deal with a large number of other issues at great length because other honourable members have dealt with those matters in detail. However, one important issue is the role of the Ombudsman in overseeing how departments investigate allegations. A number of specific issues that have been raised relate to the Ombudsman's role. Again, some of those matters need to be worked out as we go along. The question also arises of the possibility of not only the commission but maybe also the Office of the Ombudsman becoming overloaded because of being required to investigate too many false, trivial or vexatious allegations

referred to the Ombudsman. No-one wants any part of this system—a system that is designed to protect children—ceasing to work properly because of sheer bureaucratic overload. Certainly, some important issues will have to be worked out in the future, in consultation with both employers and employees.

I would make just one or two final points. I realise it is important that there be a mechanism for oversight of the children's commission. Indeed, there is a strong feeling that the independence of the children's commission should be guaranteed by making the commission not directly subject to the government. However, having had some experience of parliamentary joint committees, I do think that parliamentary joint committees have been too eagerly embraced by many people as a solution to the problems in the functioning of statutory bodies. In my experience, parliamentary joint committees are not nearly as useful as they are sometimes said to be.

I refer to my specific experience as a member serving on the Committee on the Independent Commission Against Corruption. Despite the best will in the world, that committee was not able to effectively oversight that commission, nor is it ever likely to be able to do so. We have too many parliamentary joint committees with too many overlapping interests. In this case, for instance, a parliamentary joint committee is oversighting the Ombudsman; now, a separate parliamentary joint committee will oversight the children's commission.

Of course, a considerable overlap of functions is involved. Perhaps in a few years such committees will not be as fashionable, they will disappear and we may be able to revert to a more traditional system. Being aware of the proliferation of committees of this Parliament, I do not hold out great hope of that occurring. However, I thought I would place my views on the record so that at least in years to come I will be able to say that I said so at the time.

The final point I make involves a reference to a statement made by Adele Horin on the need for advocacy for children, particularly children in our community who are most vulnerable and least able to be represented by their parents or others close to them. As the Chair of the Standing Committee on Social Issues I should like to join with other members who have commended the committee, and especially the former chair, Ann Symonds, and other committee members, for producing a quite well-known report on children's advocacy.

The Government has chosen not to adopt the committee's recommendation to establish an independent children's advocacy network, but the newly established children's commission will, up to a point, provide that representation for children. I am pleased to note that the Government is committed to ensuring that the children's commission, soon after its establishment, examines and reports on the best means of improving assistance to children who have no-one to turn to for help. I commend these bills to honourable members.

Reverend the Hon. F. J. NILE [3.30 p.m.]: The Christian Democratic Party supports in principle the intentions of these bills, which seek to protect the safety and welfare of children and young people through the establishment of a children's commission, the screening of child-related employment, and the scrutiny of government interaction with children through the Ombudsman's office. I emphasise "supports in principle" because we have some concerns and a feeling of unease about the wording of the proposed legislation, especially in regard to the children's commission. We will carefully monitor the operation of these bills to ensure that they function in the way the Parliament intended, and ensure that the joint parliamentary committee carries out its supervisory duties.

Although the Hon. Jan Burnswoods criticised parliamentary committees, I believe that they are useful and of value. My only concern is that the Commission for Children and Young People Bill (No 2) provides that the parliamentary joint committee to be called the Committee on Children and Young People is to consist of 11 members, being three members of the Legislative Council and eight members of the Legislative Assembly. I would have thought that a fairer representation would be four members of the Legislative Council and seven members of the Legislative Assembly, because this House has a deep interest in the welfare of children and young people.

The Hon. Jan Burnswoods: You mean you want to be on the committee.

Reverend the Hon. F. J. NILE: I believe that the committee should be more representative, without necessarily saying who should be on it. This House has an important role to play. I would not nominate the Hon. Jan Burnswoods as a member of the committee, but if I were nominated I would be happy to accept.

The Hon. Dr B. P. V. Pezzutti: Why not nominate the member?

Reverend the Hon. F. J. NILE: Does the honourable member want an answer to that question?

The Hon. Dr B. P. V. Pezzutti: Yes.

Reverend the Hon. F. J. NILE: First, I noted that in her contribution the Hon. Jan Burnswoods referred to the age of consent.

The Hon. Jan Burnswoods: I didn't mention the age of consent. I am sorry I did not mention it, but I did not mention it.

Reverend the Hon. F. J. NILE: The honourable member hinted that the age of consent would be a matter of concern next year.

The Hon. Jan Burnswoods: I am sorry, but you are wrong. I wish I had mentioned the age of consent, but I didn't.

Reverend the Hon. F. J. NILE: Obviously that matter is of deep interest to the honourable member. The Christian Democratic Party is concerned that the children's commission will have the power to interfere with the traditional family. Over the years we have had reservations about implementation of the United Nations Convention on the Rights of the Child. A number of investigations about the operation of that convention have taken place in Germany and other European countries. Sometimes an investigation has turned into an attack on the traditional family, especially the parents, when children have alleged that they have been discriminated against by their parents because they have not been allowed to watch a certain television program, read certain magazines or stay out late at night, or they have objected to being sent to Sunday school or church.

Such issues have been taken up by European commissions, which then directly interfere with the role of parents and the standards they set for their children. In the future such complaints from children may be referred to the children's commission by zealous social workers, resulting in many vexatious complaints being made. I am pleased that the children's commission bill provides for vexatious complaints to be set aside, as that is not the intended purpose of the proposed legislation. There is evidence of some social workers taking a personal dislike to parents, especially if the parents are Christians whose Christian ethics, beliefs and lifestyle are different to those of the social worker. The social workers tend to have a negative attitude to the parents. In my view such parents should be complimented for having a deep concern for the welfare of their children.

It seems that these bills, despite all the good intentions, lack any real acknowledgment of traditional, well-functioning families. It has always been emphasised that there is something wrong with the way children are being looked after both inside the home and outside. On a number of occasions the Government has said that the paedophile inquiry by the Wood royal commission, which recommended that an independent children's commission be established, is the background to this proposed legislation. Clause 11 of the Commission for Children and Young People Bill (No 2) sets out the principal functions of the commission. Subclause (a) states:

> to promote the participation of children in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children appropriate to their age and maturity.

That function has nothing to do with the Wood royal commission; it is a philosophical objective. The function of promoting the "participation of children appropriate to their age and maturity" will open a Pandora's box. Interestingly, subclause (j) is the only function directly related to matters raised in the Wood royal commission, which is the basis for establishing the children's commission. Subclause (j) states:

> to develop and administer a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children.

As I said, the Government has claimed that the Wood royal commission is the basis for introducing this proposed legislation. Certainly the findings of the royal commission are driving these bills and giving them a high priority. The establishment of a children's commission has been talked about for many years, yet under these bills the functions of the children's commission are vague. The Christian Democratic Party knows of shocking cases of abuse in which children have been severely injured or even murdered as a consequence of the environment in which they find themselves. After the breakdown of the traditional family the male in a de facto relationship often takes a dislike to the children of his partner. A number of cases have been reported in which the de facto male, not the natural father, committed the most serious abuse against the children.

In the proposed legislation heavy emphasis is placed on screening in child-related employment, especially the teaching profession and the clergy, although the Wood royal commission found that less than 2.5 per cent of proven child abuse cases were committed by people in those professions. Screening

is an important element in these bills. If most of the commission's resources are to be spent on screening, huge resources will be poured into a preventive area without corresponding gains in child protection. The Christian Democratic Party is concerned about the target for scrutiny by the commission. Some sections of society—wrongly, in our opinion—make no distinction between traditional and non-traditional families. More cases of children being in danger of harm or child abuse have been reported in non-traditional families in which a de facto male has replaced the natural father. The children's commission should keep that high on its agenda.

Some years ago Brian Burdekin found that the risk of child abuse increases some 500 per cent—I emphasise "500 per cent"—in households in which the biological father, the natural father, is not present. We must balance the commission's right to investigate against a family's right to privacy. The bill does not state that clearly, yet that is an area most conducive to placing a child in a dangerous situation. The scrutiny of certain professions is a start to rein in the possible abuse of children. A major oversight of the proposed legislation is that the bills do not contain provisions that consider education of families or encouragement for families to stay intact with all biological ties secure. Perhaps other legislation, such as our Family Impact Commission Bill, will redress that oversight and help to maintain the emphasis on children.

We should focus on the family unit. One major way to prevent abuse of children is to strengthen families and have healthy families. In principle we support child advocacy through the commission, but serious consideration should be given to pro-family legislation as well as to this sort of anti-abuse legislation. The approach must be two-pronged, and our Family Impact Commission Bill could be the second prong. Strong families will protect and care for children because strong families equal a strong society.

The Christian Democratic Party supports the Ombudsman's role, though that role has been criticised. The job is too large for one super commission, and it is sensible to split the role of watching over departmental liaison with children and dealing with any complaints, especially since there have been hundreds of cases reported of child abuse by teachers and even by people within the department, including one individual who infiltrated into a strategic position.

Some amendments propose changing the role of the Ombudsman's office in relation to children and related complaints. We do not support any move to delete that role. Our support for the role of the Ombudsman is again based on proper resourcing by the Government. We too were concerned that the children's commission and the Ombudsman's office would have adequate resources to undertake their respective roles. Perhaps in reply the Minister might place on record that the Government will guarantee adequate and sufficient funding to help those bodies carry out their responsibilities.

Parliament could have a role in ensuring that adequate funding and resources are provided. We are concerned also about the ongoing independence of the children's commission and the proposed children's commissioner, particularly in light of the recent history concerning Mr Roger West. That highlights the danger of the commissioner speaking the truth, as Mr West did, yet not being overcritical of a government, because it appeared he was punished because of that.

The children's commissioner will have that in mind, and that may lead the commission to compromise its role in being fair and open, even if it means being critical of whichever party is in government. If there is a change in government, the same would apply to a coalition government. Persons in responsible roles must feel free to be critical when that is justified and not simply play party politics. They must be able to speak out and report freely when improvements are needed within various government departments, even if this appears to be a criticism of the Minister or whichever party is in government.

The commissioner must feel free to make those statements and to publish frank reports. Balancing the role between the commission and its independence and the Minister who has oversight of the commission could require the Minister to explain in an annual report why a special investigation was denied. That requirement would put the Minister on notice that he is accountable for such decisions. Allowing the Minister to retain the right to veto a special investigation is a safeguard against vexatious allegations.

Vexatious complaints are an extremely sensitive matter. It is easy to err on the side of caution in both directions. To judge whether a complaint is vexatious one must put in place an investigation that could impact on innocent people's lives. In the past such investigations have resulted in the suicide of completely innocent parties. Perhaps the bill could be strengthened by including tough penalties for vexatious complaints. The Commission for Children and Young People Bill does not have such a provision, and clarification is needed on this

issue. I seek leave to table our submission on the children's commission entitled "Christian Democratic Party—Report on Children's Commission Green Paper" dated March 1998.

Leave granted.

I have referred already to the need to review the membership of the parliamentary joint committee on the Commission for Children and Young People Bill. The Christian Democratic Party has received a number of submissions outlining various other concerns relating to this proposed legislation. Clause 5 of the Child Protection (Prohibited Employment) Bill (No 3) deals with prohibited persons. To prevent future misinterpretation, perhaps the Minister could explain this provision. Clause 5(3) defines "serious sex offence", and paragraph (c) states:

> an offence under sections 91D—91G of the *Crimes Act 1900* (other than if committed by a child prostitute) or a similar offence under a law other than a law of New South Wales,

Could that paragraph be used as a loophole to avoid being charged? For example, a paedophile who wants to abuse a child merely needs to have the victim, the child, accept a nominal amount of money and the child will be classified as a child prostitute.

The Hon. Franca Arena: There is no such thing as a child prostitute, is there?

Reverend the Hon. F. J. NILE: The bill refers to a child prostitute. Will it give some sort of status to "child prostitute"? Will it provide a loophole by which a paedophile could create a child prostitute? And would that remove any illegality from the serious sex offence and exclude the perpetrator from any obligations under this proposed legislation? I ask the Minister to clarify that aspect. It may be a lesser offence than a serious sexual offence to be charged with having sex with a child prostitute. The Government must examine that provision.

We received a lengthy submission from the Catholic Education Commission on behalf of all related Catholic organisations: the Catholic Commission for Employment Relations; the Catholic Education Commission, New South Wales; the New South Wales Catholic Social Welfare Committee; the Catholic Education and Social Welfare Coordinating Committee; the Catholic Health Care Association of New South Wales; the Council of Catholic School Parents; the Conference of Religious Educators in State Schools; and the Professional Standards Office of the Catholic Church, New South Wales. I assume the Government has received a copy of that submission. If there is any doubt, I shall be happy to table that submission.

The Hon. M. R. Egan: What is it?

Reverend the Hon. F. J. NILE: It is the submission from the Catholic Education Commission on the exposure draft bills for a Commission for Children and Young People.

Leave granted.

I will highlight one or two matters in the submission that concerned me and which have been raised by previous speakers. Normally the definition of "child" is quite clear, but there seems to be some confusion in these three bills. It is not consistent—and it should be. The recommendation of these agencies, which the Christian Democratic Party strongly supports, is that "child" should be defined as "any person under 18 years of age" and that the term "young person" should have the same meaning as that developed in the review of the Children (Care and Protection) Act.

The definition in this legislation appears to float between the ages of 16 and 18. With the age of consent controversy and other matters these two ages are very important, but it should be 18. Honourable members will know of a number of cases involving paedophiles who have abused children. Often their defence is to try to prove that the young person was under 18 but not under 16, and in that way they hope to escape the full weight of the law.

There is also some confusion over what is a prohibited person. The Catholic organisations proposed that consideration be given to amending clause 5(1) of the Child Protection (Prohibited Employment) Bill so that it applies to a person convicted of "a serious offence against a person or a child, including a serious sex offence". In this context an additional subclause could be included so as to specify, "a serious offence against a person or a child as well as a serious sex offence".

The Catholic organisations raised the point with regard to clause 9 that a person may seek to avoid adverse employer comment by resigning from child-related employment. So, the organisations consider this provision should be extended to include the words "the views of any current or past employer(s) of the person which are relevant to the declaration proceedings". Transfer to other employment, as referred to in clause 10, is another concern of the Catholic agencies. They could not imagine persons transferring to a different

employment, but they went on to say that they would be alarmed if an expectation developed that providers of children's services could or should provide employment of a different kind to prohibited persons.

It would be difficult to isolate that prohibited person from information related to children and/or access to children. These agencies also raised the question that the Child Protection (Prohibited Employment) Bill should not be seen as an alternative to the establishment of a Commission for Children and Young People but, rather, as an initial step in a process complementary to the enactment of the Commission for Children and Young People Bill.

The agencies believe that a number of other matters should be followed up by the Government, and I assume that this will happen even after the commission is appointed. Further clarification will be required, by way of regulation, about the functions of the commission; the definition of "child", which I have mentioned already; priority matters; co-operation with other agencies; the definition of child-related employment; the application of the bills to volunteers; the definition of disciplinary proceedings; the duties of employers with respect to disciplinary proceedings; the duty to notify the commission; the management of the database, including freedom of information issues; and the cost of compliance.

They are some of the matters the Catholic agencies have asked the Government to investigate further, and they can be spelled out in greater detail in the regulations. In relation to child-related employment, the organisations also queried the application of the bill to volunteers, a matter that has also been raised by some other speakers.

Many organisations make what is a correct and justifiable use of volunteers, but those volunteers need to be subjected to the same screening processes as full-time employees. In fact, some people could hope to easily evade employment scrutiny by saying they want to help out in the school or in the child-care centre or a children's home on a non-paid basis. Some organisations would be tempted to take the offer of help, when the person may have other motives. In no way am I criticising the use of voluntary workers, which is a very important component of the work of non-government organisations.

The Hon. Dr B. P. V. Pezzutti: Even in government organisations.

Reverend the Hon. F. J. NILE: Even in government organisations, but there is not as much of a role for volunteers in government organisations. The Catholic organisations are concerned about the extension of the Ombudsman's role to non-government agencies. The relationship between government and non-government organisations is delicate. Non-government institutions have always enjoyed a degree of independence, but not to such an extent that child abuse could or would be allowed to occur within that organisation, especially in the child-care or child-welfare area, which is funded to such a large extent from government funds. Strictly speaking, they are not 100 per cent independent, because they are dependent on government grants to allow them to carry out their operations.

The final concerns of the Catholic agencies related to the watering down of Mr Justice Wood's recommendations with respect to the role of the Commission for Children and Young People in the supervision and monitoring of child protection. That is the point I was making earlier. The bills seem to be more vague than the recommendations. I have already referred to the definitions of "child", "child abuse" and "employee". There is potential for multiple and perhaps inconsistent records about employees to be held across a range of organisations. They could be brought together into a more accurate database.

Some non-government agencies or schools may need assistance to conform with this legislation and some church or non-government welfare agencies may need assistance in their endeavours to fulfil the requirements of the legislation. They are not opposed to it but it may involve more administration and extra staff, and hence the need for extra income to meet those financial pressures. These are justifiable concerns by these Catholic agencies. I am very pleased that Dr John Yu, who is a highly regarded paediatrician and former director of the New Children's Hospital at Westmead, has indicated to me his strong support for the legislation. He says:

> The Bills are not exactly as I would prefer but are very much better than no law supporting children at all. I am convinced that the proposed bills will provide a workable set of legislation which in the future may be refined and clarified by suitable regulations or even later amendments.

Dr Yu is concerned that nothing should be done by way of amendment that would upset the balance of the legislation or result in government reluctance to pursue the legislation. He is concerned that amendments may weaken the legislation or make it unacceptable to the Government. He wrote further:

> I am concerned that many of the amendments being discussed or proposed will result in a weakened piece of legislation or worse still a bill that will not be acceptable to the Government. If the Bills do not get passed before the next election then I suspect that the cause will be lost for the foreseeable future.

The Government attempted to resolve difficulties in the forestry industry and many negotiations were necessary in order to achieve legislation that was balanced. Amendments can tilt the balance and make legislation unworkable. I realise that it is unusual not to accept amendments to very detailed legislation. All three of these bills are important. As Dr Yu has said, a well-intentioned amendment may undermine the purpose and the operation of the legislation. The New South Wales Nurses Association by way of letter of 28 October expressed concerns as to the definition of child abuse.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

STATE DEBT RECOVERY OFFICE

The Hon. J. P. HANNAFORD: I address a question to the Attorney General. Is it a fact that the Attorney General stated to the House on 29 April this year:

> The State Debt Recovery Office is working well. As I have argued in the media, it is only equitable. If the fine system is to survive . . . it must be fair.

Is it also a fact that an officer of the Coffs Harbour Fishermen's Co-operative, which tried to pay to the State Debt Recovery Office [SDRO] a parking fine for one vehicle incurred by a former employee, waited on the phone for more than four hours at a cost of $81.50, listening to music, without ever getting through? How can it be said that the office is working well, and how can it be deemed to be fair? What steps will the Attorney General take to ensure that the Coffs Harbour Fishermen's Co-operative is not disadvantaged by the inefficiency?

The Hon. J. W. SHAW: Broadly speaking, the SDRO is working well. The office is recovering funds, unlike previous fine recovery systems in this State. That is not to say that the system is perfect. I am concerned to provide more resources to enable telephone communications to be made by those who want to communicate with the SDRO, and I am working on that. I am not familiar with the particular concern of the Coffs Harbour Fishermen's Co-operative to which the honourable member refers—

The Hon. Franca Arena: You should know about that.

The Hon. J. W. SHAW: Perhaps in an ideal world I should. I shall examine the matter. I accept that in an organisation that has been perhaps more successful than was contemplated there is a need for more resources to enable communications with the public. In the interests of equity, the SDRO is at last enforcing fines so that there is fairness between those who pay their fines and those who do not.

The Hon. J. P. HANNAFORD: I ask a supplementary question of the Attorney General. In light of the Attorney's answer, is it a fact that the SDRO has recovered only $30 million of the $300 million estimated to be recovered and is that due to insufficient resources, with only 15 staff employed to handle between 1,500 and 1,600 calls received each day? What action does the Attorney General intend to take to fix the problem?

The Hon. J. W. SHAW: Any problem is very much overstated. My understanding is that the SDRO is recovering more money than was contemplated; it is recovering a great deal of money owed by citizens of New South Wales on fines imposed by the courts. There is no problem as contemplated by the supplementary question.

LICENSED PREMISES FAIR TRADING

The Hon. J. R. JOHNSON: My question is addressed to the Minister for Fair Trading. Will the Minister inform the House what the Department of Fair Trading is doing to ensure that licensed premises give drinkers full measures when they purchase alcoholic drinks? As the Minister well knows this is a matter very dear to my heart.

The Hon. J. W. SHAW: I realise that the honourable member is concerned about consumers and those who purchase spirits—

The Hon. Dr B. P. V. Pezzutti: In a selfless way!

The Hon. J. W. SHAW: Yes, in an entirely selfless way. Ensuring that people get full measure when they buy products is the oldest fair trading issue, dating back thousands of years. The establishment of reliable weights and measures was a necessary precursor to the development of widespread trade in all societies. The New South Wales Department of Fair Trading still does substantial work in checking that consumers get everything they pay for at the petrol pump, in supermarkets, at weighbridges and when they purchase firewood. It also ensures that people drinking in licensed premises get the right amount of alcohol for their money.

This month 30 Department of Fair Trading inspectors will visit 1,500 New South Wales hotels, clubs and restaurants to ensure that those premises are using approved and accurate dispensers for spirits, and approved glasses for beer. People should drink responsibly this Christmas and New Year, and they should never drive if they are over the limit. If people do decide to drink, they should get everything they pay for. The inspection campaign to which I have referred is timed just before Christmas to ensure that licensed premises comply with the liquor-measurement laws throughout their busiest period.

A similar inspection campaign last year found a 90 per cent level of compliance in pubs, clubs and restaurants. That is a good result, but the result should be higher this year as the industry has had more time to comply with new legal requirements. For spirits, only pourers approved by the National Standards Commission can be used in New South Wales. Those include electronic and manual wall pourers and thimble-type nip pourers. Pourers must be accurate to plus or minus 0.6 millilitres for half nips of 15 millilitres and to plus or minus 1 millilitre for full nips of 30 millilitres.

For beer, New South Wales licensed premises must use only glasses which are certified, have a stylised picture of a set of scales and have the volume in millilitres marked on the bottom. The traditional glass sizes of middies and schooners are now disappearing in some premises. No law requires New South Wales premises to serve only middies and schooners, which are customarily 285 millilitres and 425 millilitres respectively. Licensed premises can use any size of beer glass so long as the volume and scales sign are marked on the base. If a licensed premises advertises schooners and middies at particular prices, that advertisement must also describe the size of the glass in millilitres.

In April the Government introduced on-the-spot fines of up to $500 for breaches of the Trade Measurement Act. If a matter goes to court, fines of up to $20,000 for an individual and $100,000 for a corporation are possible. The New South Wales liquor industry was recently given a three-year period to purchase approved pourers and glasses. The period ended last year, further increasing protection for consumers. Last year's liquor measurement campaign by the Department of Fair Trading concentrated mostly on warnings and education, in recognition of the fact that the industry was still coming to terms with the new laws. This year a full enforcement program will be held. I launched the campaign last Friday at the well-known Woolloomooloo Bay Hotel. An inspection by departmental inspectors found that the hotel complies fully with the liquor-measurement laws.

The results of the statewide liquor-measurement campaign will be known early next month, including the percentage of the 1,500 visited premises that comply with the law. I shall release the findings publicly when I have received them so that New South Wales drinkers can be fully informed if pubs, clubs and restaurants are dealing fairly with them.

STATE DEBT RECOVERY OFFICE

The Hon. J. M. SAMIOS: I ask the Attorney General whether persons using the 1300 number who wish to pay fines to the State Debt Recovery Office [SDRO] are unable to do so because they find the number permanently engaged? Despite the fact that a Mr Tony Nowland paid his fine on 23 September, were both his licence and vehicle registration cancelled in October? Has the State Debt Recovery Office failed to respond to numerous faxes, telephone calls and letters from him to find out why? What action will the Minister take to ensure that Mr Nowland and others who have properly paid their fines do not have their licences and registrations cancelled?

The Hon. J. W. SHAW: I suggest that the honourable member place the question relating to Mr Tony Nowland on notice. With the best will in the world I cannot be expected to respond to each and every individual complaint of that kind: they can be the subject of correspondence. As to the general communication of the SDRO with the public, the office is responding to more than 650 calls per day. The current call volumes mean that callers will usually need to wait in a queue, and on occasions the volume of incoming calls is such that the number will be engaged.

The SDRO is conscious of that situation and currently 12 staff are dedicated to responding to telephone calls between normal business hours. Additionally, staff working on Saturdays will respond to calls made during those hours. Steps are being taken to further address the resources and equipment needed to provide an improved level of customer service and to meet those high volumes.

The Hon. J. M. SAMIOS: I ask a supplementary question. Is it also a fact that the Infringement Processing Bureau, which also handles traffic fines, cannot contact the State Debt Recovery Office? What steps will the Minister take to ensure that one arm of government can talk to another arm of government?

The Hon. J. W. SHAW: The high level of telephone inquiries is a further indication of the effectiveness of the new fine enforcement system in that it demonstrates that people want to address their outstanding debts.

OCCUPATIONAL HEALTH AND SAFETY GOVERNMENT CONSTRUCTION GUIDELINES

The Hon. A. B. MANSON: My question without notice is to the Minister for Public Works and Services. What new occupational health and safety initiatives have been set in place on government construction sites?

The Hon. R. D. DYER: The Hon. A. B. Manson has a well recognised, lengthy track record of interest in safety issues, particularly as they relate to the building industry in New South Wales.

The Hon. D. J. Gay: Why will Michael Knight not wear a hard hat on construction sites?

The Hon. R. D. DYER: All I can say is that on every site I go I wear a hard hat. The House would be aware of the principal role that the State Government plays in the construction industry around New South Wales. On several occasions I have had the opportunity to outline to the House the progress of works at State government sites, including the Broken Hill and Coffs Harbour hospitals, public schools at Evans River and Sandon and a range of other projects. In fact, I well remember wearing a hard hat when I visited the site of the Broken Hill hospital.

The Hon. M. R. Kersten: I saw your photo in the paper. You were a sight for sore eyes.

The Hon. R. D. DYER: And I was wearing a hard hat, of course. With so many construction projects currently under way the Government has a chance to play a leading role in setting standards for occupational health and safety for the whole of the industry, and I am pleased to report that this challenge has been accepted. I announce to the House the release of new occupational health, safety and rehabilitation guidelines and management plans for use on all government building sites around New South Wales.

The new guidelines will provide a systematic approach to occupational health, safety and rehabilitation and assist in reducing the high level of accidents generally experienced on building sites. The guidelines will be promoted to private sector construction contractors as a model for dealing with workplace safety.

Their release is timely given the effective WorkCover campaign currently under way, which aims to increase awareness of workplace safety in all places of employment in the State. The package of guidelines includes: occupational health, safety and rehabilitation management systems—third edition; guidelines for auditing occupational health, safety and rehabilitation management plans; and site specific safety management plans and work method statements. The new guidelines recognise that specific management plans are required for each building site and that generic strategies will not always be applicable across the entire industry. The package also includes information on how to set up management plans and contains background material on safe work strategies.

I announce also that from 1 March next year tenderers bidding for government construction projects worth more than $3 million, or lesser value projects of high risk, will be required to have an accredited corporate occupational health, safety and rehabilitation management system in place. That lowers the threshold for government projects from the current level of $5 million. In addition, the onus will be on head contractors to ensure their subcontractors implement site safety management plans or safe work statements that are compatible with the overall site occupational health, safety and rehabilitation management plan.

Statewide, the implementation of the management plans will also result in a financial benefit for government, with a reduction in building accidents inevitably leading to a drop in insurance premiums for construction work. The current level of accidents in the building industry is more than four times higher than the State average for other fields of employment, and that is reflected in insurance costs.

The Government is strongly committed to creating a safe working environment for building workers around the State. The industry comprises about 25,000 businesses employing approximately 196,000 people. In partnership with industry leaders the Government will continue to strive for improved performance in occupational health, safety and rehabilitation measures. Implementation of the guidelines will be co-ordinated and monitored by the construction policy steering committee, and briefing sessions will be held at various metropolitan and regional centres in the coming months. Copies of the guidelines can be obtained by contacting my department on 9372 8852. I urge all construction contractors to take the time to examine these initiatives and apply them to their work sites in the interests of improved building safety in this State.

STATE DEBT RECOVERY OFFICE

The Hon. J. F. RYAN: I ask the Attorney General a question without notice. Did Mr Lawrence Hamilton, an invalid pensioner from Unanderra, spend a month trying to pay his fine at the State Debt Recovery Office but after having used all available contact numbers he still could not get through? I am advised that this person contacted the Minister's office but was told that there were six lines available on the direct line, which was always engaged, that there was a constant strain on government resources and that the situation would be monitored. Given that those problems became apparent to the Minister's office months ago, how much more monitoring will his office undertake?

The Hon. J. W. SHAW: I do not propose to deal with individual cases in my responses to questions asked in this House. As the Leader of the Opposition would know full well, it is ludicrous to expect a Minister to know about a case of this kind.

BOARDING HOUSE LICENSEES

The Hon. I. COHEN: I ask the Attorney General, representing the Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women, a question without notice. Why did the Minister instruct the Ageing and Disability Department to withdraw the authority to prosecute Mr Robert McLoughlan and Mr Angelo Cinat, joint licensees of privately operated boarding houses at Wallerawang, and Mr John Innes, licensee of Eldon Guest House in Katoomba, in September? Did Mick Clough, the honourable member for Bathurst, make representations to the Minister regarding the premises at Wallerawang? Did Mick Clough also make representations to the Minister seeking the withdrawal of the authority to prosecute the licensees of the premises at Wallerawang?

The Hon. J. W. SHAW: I will refer the honourable member's question to the relevant Minister.

TIDAL RECORDING NETWORK

The Hon. JAN BURNSWOODS: My question without notice is directed to the Minister for Public Works and Services. What research data is collected through the tidal recording network maintained by the Minister's department? Will the Minister also inform the House how businesses and residents benefit from this information?

The Hon. R. D. DYER: The honourable member is showing an obvious interest in marine data. The Department of Public Works and Services has an extensive role to play in the collection of marine data via the scientific expertise of the Manly hydraulics laboratory, as well as specific operations such as Lagoonwatch and the Waverider system, with which members opposite are now very familiar. The laboratory operates an extensive tidal data network as a supporting research tool for the New South Wales ocean tide program. The network consists of 16 permanent near-shore water level recorders, which measure oceanographic conditions and tidal data.

Data is captured either by electromagnetic tidal pole or solid state floatwell for transfer via modem to the laboratory. An ongoing quality control program ensures that the transfer data is acceptable for inclusion in the overall tidal database and that anomalies due to storm events or faulty analysis do not affect the long-term stability of New South Wales tidal projections. The tidal recording system provides real-time ocean tide data enabling the monitoring of storm surges and tidal anomalies as well as tailwater data input for estuaries and coastal lagoon systems. The tidal plots and printouts are presented to the client via fax or on the Internet.

However, the principal benefit from this data lies in the recording of long-term tide conditions and the annual production of the *Complete New South Wales Tide Charts and Almanac*, which is widely recognised as the most complete and authoritative tidal coastal chart for New South Wales. The annual production of the tide chart and almanac is essential to the health of the State's fishing industry, as well as for recreational fishers and surfers. Tidal data is also used extensively by recreational divers and dive companies to assess prevailing conditions and to determine ideal diving times. This is particularly true for many popular north coast diving locations.

The Hon. R. T. M. Bull: Byron Bay.

The Hon. R. D. DYER: Byron Bay might well be one place. Perhaps the Hon. Dr B. P. V. Pezzutti will take a dive at some time and disappear below the surface.

The Hon. Dr B. P. V. Pezzutti: Point of order: I have been listening to the Minister for more than four minutes. His answer contains technical detail that is beyond the ken of the Minister. Obviously he is making a statement on behalf of some agency of his Government that is trying to

justify its funding. I doubt that any honourable member has understood the answer. He should table such long-winded explanations or at least have the good grace to simply talk through them.

The PRESIDENT: Order! There is no point of order. The longstanding convention of the House is that Ministers may answer questions however they choose. If members had been listening carefully to the Minister instead of chatting, they would have understood his answer.

The Hon. R. D. DYER: I am authorised by the Leader of the Opposition to say that if the Hon. Dr B. P. V. Pezzutti took a dive off the far north coast, he might—

The PRESIDENT: Order! Is the Minister addressing the Chair?

The Hon. R. D. DYER: Yes. If the Hon. Dr B. P. V. Pezzutti took a dive off the far north coast, he would scare off the grey nurse sharks. The tidal data is used extensively by recreational divers and dive companies, particularly at many north coast diving locations where strong tides can make wrecks and rock formations hazardous. It is important to emphasise the distinction between the tidal recording system and the Waverider buoys. The Waverider buoys measure wave height and direction, not tidal conditions. The data from the Waverider system is, by its nature, of short- to medium-term benefit. The tidal record, on the other hand, is a long-term project that provides a permanent record of changing tidal conditions and forward projections of tide table for the State.

Electronic tide tables have been produced on behalf of the Royal Australian Navy to complement information contained in the Australian national tide timetables. Electronic tide timetables provide not only times and heights of high and low waters but also the tidal curves for all ports. Public Works and Services data is employed also by the navy in determining tidal predictions for secondary ports around the State, ensuring safe access for naval vessels into coastal inlets should an urgent need arise.

Information presented in the government tide charts and almanac is heavily depended upon by all of our coastal industries, not just tourism and fisheries. Regrettably, too little public recognition is given to the hard work of government scientific staff, such as those who prepare and maintain the tidal network and have built up such a strong reputation for accuracy and attention to detail. On behalf of the Government and, I am sure, all members of the House, I commend the efforts of those officers.

GAMING AND GAMBLING MACHINES

The Hon. R. T. M. BULL: I address my question to the Treasurer, representing the Premier. Is the Treasurer aware that one month after the Carr Government sold 2,300 poker machines the Premier said to the New South Wales Council of Churches that he would buy back gaming and gambling machines? Is the Premier aware that it will cost the State $4.5 billion to buy all 94,300 poker machines, based on his auction prices?

The Hon. M. R. EGAN: I thank the Deputy Leader of the Opposition for asking me a question. It is now almost half past four and I have not been asked a single question today. About 10 questions have been asked so far and, to make matters worse, as I was not here last Thursday, members of the Opposition have had plenty of opportunity to formulate questions to ask me. Last Thursday I was doing a sterling job on behalf of New South Wales taxpayers.

The Hon. D. F. Moppett: Did you say "sterling" or "stealing"?

The Hon. M. R. EGAN: Sterling. I did a sterling job at the leaders' forum and at the Premiers' conference. I thought that someone would ask me a question about that, but no-one has. Honourable members should not forget that there are only a couple of weeks left of the sittings of this parliamentary term. In four years the Opposition has asked thousands and thousands of questions of me and my two learned and distinguished colleagues, but, to its disgrace, it has not taken one wicket. It has been bowling for four years and the Government has continued to hit fours and sixes off every ball it has received.

The Deputy Leader of the Opposition, who is an intelligent man, is not as intelligent as the Hon. Jennifer Gardiner. I understand that the National Party will have only two places on the coalition ticket for the upper House at the next election.

The Hon. R. T. M. Bull: You wish!

The Hon. M. R. EGAN: No, I do not, actually. I would not mind if the National Party had three, four or five places, but I hope that the Hon. Jennifer Gardiner and the Hon. D. F. Moppett are back on the National Party ticket. They have both served their party with distinction. As I have mentioned on a number of occasions, the Hon.

Jennifer Gardiner is one of the six most intelligent National Party members to have been elected to any parliament in Australia. The premise of the question asked by the Deputy Leader of the Opposition is entirely wrong.

The Hon. R. T. M. BULL: I ask a supplementary question. How will buying those machines address gambling in New South Wales? Does the Carr Government intend to put 34 per cent of the machines on the scrap heap to reduce the numbers to the 1995 level of 62,332 machines? If not, why did Bob Carr say that?

The Hon. M. R. EGAN: That question demonstrates why I did not include the Deputy Leader of the Opposition as one of the six most intelligent National Party members ever elected to any parliament in Australia. For the benefit of the Deputy Leader of the Opposition, when I said in my previous answer that the premise was wrong, I was saying that the Premier said no such thing.

HIGHER SCHOOL CERTIFICATE EXAMINATION

Reverend the Hon. F. J. NILE: I ask the Attorney General, representing the Minister for Education and Training, a question without notice. Is it a fact that the new President of the Parents and Citizens Associations of New South Wales has savagely attacked year 10 school certificate examinations and called for them to be scrapped? Was the president expressing her own views, or the official policy of the association? Is it a fact that the Government's school certificate exams are in response to the call from New South Wales parents for higher educational standards and greater testing of students to prepare them for the real world?

The Hon. J. W. SHAW: As to the latter part of the honourable member's question, I believe that is correct. I cannot speculate as to what authority the President of the Parents and Citizens Associations of New South Wales had to criticise the revamped and enhanced school certificate examination. An objective, external examination at the end of year 10 is a good idea. I suppose it is easy to reflect on one's experience, but I sat for the first school certificate and the first higher school certificate. I thought the idea of getting into the discipline and routine of an external examination was a good one and I think it was useful for the teachers and the students.

The Hon. Dr B. P. V. Pezzutti: You are pretending that you are young.

The Hon. J. W. SHAW: I am not pretending that I am young. I am saying that I did the first Wyndham scheme higher school certificate in 1967, and the school certificate a couple of years before that. It is true that there have been changes since then, but I do not believe that the idea of an external examination at the end of year 10 is a bad thing. Is the Hon. J. F. Ryan saying that it is or is not a good idea?

The Hon. J. F. Ryan: Yes, it is a good idea.

The Hon. J. W. SHAW: The Government has taken the right tack. I can empathise with parents who say that there is too much stress on students. Perhaps there is. As a parent who has experienced—and is still, in part, experiencing—the stress associated with children sitting the higher school certificate, I know the stresses on them. I am not aloof from the real world, but at the same time I say that the school certificate is a discipline and an exercise, and is part of life.

The Hon. J. F. Ryan: It is outdated.

The Hon. J. W. SHAW: The Hon. J. F. Ryan said "It is outdated." I disagree with that statement.

AUSTRALIAN DEFENCE INDUSTRIES PTY LTD NAVY CONTRACT

The Hon P. T. PRIMROSE: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister give the House details of the latest New South Wales company to win a defence contract?

The Hon. J. F. Ryan: Defence is a subject close to his heart.

The Hon. M. R. EGAN: It is. Last Friday the Commonwealth Government announced the latest success for the defence industry in New South Wales. That announcement means that one of Australia's leading defence companies, Australian Defence Industries Pty Ltd [ADI], has been awarded a $1 billion contract to upgrade the Royal Australian Navy's six guided missile frigates. The State Government got behind ADI in 1995 and developed a package of incentives to assist its bid. The frigate contract will bring 500 new direct jobs and 2,000 indirect jobs to the State, and is a significant new achievement from the Government's jobs plan for New South Wales.

The success of ADI is another vote of confidence in New South Wales. It comes hard on

the heels of the reaffirmation of the State's AAA credit rating and last month's excellent labour force figures that resulted in New South Wales becoming the State with the lowest unemployment rate in the nation. The contract for the fitting out of the frigates will run for six years with the bulk of the work taking place at Garden Island. The contract will not only benefit ADI; it will inject $400 million into the high-tech companies that support the defence industries in New South Wales, including businesses developing sophisticated command, control and communications systems.

ADI is one of Australia's most innovative companies, a world-class company that in the past four years has successfully tendered for the navy's two biggest projects. In 1994 it successfully bid for the $1 billion Huon class minehunter project which created 350 direct jobs in Newcastle. This latest win consolidates our State's position as a major centre for the aerospace, defence and electronics industries in the Asia-Pacific region. These are among the fastest growing industries in the country and account for about $11.6 billion, or 6.5 per cent of the gross State product of over $150 billion.

In September I had the pleasure of welcoming one of the world's leading helicopter suppliers, Kaman Aerospace, to the new Albatross Aviation Technology Park at Nowra. Kaman Aerospace recently won a $600 million defence department contract to supply support services to the HMAS *Albatross* fleet of 11 Super Seasprite helicopters, which I am told will create some 100 new jobs.

The Hon. D. J. Gay: Why do you bring up John Howard initiatives?

The Hon. M. R. EGAN: It is not a John Howard initiative. ADI won an open tender. I must say that the New South Wales Government assisted that tender. I congratulate ADI managing director, Ken Harris, and his staff, and I wish them all the best in the future.

COUNCIL ON THE COST OF GOVERNMENT

The Hon. D. J. GAY: My question is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is the Treasurer aware that debate on the Public Sector Management Amendment (Council on the Cost of Government) Bill took place in another place on 13 October, when the Council on the Cost of Government was set to dissolve on that exact date? Is the Treasurer also aware that an amendment by this House, decided upon on 14 October, was not discussed in another place until 29 October?

As the Council on the Cost of Government was effectively dissolved on 13 October and did not receive the Treasurer's temporary reprieve until at least 29 October, did the head of the council, Professor Robert Walker, receive any payment for acting as head of the council during that time? If Professor Walker received any payment during that two weeks, will he be required to repay that amount as the council was not legitimate?

The Hon. M. R. EGAN: I very much doubt that anyone in the House actually understood the question but, as the honourable member allowed me to read his question before he delivered it, I know what it asks. Essentially, he asserts that the Council on the Cost of Government ceased to exist for a period of two weeks, and he is inquiring whether during that two-week period Professor Walker, and other staff of the council, were paid. I do not know whether they were paid, but if they were not I will make sure that they are paid.

TOBACCO PRODUCTS EXCISE

The Hon. Dr A. CHESTERFIELD-EVANS: I ask the Treasurer whether, while he was away at the Treasurers' conference last week, he managed to recover any of the $75 million excise lost to the tobacco industry due to his dilatory approach to tax collection?

The Hon. M. R. EGAN: Is there a doctor in the House? Would the Hon. Dr A. Chesterfield-Evans like to attend as a medical colleague to the Hon. Dr B. P. V. Pezzutti, who looks as though he is having a fit? Calm down! We do not want to see our colleague depart this earth just yet. Sit back and relax. We did not have any success with the $75 million that we lost.

The Hon. J. F. Ryan: What did you have success in?

The Hon. M. R. EGAN: I will answer that interjection, because that was not the purpose of our trip to Canberra. That was not an issue on the agenda of either the leaders' forum or the Premiers' conference.

The Hon. J. H. Jobling: The press release says you do not care about the $75 million.

The Hon. M. R. EGAN: That is a silly thing for you to say. You have been a member of this House long enough not to make such silly interjections. You should think before you speak. The $75 million that was lost shortly after the High Court decision was to be the subject of a meeting

between Treasurers, to be convened by the Federal Treasurer. That was certainly the agreement reached, I think after the previous but one Premiers' conference. It was to be convened within a couple of weeks. It was never convened, and as a result that revenue was never recouped and never returned to the States through the Commonwealth.

However, I am pleased to tell the House that last Thursday and Friday the Premier and I, as honourable members would guess, did a sterling job on behalf of the taxpayers of New South Wales. Although few Opposition members are aware of such things—indeed, few of them are aware of anything—those who are aware of such things will know that the Federal Government's tax package, announced before the Federal election, proposed that the States would give up a range of taxes in addition to Commonwealth financial grants, otherwise known as FAGs, and in return they would receive revenue from the proposed goods and services tax.

However, the Commonwealth acknowledged that for the first three or so years there would be a shortfall in the sums that the States were receiving from their own revenues—revenues that the Commonwealth proposed they give up—and the amounts of revenue that they would receive back from the Commonwealth. The Commonwealth undertook to top up the total, so that in total the States would not be worse off. Unfortunately, that was not a guarantee by the Commonwealth to top up the revenue of each State so that each of those States would be no worse off. As a result, the New South Wales Government stood to lose about $1 billion in the first three years of the operation of the goods and services tax and the new arrangements.

The Hon. D. J. Gay: What about the $1 million wasted on advertising?

The Hon. M. R. EGAN: The $1 million spent on advertising yielded this State $1 billion. I do not know why Opposition members support Queensland. In any other State the Opposition would be supporting its State. It is an absolute disgrace that as soon as coalition members go from government to opposition they change their tune about the lousy financial deal that New South Wales gets under the horizontal fiscal equalisation process. As I was explaining, the State, under the original proposals, would have forgone revenue from a number of State taxes in return for the goods and services tax revenue, but there would have been a shortfall.

On Friday, we managed to get the agreement of the Commonwealth and all bar one of the States to an arrangement whereby the Commonwealth will now ensure that no State loses out during the transitional period. That simply means that on Friday we came away with that $1 billion intact. We saved the taxpayers of New South Wales $1 billion that otherwise would have been siphoned off by Queensland and some of the other mendicant States. It is time that the taxpayers of New South Wales, the media of this State and particularly its politicians on both sides of the political fence stood up for the interests of New South Wales and stood up for the taxpayers of New South Wales.

The Hon. Dr A. CHESTERFIELD-EVANS: I ask a supplementary question. Could the Treasurer please explain why we lost the $75 million? What is he doing to get it back?

The Hon. M. R. EGAN: There is nothing I can do to get it back because, as I am sure the honourable member would be well aware, as a result of the High Court decision the States lost the right to impose franchise fees on tobacco.

The Hon. Dr A. Chesterfield-Evans: Treasury had drawn up legislation to ensure that we would not lose the money; the Commonwealth would collect it and reimburse New South Wales.

The Hon. M. R. EGAN: The Commonwealth has not collected it. It is collecting ongoing revenue, but it has done nothing to collect the revenue that was lost in the couple of days in between, and only the Commonwealth can do that.

BUSINESS NETWORKS PROGRAM

The Hon. CARMEL TEBBUTT: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Minister inform the House about the Government's new business networks program?

The Hon. M. R. EGAN: Today my Parliamentary Secretary for Small Business, Sandra Nori, launched the business networks initiative, which is a key part of the Government's new high-growth business program. Many business owners find that working together or networking—I do not like the word "networking"—is a smart way of doing business that gives them a competitive edge. The New South Wales Government's new business network is designed to help small businesses get the most out of working together. By networking, smaller companies in particular increase their opportunities to find information and procure resources, expertise and advanced technology, as well as win new business.

Business networks help small businesses build up their selling or purchasing muscle. Small companies working co-operatively as a business network get extra leverage in all sort of business negotiations. Networking is particularly effective for regional small business. The Hunter region already has successful business networks for specialty timber products and engineering services, and the Illawarra has a successful business network for engineering services. The New South Wales Government, through its high-growth business program, encourages small business to work together by providing subsidies to cover networking start-up costs and funding export planning.

The business alliances network, a group of skilled private sector consultants, will pull these networks together. Business alliance network members will help a new network work co-operatively, establish a team approach to defining and acting on opportunities, provide expert knowledge about what makes a network successful, achieve clear understanding and agreement between network members and reduce time, risks and costs. The former Federal Labor Government, as part of its AusIndustry program, introduced a pilot of the business network program in 1995.

During the three-year life of the pilot program more than 300 business networks were established Australiawide. I regret to say that the current Federal coalition Government axed the AusIndustry program, just as the benefits to network members were beginning to be evident in increased exports and new markets. The high business growth program is a key component of the State's jobs plan and goes some way towards filling the gap left by the Federal Government's axing of the AusIndustry program.

DRUG USE NATIONAL SECONDARY SCHOOLS SURVEY

The Hon. Dr B. P. V. PEZZUTTI: My question without notice is addressed to the Minister for Public Works and Services, representing the Minister for Health. I am sure I will get a long and detailed answer to this question. Will the Minister release the 1996 national secondary schools drug use survey?

The Hon. R. D. DYER: That is clearly a matter that should be referred to my colleague the Minister for Health. I shall do so and convey his response to the Hon. Dr B. P. V. Pezzutti as soon as conveniently possible.

FLYING FOXES

The Hon. R. S. L. JONES: I ask the Attorney General, representing the Minister for the Environment, whether the Minister is aware that the grey-headed flying fox population has crashed by nearly 200,000 in only nine years and that both grey-headed and black flying foxes are heading for extinction? Is the Minister further aware that police stations in northern New South Wales have been inundated with complaints about illegal shooting of both black and grey-headed flying foxes and other wildlife, and that nothing has been done by the National Parks and Wildlife Service as its officers work only from 9.00 a.m. to 5.00 p.m.? Is the Minister further aware that Byron Lychee Farm personnel have been shooting flying foxes, including endangered black flying foxes, illegally for nearly three weeks and burning their bodies every morning?

Does the Minister intend to issue licences to Byron Lychee Farm and other fruit growers, about whom there have been complaints of illegal shooting, in order to legitimise their legal activities? How can the Minister justify the lifting of the moratorium on killing flying foxes when there are highly effective non-lethal ways to deter flying foxes? Was the decision to lift the moratorium a disgraceful, base political decision without any scientific justification? Is there anyone in the Minister's office or the National Parks and Wildlife Service who actually cares about wildlife?

The Hon. J. W. SHAW: I shall need to refer a question of that level of technicality to the Minister for the Environment and obtain a response.

WORLD ENERGY CONGRESS

The Hon. A. B. KELLY: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Minister inform the House of the reasons the World Energy Council has selected Sydney as the venue for its nineteenth world energy congress, to be held in Sydney in 2004?

The Hon. M. R. EGAN: It is great news that the Australian national committee of the World Energy Council has been successful in its bid to hold the nineteenth world energy congress in Sydney in September 2004. The World Energy Council is a non-commercial international body promoting the peaceful and sustainable use of a variety of energies, and comprises 100 member countries. In Australia the council's national committee is known as the Energy Council of Australia and its local membership includes organisations such as Pacific Power, EnergyAustralia and the Department of Energy.

The World Energy Council aims to study, analyse and discuss energy-related matters and offer

its advice and recommendations to the global energy sector, governments, and inter-government and non-government agencies. The decision to award the congress to Sydney was made by the World Energy Council executive assembly at its meeting in Bangkok in November 1997. The Energy Council of Australia was supported in its bid by the New South Wales Government and received able assistance from the Sydney Convention and Visitors Bureau, which is jointly funded by business and the Government. Both the committee and the bureau are to be commended for their efforts.

The World Energy Council is a highly respected international body and its congress will be a high profile event attended by international and local delegates. The congress will make a significant contribution to the world debate on energy issues. Having the congress in Sydney will also provide an opportunity to showcase the significant reforms achieved in the energy sector in Australia as well as the professional expertise of local energy industries, including the development of sustainable energy technologies and services. I am sure delegates will be interested in energy developments in this State, such as cogeneration, gas exploration, the use of coal seam methane and investments in solar technology and wind generation development.

The congress is expected to attract between 3,000 and 5,000 delegates and to be worth more than $8 million to the city, in addition to revenue generated by delegates visiting other parts of Australia. Sydney's success in attracting this congress builds on its increasing popularity as an international venue. I understand that the meeting, convention and exhibition market is currently worth an estimated $1 billion to Sydney, and this is expected to double by the year 2000. According to advice from the Sydney Convention and Visitors Bureau, since 1993, when Sydney won the right to stage the 2000 Olympics, a further 168 events have been attracted to Sydney by its world-class convention venues, together with outstanding hotel and recreational facilities, transport links and value for money.

This makes Sydney the most popular convention city in the world, attracting more international conventions than any other city. The 24 conventions won in 1997-98 were worth more than $205 million in convention business and brought more than 28,000 delegates to Sydney. The value of business pending is some $527 million, an increase of more than 350 per cent and the highest ever achieved since the bureau's inception. Earlier in question time I was concerned about the physical health and well-being of the Hon. Dr B. P. V. Pezzutti. I am now concerned about his mental health and well-being. I do not know whether the Hon. Dr A. Chesterfield-Evans, who is not in the Chamber, is a psychiatrist—

The Hon. Jennifer Gardiner: He is not a psychiatrist.

The Hon. M. R. EGAN: I thank the Hon. Jennifer Gardiner for pointing out that the Hon Dr A. Chesterfield-Evans is not a psychiatrist. Unfortunately we will not be able to seek his professional assistance. However, I am sure that by the end of the day we will be able to obtain a psychiatrist. We might even be able to obtain a straitjacket to remove the Hon. Dr B. P. V. Pezzutti from the Chamber. Clearly, he has gone bonkers.

RESIDENTIAL CARE

The Hon. PATRICIA FORSYTHE: My question without notice is to the Attorney General, representing the Minister for Community Services. In view of the findings of the report entitled "Report on Nutritional and Mealtime Practices for people with Developmental Disabilities in Residential Care", which was released almost 12 months ago, showing that up to 41 people had died due to nutritional or dietary problems or lack of specialist therapy support, what action has the Government taken to improve the health and wellbeing of people in large institutions and in residential care? Has staff training improved? Have any deaths occurred in the past 12 months due to dietary problems of residents? If yes, how many people have died?

The Hon. J. W. SHAW: I shall refer that question to the Minister for Community Services.

HEPATITIS C

The Hon. HELEN SHAM-HO: My question without notice is to the Minister for Public Works and Services, representing the Minister for Health. I refer to the recently released report of the Standing Committee on Social Issues revealing that the infectious disease hepatitis C has reached epidemic proportions, that it is estimated that one person contracts hepatitis C every three hours, and that 200,000 people nationwide are currently infected. It is estimated also that more than half the inmates in New South Wales prisons are infected. When will the Government provide adequate funding necessary to meet this public health crisis? What steps will the Government take to develop policies to give overall direction to the control, treatment, management and prevention of this disease?

The Hon. R. D. DYER: As the Honourable Member stated in her question, the Standing Committee on Social Issues recently brought down a report regarding hepatitis C. I am sure the Government, in accordance with normal practice, will consider that report and its recommendations. I shall certainly refer the particular matters raised in the question to my colleague the Minister for Health, obtain his response and convey it to the Hon. Helen Sham-Ho.

ISRAEL-AUSTRALIA CHAMBER OF COMMERCE SYD FIELD AWARD

The Hon. B. H. VAUGHAN: I direct my question without notice to the Treasurer. Will the Minister inform the House of the latest recognition the Department of State and Regional Development has received for its work in developing ties with Israel?

The Hon. M. R. EGAN: I am pleased to inform the House that Mr Michael Raj, the Senior Manager of Trade and Business Services in the Department of State and Regional Development, has received the Syd Field Award from the Israel-Australia Chamber of Commerce.

The Hon. Dr B. P. V. Pezzutti: He is a top bloke.

The Hon. M. R. EGAN: For once I agree with the Hon. Dr B. P. V. Pezzutti. The award is presented to a person, or company, who has shown ongoing commitment to promoting trade as well as supporting the activities of the Israel-Australia Chamber of Commerce. The award recognises Mr Raj's outstanding contribution to boosting bilateral trade between Australia and Israel. Mr Raj is in good company joining such luminaries as Sir Peter Abeles and former New South Wales Premier Neville Wran, who are previous recipients of this award. The award is a great compliment also to the Department of State and Regional Development. Michael Raj has been a driving force for many years in ensuring that our State enjoys the many benefits of closer links with Israel. Since 1993 he has played a major role in co-ordinating many trade missions to Israel.

The Hon. Dr B. P. V. Pezzutti: And for a number of other companies too.

The Hon. M. R. EGAN: Indeed. Trade missions that have reaped benefits for the people of New South Wales include the promotion of Sydney as a venue for regional headquarters with ECI Telecom, which is one of Israel's major telecommunication companies that recently set up in Sydney; the development of a pilot greenhouse project for Israeli tomatoes in northern New South Wales; the development of solutions to water supply and management issues in northern New South Wales; and the development of emerging technologies, particularly e-commerce, for the delivery of government services. I am sure I speak on behalf of every honourable member in this House in congratulating Mr Raj on achieving the highest honour the chamber confers.

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

CENTRAL COAST POPULATION GROWTH

The Hon. M. R. EGAN: On 13 October the Hon. M. J. Gallacher asked me a question without notice concerning rural population growth. The Minister for Regional Development has provided the following response:

> The report referred to is titled "A Report on Studies of Employment, Industry Establishment, Escape Spending and Food Industry" by Diana Gibbs and Partners, dated June 1998 and known as the Gibbs Report. The report was commissioned by the Central Coast Economic Development Board in conjunction with Wyong Shire Council. It should be noted that the report has yet to be presented to Wyong Shire Council and so has not yet been released. The area's population growth rate is one of the highest in the State, mostly due to residents moving from Sydney looking for affordable housing and an attractive lifestyle. Not surprisingly a major factor creating the high rate of unemployment for the area is that population growth is outpacing local employment growth.
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> To address this, the New South Wales Government has taken a number of steps to actively encourage the prospects of central coast residents funding local employment, including: developing a new central coast planning strategy to replace the existing 1975 document. The new strategy is approaching finalisation and will provide a blueprint for the region for the next 15 to 20 years. A study of the corridor between Sydney, Newcastle and the central coast aimed at promoting interregional linkages and leading to increased business and employment opportunities in the region is now well advanced.
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> The central coast has been declared a separate economic region, and the Central Coast Economic Development Board was formed to encourage growth in business and industry. A Central Coast Research Foundation has been established, through an initiative of the Central Coast Economic Development Board, to gather regional statistical data as an aid to business and governmental decision making. Educational opportunities and training facilities in the region are being expanded. An example of this is the Ourimbah campus of the University of Newcastle.
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> A Central Coast Business Enterprise Centre assists small and microbusinesses in the region, and the Department of State and Regional Development continues to deliver the State Government's business assistance package, attracting viable businesses to the region, and assisting existing businesses to grow. The attraction of the central coast as a lifestyle choice

means that population growth in the region is not expected to slow in the short to medium term. The initiatives outlined aim to put the region in a strong position to attract quality investment thus providing a solid foundation for a sustainable central coast economy that delivers solid job growth at a local level.

TRAFFIC FINE ALTERNATIVES

The Hon. M. R. EGAN: On 13 October the Hon. Dr A. Chesterfield-Evans asked me a question without notice concerning traffic fine alternatives. The Minister for Transport, and Minister for Roads has provided the following response:

The Minister for Transport, and Minister for Roads is advised that a traffic offender scheme, known as the National Driver Improvement Scheme [NDIS] was launched earlier this year in Staffordshire, in the west midlands region of the United Kingdom. NDIS is in its initial stages and no long-term evaluation of its effectiveness in reducing road trauma has been produced. Further, NDIS operates as one educational strategy within a mix of strategies employed in the west midlands, including enforcement, engineering, education and encouragement.

In New South Wales speeding has been identified as a contributing factor in a significant number of fatal and serious injury road accidents. It is relevant to mention that, internationally, no road safety program has proven to be as effective in addressing speeding as an integrated program of strong legislation, tough penalties and rigorous enforcement. In this regard, the New South Wales speed management campaign has been developed in partnership between the Roads and Traffic Authority [RTA], the Police Service, local government and other agencies. The program is similar to the United Kingdom program in that it also uses enforcement, engineering, education and encouragement strategies.

The Government's efforts have focused on ways to deter drivers from speeding, through enforcement activity, publicity and education. Initiatives such as double demerit points, which doubled the points lost for speeding, have been introduced with substantial success. The Minister has asked the RTA to continue to monitor NDIS, particularly the outcomes of any evaluation of the scheme.

CROSS-BORDER BRIDGE PROJECT FUNDING

The Hon. M. R. EGAN: On 14 October the Hon. M. R. Kersten asked me a question without notice concerning cross-border bridge project funding. The Minister for Transport, and Minister for Roads has provided the following response:

There are 18 crossings over the Murray River, including two ferries, for which maintenance funds are provided equally by New South Wales and Victoria. Each State funds and maintains its approach bridges to main crossings. The State Government is providing significant funding for a program of maintenance and replacement of approach bridges, including replacement of four New South Wales timber approach bridges at Howlong and maintenance of other approach bridges. Construction of one of these approach bridges, at Black Swan Lagoon, is in progress. This commitment includes $5.54 million for the Euston-Robinvale bridge and $890,000 for the Moama-Echuca bridge.

F3 MOTORIST WARNING SIGNS

The Hon. M. R. EGAN: On 14 October the Hon. M. J. Gallacher asked me a question without notice concerning F3 motorist warning signs. The Minister for Transport, and Minister for Roads has provided the following response:

Design work for the proposed driver aid scheme on the F3 Freeway between the Berowra interchange and the Mount White interchange is proceeding. The total cost of implementing the scheme on this section of the freeway is estimated at $10 million. The Commonwealth Government has approved the expenditure of $400,000 for design work for the project which is currently in progress. Further Commonwealth approval will be needed for the expenditure of construction funds for the scheme.

This approval will be sought upon completion of the current design work. Signs will be installed and the driver aid scheme will be brought into operation as soon as practicable after the finalisation of design work, the resolution of related issues such as appropriate locations and the availability of electricity for the signs, and the receipt of approval from the Commonwealth Government for the expenditure of construction funds.

WOY WOY SOUTH RAILWAY TUNNEL

The Hon. M. R. EGAN: On 15 October the Hon. M. J. Gallacher asked me a question without notice concerning the Woy Woy south railway tunnel. The Minister for Transport, and Minister for Roads has provided the following response:

The Roads and Traffic Authority has informed the Minister for Transport, and Minister for Roads that this crossing is located on a regional road under the care and control of Gosford City Council. I understand that council is currently canvassing a number of replacement options with the community. The New South Wales Government will continue to provide the maximum amount of funds practicable for level crossing replacement works, which are included in programs having regard to statewide priorities for individual projects.

TAXI COUNCIL ELECTIONS

The Hon. M. R. EGAN: On 15 October the Hon. Dr A. Chesterfield-Evans asked me a question without notice concerning Taxi Council elections. The Minister for Transport, and Minister for Roads has provided the following response:

The Taxi Council is an independent industry association. The Government has no role to play in the oversight of the Taxi Council.

EUROBODALLA SHIRE UNEMPLOYMENT

The Hon. M. R. EGAN: On 15 October Reverend the Hon. F. J. Nile asked me a question

without notice concerning Eurobodalla shire unemployment. The Minister for Forestry has provided the following response:

The Minister for Forestry has been made aware of reports of the study referred to by Reverend the Hon. F. J. Nile. On 26 October the Government announced the terms of the Eden Forest agreement. The agreement follows a comprehensive regional assessment of the Eden forest region, managed within the administration of the Minister for Urban Affairs and Planning. The assessment was the most thorough scientific, environmental, cultural and social study of the forests ever undertaken. An expert economic and social technical committee managed the economic and social assessments. The social assessment focussed on communities likely to be affected by changes in forest resource use and management.

A number of economic and social studies which have been carried out in the region since the 1970s were referred to for the purpose of post impact analysis. A situation report and analysis of structural adjustment and mitigative processes for the Eden region was also commissioned. All of this data was carefully considered by the Government, with input from stakeholders and the community, in determining the Eden Forest agreement. The agreement includes the addition of 37,000 hectares of forest to the South East Forests National Park; and timber volume supply of 25,000 cubic metres of sawlogs for the first five years, 23,000 cubic metres from Eden Management Area and 2,000 from outside.

The supply quota will reduce to 24,000 cubic metres for the subsequent 15 years of the agreement; the creation of up to 49 new jobs; and a $6 million industry package to help build a recovery mill in Eden. The Government has provided the timber industry with security and certainty for their businesses and jobs. The agreement sets a path for employment in a revitalised timber industry and offers long-term certainty to the forests and communities in the Eden region. The industry package includes a new recovery mill at Eden which will employ 44 timber workers. The Government will contribute $6 million to the development of the recovery mill with a focus on value adding.

Negotiations are well under way with Tablelands Sawmills to develop a recovery mill using quota and recovery sawlogs, kiln drying and further value adding processing. The recovery mill is a significant development for Eden and one which will underpin a better future for the timber industry in that region. Also included in the industry package is the provision for 30 new positions in timber harvesting and haulage of export softwood pulp logs from the Bombala plantations. This project will not only create new employment for the region, it will also improve the quality and value of the Bombala plantations and assist in attracting a major processing facility to that region.

The Government's package will create 20 new jobs in silvicultural practices and inventory operations for the forests of the Eden region. There will be a continued emphasis on improving forest productivity. Sixteen forest workers will be employed to undertake thinning in the native forests of the Eden area to promote more vigorous growth rates. The thinning carried out under this program will not only provide additional employment, but also will provide better growth rates and improved sawlog value in the future. Four new positions will also be created to undertake additional resource inventories to monitor the extent and growth of the Eden forests. This will allow industry to better respond to market opportunities based on improved harvest planning.

A significant component of the program in its initial stages will involve the training of timber workers in resource inventory techniques. In addition to the initiatives that will create new jobs, funding from the forest industry structural adjustment program will be provided to train the existing industry work force to ensure the implementation of world-class forest management. As a result of these employment initiatives there will be beneficial flow-on effects throughout the regional economy, creating many indirect jobs in Eden and Bombala.

Ms HELEN BAUER BOARD APPOINTMENT

The Hon. M. R. EGAN: On 21 October the Hon. Franca Arena asked me a question without notice concerning Ms Helen Bauer. The Premier has provided the following response:

Appointments to the board of the waste recycling and processing service of New South Wales are made under the Waste Recycling and Processing Service Act 1970, section 8 of which provides as follows:

(1) There shall be a Waste Recycling and Processing Service Board.

(2) The Board shall consist of:

(a) the Managing Director of the service; and

(b) 6 part-time members, being persons appointed by the Governor on the recommendation of the Minister.

(3) The persons recommended by the Minister must have such managerial or other qualifications as the Minister considers necessary to enable the Board to carry out its functions.

LICENSED BOARDING HOUSE REGULATION

The Hon. M. R. EGAN: On 22 October the Hon. Franca Arena asked me a question without notice concerning licensed boarding houses. The Premier has provided the following response:

The Government announced a package of reforms to licensed residential centres on 15 October. Residents with high support needs will be moved into 24-hour care accommodation and remaining residents will benefit from new support services. Licensed residential centres will remain under government regulation. The Ageing and Disability Department will continue to monitor licensing standards. The Government has allocated $66 million to implement the reforms, $37 million to relocate existing high-need residents, $14 million for the capital cost of providing alternative accommodation, and $15 million for the provision of new support services for remaining residents.

NEEDLE EXCHANGE PROGRAM

The Hon. R. D. DYER: On 13 October the Hon. R. S. L. Jones asked me a question without notice concerning the incidence of HIV and hepatitis C among injecting drug users. The Minister for Health has provided the following answer:

On 16 September 1998 the Carr Government announced comprehensive changes to the needle and syringe program which will result in even greater protection for the whole community. These initiatives include the cessation of the distribution of large bore injecting equipment from the public sector needle and syringe program from 31 December. These needles are primarily used for the injection of illegally diverted methadone. They will still be available for purchase from some pharmacies. This will ensure that the needle and syringe program and the methadone program will continue to reflect, and be relevant to, current community expectations and health needs.

The recent reduction in the maximum number of methadone take-away doses, coupled with the withdrawal of large bore injecting equipment, should have the effect of discouraging the practice of methadone injection. Reduction in the practice of methadone injection may therefore reduce the sharing of contaminated large bore injecting equipment. As a result, the spread of infectious diseases such as HIV and hepatitis C among injecting drug users may further be reduced. The withdrawal of large bore injecting equipment is currently undergoing an evaluation process to measure its short- and long-term consequences. Included in this process will be close monitoring of infection rates of HIV and hepatitis C among injecting drug users.

UNION CARBIDE SITE TOXIC CONTAMINATION

The Hon. R. D. DYER: On 13 October the Hon. I. Cohen asked me a question without notice concerning workers demolishing the Union Carbide site. The Minister for Health has provided the following response:

This matter is a WorkCover issue, falling within the administration of our colleague the Attorney General.

SYDNEY WATER SUPPLY CONTAMINATION

The Hon. R. D. DYER: On 13 October the Hon. A. G. Corbett asked me a question concerning the Sydney water contamination. The Minister for Health has provided the following response:

Compared with the same period last year, there was no increase in admissions for serious scalds in the burns unit at the New Children's Hospital at Westmead for the period of the water contamination. During the water contamination period, the Health Department issued one information alert and twenty-eight media releases containing warnings about careful management of hot water. The issue received wide coverage in all forms of media. The department considers that simple media coverage was effective in alerting parents of young children to potential scalds risk during this period. This issue would be handled in the same manner in any future similar circumstance.

QUEEN VICTORIA NURSING HOME CLOSURE

The Hon. R. D. DYER: On 13 October the Hon. J. F. Ryan asked me a question concerning the proposed closure of Queen Victoria nursing home. The Minister for Health has provided the following response:

Under the Commonwealth-driven nursing home reforms, there is an oversupply of nursing home places in the Blue Mountains. As a result, services at Queen Victoria nursing home are being progressively wound down and its 61 beds will be relocated to an area of greater need in the Hawkesbury local government area. Relocation of staff from Queen Victoria nursing home will be managed in accordance with standing Health Department policy. The Wentworth Area Health Service has advised that staff relocations will be done in consultation with the individual staff concerned and their unions and every effort will be made to minimise excessive travel.

FLYING FOXES

The Hon. R. D. DYER: On 20 October the Hon. R. S. L. Jones asked me a question about flying foxes. The Minister for Agriculture has provided the following response:

New South Wales Agriculture considers that exclusion netting is the only practical and effective solution to the flying fox problem for growers in areas prone to flying fox attack. Netting has the added advantage of also excluding birds which are a more consistent problem for fruit growers than flying foxes which attack sporadically. New South Wales Agriculture extension publications and staff all advise existing and intending growers to net their orchards. New South Wales Agriculture has no means of ensuring that growers adhere to this advice.

CIRCUMCISION

The Hon. R. D. DYER: On 14 October the Hon. A. G. Corbett asked me a question concerning circumcision of male infants and boys. The Minister for Health has provided the following response:

The Health Department updated its circumcision policy—including the endorsement of the Australian College of Paediatric's position statement on routine circumcision of normal male infants and boys in December 1996. The number of routine infant circumcisions performed in New South Wales hospitals has declined by around one quarter since 1995-96. In particular the proportion of routine infant circumcisions performed in New South Wales hospitals before the age of six months in 1997-98 was statistically significantly less than in 1996-97. These figures include only circumcisions performed in both public and private hospitals and do not include those performed elsewhere, for example in private rooms.

EVANS HEAD CONTAMINATION

The Hon. R. D. DYER: On 15 October the Hon. I. Cohen asked me a question concerning water contamination at Evans Head. The Minister for Health has provided the following response:

The public health unit of the Northern Rivers Area Health Service has been investigating the extent of drinking water contamination in the Evans Head area. The public health unit has overseen the collection of tap water samples by Rous

County Council and Richmond River Shire Council, and advised these authorities on the implications of results from these tests. The public health unit has also informed the local community and media of these results. The unit will continue its investigations of water quality in the area until a solution to problems with contamination can be found. The unit will attend a public meeting arranged by local residents on 21 November to ensure the local community is fully informed on this important issue.

NEW ENGLAND AREA HEALTH SERVICE

The Hon. R. D. DYER: On 15 October the Hon. Jennifer Gardiner asked me a question concerning the New England Area Health Service. The Minister for Health has provided the following response:

On 30 October the Minister announced funding for the establishment of a four-chair satellite renal haemodialysis service at Armidale hospital and an increase in funding from $1 million to $1.7 million for the Inverell hospital redevelopment. The Government has increased funding to the New England Area Health Service by 30.8 per cent to $132 million per annum. Similarly, since coming to office it has increased funding to rural area health services by 34.3 per cent to $1 billion per annum. The former coalition Government adopted the practice that where area health services exceeded their allocation and required temporary funding assistance, they borrowed from other parts of the health system and these loans had to be repaid. This remains the current practice.

CANTERBURY PARK RACECOURSE NIGHT RACING

The Hon. J. W. SHAW: On 22 October the Hon. J. M. Samios asked me a question concerning night racing at Canterbury Park racecourse. The Minister for Gaming and Racing has provided the following response:

I had the Department of Local Government make inquiries about this matter. Canterbury council has advised the department that access to the consent register is always available for public inspection. This register which contains all the relevant details concerning consents granted by council, including any conditions imposed, is kept independently of development files. It is this register that the public was invited to inspect in the advertisement of 27 May. On 22 May, following the threat of legal action by a resident's group, the files relating to the development were forwarded to council's solicitors. These files were returned to council on 21 July.

Council's general manager has advised also that while the files were not in council's premises, arrangement would have been made to provide public access to documents on request. In this regard, it is important to note that council does not have an open file policy and requests are assessed in accordance with the requirements of the Local Government Act and the Freedom of Information Act. Additionally, during the time council's files were with the solicitors, copies of the development application and supporting documents held by the director of planning were also available for public inspection.

CLEAN AIR 2000

The Hon. J. W. SHAW: On 13 October the Hon. Helen Sham-Ho asked me a question concerning Clean Air 2000. The Minister for the Environment has provided the following response:

Both business and government need to have strong commitments to improving air quality. The Clean Air 2000 campaign is a unique business sponsored campaign. It has been promoted successfully by the NRMA for the last three years with a focus on providing solutions to traffic congestion and air pollution in the greater Sydney region for the year 2000 and beyond. It has provided valuable research into community attitudes and perspectives and valuable community awareness programs. It is important that the business-driven effort continues.

In the unfortunate event that the NRMA withdraws from the program and no other business or consortium takes over funding through to 2000, there will still be a legacy of research and campaign material that will be useful for the future. The Government's effort is represented in the air quality management plan, "Action for Air". This plan is extremely broad in scope and covers the full suite of initiatives that can make a difference. The Government will certainly proceed with its existing full program of air quality initiatives that is the most comprehensive attack on smog and particle pollution ever seen in this State.

STATE SCHOOL TOILETS

The Hon. J. W. SHAW: On 13 October the Hon. Franca Arena asked me a question about school toilets. The Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs has provided the following response:

The Department of Education and Training provides funds for the provision of soap and paper towels in schools toilets which are then available through the school stores. Under approved guidelines, warm running water is only provided for students with special needs and in shower facilities in schools. Grants to schools under the global budgeting arrangements will total some $223.3 million in 1998-99, an increase of $8.3 million from 1997-98. Schools are responsible for the provision of soap and paper towels from these funds.

The Department of Education and Training has issued to all school principals the document "Plain English Guide to the Cleaning Contracts". This document is reviewed regularly and a revised version is scheduled for release in early 1999. School toilets are maintained regularly with more than $100 million per annum dedicated to ensuring that the condition of school buildings meets specified standards. Additionally, urgent maintenance can be arranged to overcome immediate maintenance problems whenever faults occur to ensure toilets are always operational.

Of the total $107 million provided for school maintenance in 1998-99 approximately $5 million is allocated for unforseen maintenance issues which arise. Departmental policy provides that school toilets will be serviceable and clean. The document "Plain English Guide to the Cleaning Contracts" provides clear guidelines to schools in maintaining a clean school environment. In excess of $150 million is spent on cleaning in schools annually.

HOME SCHOOLING

The Hon. J. W. SHAW: On 13 October Reverend the Hon. F. J. Nile asked me a question concerning home schooling. The Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs has provided the following response:

> The matter raised in the honourable member's question without notice has now been addressed in the debate of 20 October on the motion of disallowance of the Education Act (Home Schooling) Regulation 1998.

GREENHOUSE GAS EMISSIONS

The Hon. J. W. SHAW: On 21 October the Hon. R. S. L. Jones asked me a question about greenhouse gas emissions. The Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister on the Arts has provided the following response:

> The Sustainable Energy Authority's energy smart business program was launched in December 1997. Participating businesses are provided with the technical support needed to identify profitable energy efficiency projects and manage their implementation. Profitable projects are defined as those offering an internal rate of return of 20 per cent or greater. After less than 12 months in operation, energy smart business has over 130 companies committed to implementing cost-effective energy efficiency upgrades. Program partners represent an extremely diverse range of New South Wales businesses, including Rio Tinto, AMP, Optus, Arnott's, Boral, AGL, Big W and David Jones, as well as clubs, hotels, educational institutions and local governments.
>
> Around 1,800 individual energy efficiency projects have already been identified. When completed, these projects will save almost $80 million in energy costs and 1.3 million tonnes of CO_2 over the life of the equipment, which is estimated at 10 years, with $27 million invested in new energy efficiency technologies and services. To date, more than $2 million worth of projects have been completed, resulting in greenhouse gas savings of 10,000 tonnes per annum.

SUSTAINABLE ENERGY DEVELOPMENT AUTHORITY

The Hon. J. W. SHAW: On 21 October the Hon. R. S. L. Jones asked me a question about the Sustainable Energy Development Authority. The Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister on the Arts has provided the following response:

> The Sustainable Energy Development Authority has disseminated details of the potential for hydrogeneration at the identified sites to the owners of the assets and to the power industry. SEDA is also monitoring the status of development at the identified sites, liaising with potential investors and offering financial assistance, subject to the authority's investment criteria. SEDA has allocated $5 million over three years for hydrogeneration investments.

DEPARTMENT OF COMMUNITY SERVICES CLIENT ACCIDENT

The Hon. J. W. SHAW: On 13 October the Hon. Patricia Forsythe asked me a question about an accident involving a Department of Community Services client. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has provided the following response:

> 1 No.
>
> 2 Yes.
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> 3-5 The driver's employment has been terminated. The circumstances of this case are being investigated by police and it would be inappropriate for me to make further comment at this stage. However, I can assure the House that the young woman who was hospitalised as a result of this accident is now convalescing at the Department of Community Services group home where she lives.

PRISONER VOTING

The Hon. J. W. SHAW: On 15 October the Hon. R. S. L. Jones asked a question about prisoner voting. The Minister for Corrective Services has provided the following response:

> The Department of Corrective Services in New South Wales prior to all recent elections has conducted detailed discussions with the Australian Electoral Commission in order to set up appropriate mechanisms for inmate voting, both at mobile polling booths and via postal ballots. The department in this respect has a far more comprehensive and systematic approach than any other State in Australia. No doubt at some institutions difficulties occurred which will need to be addressed at future elections. The department is holding discussions with the Australian Electoral Commission to this end.
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> Nevertheless, on the basis of information provided to date it appears that departmental staff made a conscientious effort to ensure that inmates eligible to vote were advised of their right to do so and that those inmates who wished to exercise that right were able to do so. Any complaints by inmates will be investigated by the department; several investigated to date have found to be fallacious.

Questions without notice concluded.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE BILL (No 2)

CHILD PROTECTION (PROHIBITED EMPLOYMENT) BILL (No 3)

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

Second Reading

Debate resumed from an earlier hour.

Reverend the Hon. F. J. NILE [5.06 p.m.]: I was concluding my remarks on the bills, and in

relation to the Commission for Children and Young People Bill I referred to the lack of emphasis on protecting vulnerable children. I commend the Hon. Deirdre Grusovin, the honourable member for Heffron in the other place, who made the following point in her contribution to the second reading debate:

> It is important to note that those who have made, and continue to make, a valuable contribution in representing the interests of children have raised significant concerns that they believe need to be addressed to improve the proposed legislation. Those concerns relate to the broad functions and powers of the commission and several more detailed drafting issues. They raise three specific issues relating to the commission's functions: a lack of reference to focus on child protection and child abuse prevention, in particular the need to specifically mention children at risk of abuse and neglect within "other vulnerable children", and to include monitoring the child protection system within the commission's function; the location of the employment screening function within the commission without any walls to prevent this function from taking over from other important functions; and the exclusion of advocacy both within and outside the commission.

That was precisely my point. Even though the proposed legislation was a result of the Wood royal commission, it does not seem to give these issues the same priority or emphasis as the royal commissioner did. Clause 11(j) makes the first specific reference to the objects or responsibilities of the children's commission. The New South Wales Teachers Federation, in correspondence on 3 November, emphasised my earlier point regarding regulations. It stated:

> Some fundamental aspects of the implementation of the legislation will not be made clear until the regulations are drafted. These regulations could potentially have a huge impact on the working lives of teachers and others who work with children. The Federation regards it as essential that there be clear involvement of unions and other stakeholders in this process.

The Law Society specifically stated its point regarding the Commission for Children and Young People Bill. It said:

> It is submitted that this provision—

that is, proposed section 38(3)(b)—

> should be deleted from the Bill and the following inserted in substitution:
>
> 38(3)(b) "information relating to criminal charges where an offence has been proven but the Court did not proceed to conviction, whether or not the charge was dismissed or the offender was conditionally discharged.

In its letter of 28 October the organisation said that that provision represents a significant denial of natural justice: once such matters are brought to their attention, most employers will decline to employ people who have been associated with child-related charges, even if those charges cannot be sustained and are withdrawn before any hearing or they are ultimately dismissed. A submission from the Disability Safeguards Coalition concentrated on the ability of the Minister to stop inquiries. The commission will have no power to initiate inquiries without ministerial approval. It is hard to imagine, but the Government may not want time or money spent on a particular inquiry that the commission believes it should initiate. The commission may have trouble convincing the Minister.

That provision will create a hurdle and a dilemma for the Minister, but I understand the Government's concern that the commission, under pressure from community groups, could move away from intended priorities. The requirement of the Minister to make a statement of principle in giving reasons for stopping a particular inquiry would remove suggestions of political interference in the role of the commission. If that matter is taken up by the Government in its response to the second reading debate, that would satisfy the Christian Democratic Party. We support the object of preventing abuse of children. Those who abuse children should be brought before the courts and made to bear the full weight of the law. Children in our society must be protected. Therefore, we support the bills in principle.

The Hon. Dr B. P. V. PEZZUTTI [5.11 p.m.]: I had intended to speak at length on these bills, but the Hon. Patricia Forsythe has already encompassed most of my sentiments on this topic in her speech. The bills, although somewhat unsatisfactory, are a start. I will support them, with amendments. By her nature the Hon. Patricia Forsythe prefers not to burden the House with extraneous concerns, but I was surprised she did not challenge some of Dr Yu's comments. Dr Yu, a person for whom I have the highest respect, wrote me a letter—which the Reverend the Hon. F. J. Nile and the Hon. Franca Arena read in this debate—asking this House to pass the legislation warts and all, and not to amend it.

Reverend the Hon. F. J. Nile: So that it will not be withdrawn by the Government.

The Hon. Dr B. P. V. PEZZUTTI: Is it not awful that the Government can threaten the Australian of the Year, a man committed to the care of children, that it will pull the bill if this House does not agree with it lock, stock and barrel? Dr Yu knows, and accepts in his letter, that the legislation is not perfect and can be improved, but he is

terrified of losing the whole deal. The Hon. Patricia Forsythe made those points much more eloquently than I but she also came up with the answers, and one of the suggestions by the Hon. A. G. Corbett offers a method of improving the proposed legislation.

Enormous resources have been applied by the Health Department to ensure that people working in the close relationship with children that is so often necessary in facilities administered by that department have been screened to ensure compliance with the commission's recommendations. The royal commissioner was extraordinarily concerned about the procedures of the Police Service, the Department of Community Services, the Department of Education and Training and the Health Department.

I remember the embarrassment of John Wynn-Owen, the secretary of the Health Department, when he was quizzed by the royal commissioner about the procedures of his department. He went back to the department and within a short time procedures were written, put in place and implemented. I have not seen the same happen in the Police Service or the Department of Education and Training. The Department of Education and Training has not even reached first base.

More than a year after the royal commission made its recommendations, honourable members are reading the principal bill for the first time, having already seen the two cognate bills. The long delay in bringing these bills forward was not caused by wide consultation by the Government but by its lack of ability to commit the necessary money to the departments to get them to comply. A large amount of money and personnel resources will be needed to run compliance checks and to establish a fair and accountable system that does what the people of New South Wales commonly expect.

Reverend the Hon. F. J. Nile raised the issue of non-government organisations. Such organisations will find that compliance with this measure will increase the burden of running their school education, health and community service operations. They do not have a police service, but they have just about everything else. Those organisations did not quibble about the extra burden of compliance. They will be comfortable about ensuring that their operations meet and exceed the standards of practice set by the New South Wales Government. Implemention of the bill's provisions, particularly those that overcome confidentiality and privacy, will take much longer and cost much more than a simple determination followed by sacking.

I am gravely concerned also that the Government has not yet spoken about its commitment of money and resources to establish this operation for the Department of Community Services or for the Department of Education and Training, let alone for the Police Service. It is not unknown for police to be involved in the offences that the bill seeks to prevent. Overwhelmingly, more girls than boys are affected by sexual abuse. Most perpetrators are relatives or very close friends. The bill also addresses the secondary concern about official carers, people in departments—

The Hon. D. F. Moppett: Secondary in a numerical sense, not in importance.

The Hon. Dr B. P. V. PEZZUTTI: There is no secondary importance in any of these crimes. The honourable member is quite right. In numerical terms, those who volunteer to work with a government or non-government organisation on the off-chance that they may pick up or make friends with a person whom they could then sexually abuse commit more offences against boys than against girls.

This amendment cleans up the Act. We are trying to ensure that when a person, a young person in particular, has a problem or when a child is taken to a service there is security and safety from further abuse. It is proposed that a joint standing committee oversight the operation of the commission and the commissioner. The committee is to report to the Houses of Parliament with such comments as it sees fit on any matter pertaining to the commission or in connection with the exercise of the commission's functions which, in the opinion of the joint committee, should be drawn to the attention of the Parliament. I am a member of the Joint Committee on the Health Care Complaints Commission and have been a member of a couple of joint committees, one being the Joint Standing Committee upon Road Safety.

For the most part, joint standing committees are brought together by members of the Legislative Assembly when it is convenient to them and when they are in town. Members of the Legislative Assembly regularly attempt to hold meetings when this House is sitting. Whilst normally there cannot be a quorum at such meetings without the presence of members of the Legislative Council—and, frankly, without members of the Legislative Council a great deal of the work would not be done—it is extremely annoying to be a member of such a committee, a committee that has a serious charge, if the committee meets only when this House is sitting.

For members of the Legislative Assembly it may perhaps be an advantage for committees to sit while the Parliament is in session. However, attendance in this Chamber would appear to be more important to members, and members of the Legislative Council have more to do than present private members' statements and the like. Members of the Legislative Council are busy when this House is sitting. I implore the Government to ensure that when the standing orders are drawn up for the committee it considers the operation of joint standing committees and the requirement that they meet other than when the Parliament is in session for both the taking of evidence and the holding of usual and deliberative meetings. Perhaps that is a matter that could be considered by the Standing Orders Committee.

If it is possible for members of the Legislative Assembly to attend these buildings for committee meetings than surely that is also possible for members of the Legislative Assembly who wish to serve on such committees. When they are here to attend committee meetings they should take the time and trouble to do nothing other than deal with such matters. The proposed committee will be important. However, if it is to be a joint standing committee of the Legislative Council and the Legislative Assembly then I predict that it will spend a great deal of its time meeting briefly when this House is sitting. That would be a tragedy.

It would be preferable if this charge were given to a committee of the Legislative Council. Perhaps it could be a charge made of the Standing Committee on Social Issues or the Standing Committee on Law and Justice. Either committee would be perfectly capable of supervising the charge, with members being available to do that work and that work only and do it at a time convenient to all members in a predictable manner. There is no need for a new committee. I am not enamoured of the requirement of oversight by a joint standing committee; there are better ways of handling this issue. It is my hope that the Government will rethink that provision.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [5.24 p.m.], in reply: I thank honourable members for their contributions to the debate. The three bills respond to key recommendations of the Wood royal commission paedophile inquiry. This will be genuinely groundbreaking legislation. Its development has involved the Government working in close co-operation with a variety of different groups. Since the tabling of the exposure bills earlier this year the welfare sector, unions and other key stakeholders have brought important matters to the Government's attention. The Government has acted on many of those matters.

There is broad community support for legislation that will support children and protect them from harm. As honourable members would be aware, the bills support the legislative framework for the introduction of a screening procedure for employees who work with children. Much effort has been put into the Child Protection (Prohibited Employment) Bill (No 3) and the Commission for Children and Young People Bill (No 2) to achieve a balance between protecting employees and protecting children from abuse. It is important that we protect reasonable civil liberties.

Clearly, if a person has been previously convicted of an offence that is no longer against the law, that should not be considered relevant to this legislation. That means that convictions for consensual homosexual relations prior to the legislative changes of the 1980s will not be included. The intention of the Child Protection (Prohibited Employment) Bill (No 3) is to exclude acts committed in a public place that if committed in private would not be an offence. Of course, any act of indecency against a child, committed in public or in private, is an offence and remains an offence. There is further work to be done to develop the operational details of the screening system through regulations and guidelines.

Of course, the Government cannot undertake this work in isolation; it must fully involve all relevant stakeholders, including young people, employers, unions and the welfare sector. It is only through the involvement of those groups that we will succeed in establishing a clear, fair and workable system. The Government looks forward to commencing these discussions as soon as the bills are passed. The Government will propose a small number of amendments to each bill. The amendments result from further discussions since the introduction of the bills in another place with crossbench members, the welfare sector, unions and the Catholic Education Commission.

The amendments will clarify the intent of certain provisions, thereby increasing protection for employees without detracting from the protection of children. I shall briefly outline the effect of each amendment. First, the Commission for Children and Young People Bill (No 2) will be amended so that members of religious orders who work with children but are not strictly paid employees are covered by the bill's mandatory screening provisions. A similar

amendment will be made to the Child Protection (Prohibited Employment) Bill (No 3). This clarifies the original intent of the bill and ensures that there will be equitable treatment of religious and lay employees who work side by side.

Secondly, the definition of relevant disciplinary proceedings in relation to acts of violence will be amended to acts of violence committed in the course of employment. The amendment clarifies the types of completed disciplinary proceedings that can be used in employment screening. Provisions relating to the ministerial guidelines will also be strengthened. This gives greater certainty to employees, by ensuring that the guidelines are in place and published before the system commences; by ensuring that the guidelines deal with employees' access to information held about them; and by ensuring that the guidelines will be reviewed after they have been in operation for two years.

Another amendment will clarify that screening can be conducted by an employer-related body if approved by the Minister. These additional safeguards are important, given that the system is new and needs to be monitored carefully for any unintended consequences. I also put on record, as Minister Lo Po' did in her reply in the Legislative Assembly, that the Commission for Children and Young People and the Ombudsman will be adequately funded to carry out their important functions. Some amendments that have been foreshadowed will not be accepted. I refer first to special inquiry powers.

Several groups have raised special inquiries of the commission. It is easy to portray the Government's proposal as a means by which it can restrict the independent powers of the commission. It is the Government's belief that for special inquiries to be truly effective they must first receive the full support of the Minister. That ensures that the Government cannot ignore the recommendations of such an inquiry. Let us not forget that these powers can also be used against individuals and non-government organisations. Ministerial approval is a means to check the misuse of this power. The Government will not accept any amendments that remove ministerial responsibilities for special inquiries.

It has always been the Government's intention that it and the commission will have a co-operative relationship, just as the commission and key non-government groups should work closely and co-operatively. During consultations on the bill many groups called for the establishment of a network of children's advocates to provide help to individual children. It was proposed that the network be attached to the commission. Research shows that when children and young people face difficulties and need help they are most likely to turn to an adult they know and trust. They are much less likely to seek such help from a stranger. However, some children and young people have no-one else to turn to and may have no option but to approach a stranger for help.

The Minister for Community Services has announced that the Government will ask the commission, as soon as it is established, to inquire into the best means of improving assistance to children who have no-one else to turn to for help. Of course, the Standing Committee on Social Issues report into children's advocacy, which was completed in 1996, will be a key source for this work. It is essential as part of this process that the views of children and young people who have been in such situations are sought.

One of the commission's key functions will be to encourage children and young people to participate in decision-making processes. As such the commission will be ideally placed to consult with children and young people in conducting this reference. Its recommendations will help inform the Government in future decisions on this subject. I thank honourable members for their valuable contributions to this important debate, and I commend the bills to the House.

Motion agreed to.

Bills read a second time.

MOTOR ACCIDENTS AMENDMENT BILL

In Committee

Progress reported from Committee and leave granted to sit again.

HERITAGE AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading), on behalf of the Hon. M. R. Egan [5.35 p.m.]: I move:

That this bill be now read a second time.

The Heritage Act 1977 was introduced by the Wran Government in response to widespread community concern over the extensive loss of its heritage in the

early 1970s, which resulted in green bans. As my honourable colleagues are aware, this pioneering legislation provided a much needed measure for the protection of the then threatened environmental heritage of New South Wales, thereby removing the need for last resort actions of the community using the union movement and its green bans. Currently 650 items have been protected through permanent conservation orders under the Act. These orders protect some of the State's major heritage landmarks. However, the identification and protection of the community's heritage over the last 20 years has generally been in response to threats to individual items, and therefore primarily on an ad hoc basis.

I believe that those items currently protected by the Heritage Act do not provide a clear indication to the community of the range, extent or significance of our State's heritage. They merely represent a sample of such items, those which have been subject to threats over this period. However, for the past two decades—since the introduction of heritage legislation in 1977—I believe we have been too busy identifying and protecting heritage items to worry too much about whose values we were representing. It was these issues—and the need for the reform of the State's heritage systems—which led to my release of the New South Wales Government heritage policy in 1996.

The thrust of my policy is to broaden the concept of heritage, to ensure protection is given before threats and conflicts arise to make the system work better and—most importantly—to encourage broader community involvement in heritage conservation. Having opened the matter generally, I seek the leave of the House to have the residue of my second reading speech incorporated in *Hansard.*

Leave granted.

The appointment of a respected community figure in the person of Hazel Hawke to the chair of the Heritage Council is a signal that the Government takes its responsibilities as custodians for the State's heritage seriously. Mrs Hawke's strong public profile is already proving to be a great asset in assisting the Government to win the support and partnership of the community for heritage conservation. She builds on the solid work of previous chairs, Howard Tanner and Justice Hope. The reforms to the heritage system that I announced in 1996 depend in large part on having the right mix of people and skills in the Heritage Council. It was important to establish a proactive and more broadly-based council with a greater range of skills. The first amendments to the Act that I brought to Parliament in late 1996 provided for this.

The new Council membership has been widened and deepened so that it is better able to make decisions about Aboriginal, natural and moveable heritage issues. In the second half of the 1990s and particularly in the lead up the 2000 Olympics it is vital that the State of New South Wales gives a much greater emphasis to these parts of our heritage, which have been overlooked for far too long. Governments are limited in what they can and should do. One thing government can do is actively put in place systems which encourage investment, development and conservation, systems which do not contradict each other—systems which provide for greater certainty, clarity and consistency in decision making in the regulatory framework.

The founder of the National Trust, Mrs Annie Wyatt, said it all when she said, " . . . concern for heritage . . . had to arise among the people themselves". This is a theme that I want to underline for I believe it lies at the heart of the next phase of heritage conservation in this State. Many of the initiatives for reform outlined in the Government's heritage policy have been achieved since 1996. The Heritage Office was established on 1 July 1996 and reports directly to me as Minister. Twelve months ago, I launched the State heritage inventory in electronic format and it now incorporates a listing of 17,500 items which have statutory protection at State or local levels. In April 1996 I announced the new heritage 2001 $30 million fund to provide financial assistance for the conservation of items of state significance. The Heritage Council has commenced development of an Aboriginal heritage policy in consultation with organisations responsible for Aboriginal heritage management.

A moveable heritage project officer has been appointed to the Heritage Office, jointly funded with the Ministry of the Arts, to develop strategies for the Heritage Council to address this neglected aspect of heritage. The appointment of staff within the Heritage Office to broaden heritage identification to better include multicultural heritage values and education, promotion and publication activities have become a much more prominent role for the Heritage Council and Heritage Office. These steps are foundations in making heritage management more easily understood, more responsive and more proactive. What I think governments have a responsibility to do, also, is to ensure that the education system and the school curriculum are a key component in widening knowledge of and increasing our valuing of Australia's heritage.

A $400,000 project partnership has been established by Minister Aquilina and myself to develop curriculum materials to ensure that heritage is a major component of education in the key learning area of human society and its environment K-10. Every child in every school will have access to the information on the computer-based state heritage inventory. The Government is responding to these key issues and the community's demands by introducing these amendments. I am therefore pleased to present to the House today the amendments to the Heritage Act.

1 Protection of items of State heritage significance

At present the Act provides a mechanism for the protection of items through the making of interim or permanent conservation orders. In many cases these orders have been placed on items because of a perceived threat, not only because of their heritage significance. The current provisions are therefore adversarial in nature and often concentrate on resolving development and management issues instead of assessing heritage significance. The new part 3A of the Heritage Act introduced in this bill will, by contrast, establish a new State Heritage Register, which will eventually be a comprehensive list of publicly and privately owned places of State heritage significance. The new provisions provide for items to be subject to a thorough assessment of their heritage significance before they can be listed on the State heritage register. The establishment of the register will ensure that items will not be listed merely as a response to a perceived threat to their conservation.

Under this new system the Heritage Council or its delegate will remain the approval authority for major changes to protected items on the register under section 57 of the Act. This is the same system that presently operates for items with permanent conservation orders. The bill introduces the concept of State heritage significance in new section 4A. Items can be listed on the State Heritage Register if they are of State heritage significance. An item will be of State heritage significance if it is of historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value or significance to the State. In order to ensure consistency and provide certainty to developers, owners, government agencies and the community the Heritage Council have developed criteria for ascertaining State heritage significance. Under the new section 4A I will publish the criteria in the *Government Gazette* and ensure it is available to all members of the community.

The New South Wales heritage manual launched by the Heritage Office and the Department of Urban Affairs and Planning, December 1996 currently provides guidance on the assessment of the heritage significance of items of the environmental heritage. A decision as to placement on the register will relate to the importance of the item, its possession of uncommon, rare or endangered aspects, and/or its ability to demonstrate the criteria for which it has been nominated. An item is not to be excluded from the register on the ground that items with similar characteristics have already been entered in the register. The register will also include places owned by the Crown. This is important. A significant proportion of the most important heritage items in the State is in public ownership. If the Government is prepared to obligate private owners then I believe it should be responsible for protecting its own heritage assets, the community's assets.

I am sure that none of us in this Chamber could conceive of substantial neglect or any development proposal that would threaten the continued existence of State icons like the Sydney Opera House, the Sydney Harbour Bridge and the Chief Secretary's Building. But that is not an argument for leaving them off a comprehensive listing of heritage items which the State Heritage Register is designed to be. The introduction of the State Heritage Register will enable us to reach the stage where everyone in the State—State officials, private developers, local councils and community organisations and private citizens—can look at one register through the Internet to find complete information about the State's heritage resource. Accordingly, amendments to schedule 1 of the Act will transfer to the State Heritage Register those items which are currently subject to permanent conservation orders and those places identified as being of State significance in the heritage and conservation registers kept under section 170 of the Act by government instrumentalities.

After the State Heritage Register is constituted, the Minister will have power to add new items to the register and remove existing items from the register after getting the advice from the Heritage Council in accordance with part 3A. The new sections 32 and 38 respectively enable the Minister to list or remove items on the State Heritage Register on the recommendation of the Heritage Council. The effect of such a listing is that Heritage Council approval is needed for works or demolition under section 57 of the Act, as currently is the case for items subject to conservation orders. The listing process in new section 33 ensures that owners and occupiers are notified that their property is being considered for listing at the beginning of the listing process. It allows owners and occupiers the earliest opportunity to put their views to the Heritage Council prior to it making any recommendation to the Minister. It also permits the community to participate at an earlier stage in the listing process by providing for public advertising and the consideration of community submissions on proposed listings, before the Heritage Council makes a recommendation to the Minister.

As with the current procedures for permanent conservation orders, new section 33 also enables owners and other interested parties to object to the proposed listing on the Register on the basis that the item is not of State significance, the long-term conservation of the item is not necessary and the listing would render the item incapable of reasonable economic use or listing of the item would cause undue financial hardship to the owner, mortgagee or lessee. Under new section 34 the Minister is to decide whether or not to list an item on the State Heritage Register after he or she receives a recommendation from the Heritage Council. As in the present legislation, under new section 36 the Minister will retain the option of holding a commission of inquiry to review the recommendation of the Heritage Council. However, a commission of inquiry may not, in many cases, be the most effective way of reviewing a Heritage Council recommendation.

Consequently, the bill will introduce an alternative form of review: the ministerial review panel. New section 35 provides for a panel of three experts appointed by the Minister to review within 30 days and provide advice to the Minister as to whether or not the item concerned should be listed. I believe this initiative will receive wide support as it will be an efficient and effective way of resolving disputes for the owner, developer and community interests. I shall appoint to the panel, people with expertise relevant to the particular heritage issue under consideration. The existing benefits that apply to owners of properties covered by permanent conservation orders will also apply to those listed on the State Heritage Register. Additional provision has been made for the Minister to provide—in special cases—specific term relief from State imposts to encourage conservation of the listed item through the Heritage Incentive Fund under the new section 45.

The Heritage Council may also delegate its approval powers to appropriate organisations such as State government agencies and local councils, but only where it is confident of those organisations' expertise in heritage management. This has already been done for the Broken Hill and North Sydney local government areas. These administrative initiatives will streamline approvals process and will be fully integrated with the wider reforms to the development approval system achieved by the commencement of the Environmental Planning and Assessment Amendment Act earlier this year. As a result, the Heritage Council will be able to concentrate on the identification and protection of the significant elements of the State's heritage assets while providing an effective basis for local councils and communities to address their local heritage estate.

The introduction of the provisions relating to the State Heritage Register and these administrative initiatives will provide greater certainty and consistency in terms of the responsibilities for management of heritage assets to both developers, government agencies, and the community as a whole.

2 Interim protection

At present temporary protection at State level can be provided through interim conservation orders and through emergency orders under section 130 of the Act. Both these orders usually last for twelve months. Under the Heritage Amendment Bill the process will be simplified by combining interim

conservation orders and section 130 orders in one new order to be called interim heritage orders. In the new part 3 of the Act the new section 29 will permit an interim heritage order to be placed over an item for a period of up to 12 months. The order will protect an item for up to 12 months so that a proper assessment of the item's heritage significance can be made in a calm and rational manner. It will create a breathing space for all parties, and ensure a better result for the State's heritage resource. Provision has been made for the Minister to make interim heritage orders for items of State or local heritage significance in section 24 of the Act.

The Heritage Council is to provide advice to the Minister on the making of those interim heritage orders. Development proposals can still be considered and approved while the order is in force under section 57 of the Act. Under section 25 the Minister can also authorise local councils to make interim heritage orders for items of local heritage significance. This is a major initiative as it will, for the first time, enable councils, as the representatives of the local community, to take full responsibility for the protection of their heritage within their local government area, therefore alleviating the need for referral to the Heritage Council and Minister for such interim protective measures. Detailed procedures have been included for the making or revoking of interim heritage orders, and for the prompt notification of owners, occupiers and the community generally in sections 26, 27, and 29 of the Act. Section 136 orders will be retained for emergency protection, where the item is under threat of damage or demolition.

3 Neglect of heritage items

The existing neglect provisions in the Act are based on the concept of "wilful neglect". The aim of these provisions was to enable the Heritage Council to take action against owners of items that were subject to permanent or interim conservation orders who neglected their properties to the extent that the features that made the property worth conserving were destroyed. The impotence of these existing provisions has become glaringly obvious. There has been no successful prosecution under these provisions since the Act was introduced over 20 years ago. During that time many items important to the community have been lost through neglect. The new division 5 of part 6 of the Act places the emphasis where it belongs—on the significance of the item. As part of this process section 118 provides for minimum standards of maintenance and repair in relation to four specified areas: weatherproofing, fire, vandalism and essential maintenance. These standards will be detailed in a regulation.

Owners of items listed on the State Heritage Register will be subject to these minimum maintenance requirements: so that their responsibilities as owners are clear. The minimum standards will be designed to prevent the heritage significance of an item on the State Heritage Register from being diminished particularly through "active" neglect by that very small group of irresponsible owners who try to circumvent the existing conservation provisions in the Act relating to permanent and interim conservation orders. A new orders regime has been introduced in this division, replacing the former sections 119 and 120. It gives the Heritage Council power to order repairs to be carried out to an item on the State Heritage Register. This is only possible where an owner fails to meet the minimum standards of maintenance under section 118. The orders regime for neglect of items on the State Heritage Register has been modelled on the existing provisions introduced last year in the Environmental Planning and Assessment Amendment Act 1997.

Except in an emergency, an order can only be made after consultation with an owner, who will get an opportunity to put his or her case before any order is made. New section 120L provides for a right of appeal to the Land and Environment Court against the Heritage Council's order. New section 120K permits the Heritage Council to carry out the repairs itself and recover the cost. These provisions will enable the Heritage Council to contact the owner where it has evidence that heritage significance of an item is being diminished and negotiate remedial action. It will also be able to negotiate remedial actions with the owner, taking into account the capacity to fund those remedial actions. Let me make it absolutely clear, there will be no obligation for owners of items on the State Heritage Register to restore their properties but simply to protect them against that type of permanent damage or deterioration that will reduce the heritage significance of that property irretrievably.

Where the owner does not have the financial capacity to meet even these basic maintenance standards, there remains provision under the Act for grants or loans funding from the Heritage Council. However, as a last resort the Heritage Council, with the consent of the Minister, may prosecute an owner for failure to maintain a property to the minimum standards required by the regulation under new section 119. The new section 119 replaces the old wilful neglect offence in new section 117, which required the owner to neglect the item for the purpose of demolishing the property or allowing its redevelopment. This was an impossible matter to prove. Consequently, the offence did not act as any deterrent to those very few owners who attempted to circumvent their obligations. The new offence is a strict liability offence linked to the minimum standards for maintenance that will be specified under new section 118. I envisage that prosecutions under this provision will only be made in respect of those most recalcitrant of owners who reject the Heritage Council's co-operative approach to the conservation of items on the State Heritage Register.

4 Protection of archaeological relics

The Act requires the Heritage Council to issue permits for the disturbance of archaeological relics over 50 years old. The current clause only requires a permit if the developer's intention in excavating is to discover, expose or move relics. This is rarely a developer's intention, except incidentally. This leads to the ridiculous situation that the current provisions do not cover those excavations and developments where the owner or developer has no intention to expose such relics, but because of the location of the site nevertheless is likely to do so. The amendment to section 139 of the Act will make it clear that a permit will be required if a developer knows or has reasonable cause to suspect that the excavation will uncover archaeological relics on site.

The amendments also give the Heritage Council the discretion to except certain classes of relics, locations, and types of excavation from the need for a permit where it has reasonable confidence that there are no significant relics on the site. The amendments to sections 146 and 146B of the Act widen the requirement to notify the Heritage Council if a relic is uncovered and provide for a range of options to ensure the continued conservation of excavated relics. An excavation permit is not required when an approval is also required under section 57 of the Act if the site is listed on the State Heritage Register, so that no double approval will be required.

5 Government owned heritage

The Government has responsibility for the management of the largest heritage property portfolio in the State. This heritage property is diverse both in terms of its type and relative levels

of significance. It includes all aspects of the State's heritage including items of Aboriginal, built, natural, landscape and movable heritage items. The important point to make however is that all the heritage assets are managed in trust by government agencies for the community. They are the community's heritage assets. It is therefore important that there is parity between the standards of conservation and management expected of the private sector and those expected of the public sector. At the same time it must be acknowledged that State agencies have obligations to provide essential services to the community—health, education, transport and social support services. There is finite funding available to the Government to provide those services which the community rightfully expects.

Clearly, what is required is an appropriate balance in terms of conserving the State's heritage for future generations and the provision of other services by the Government. I intend to achieve this by clearly articulating the heritage conservation initiatives that must be undertaken by government instrumentalities, including State owned corporations to identify and manage heritage assets under their care and control under section 170 of the Act. In addition to listing these key community assets, government instrumentalities will lead by example in heritage protection by adopting sound conservation and management strategies and practices to maintain the heritage significance of these community assets in a diligent manner. Heritage protection of these assets will mean taking the long view and planning for conservation and asset management or asset disposal in such a way that the heritage significance of the asset can be retained through its future adaptive or continuing use.

These heritage asset management principles will ensure that the State's publicly owned heritage assets are better protected and managed by requiring that agencies integrate heritage considerations in their asset management decision making. Under the Act, State agencies will be required to comply with the Heritage Council's guidelines. The Heritage Council will consult Government agencies and relevant community peak bodies to ensure that the guidelines are effective, practical and comprehensive. In addition, agencies will notify the Heritage Council when items are removed from registers and report on their compliance with the Act in their annual reports. This will include a statement of condition of items listed on the State Heritage Register which are under their care and control.

6 Local government heritage management

The Heritage Act was passed two years before the Environmental Planning and Assessment Act. This had the unintended effect of divorcing heritage considerations from other key aspects of environmental management at the local government level. The use of the planning system by local councils to protect heritage has a number of important advantages: heritage items can only be protected by local environmental plans following extensive community consultation; and heritage considerations are integrated with planning and development decisions made by local councils, thereby reducing ad hoc decision making. There are presently over 100 local councils managing heritage items in local environmental plans. It is desirable to maintain and support this role of local government in heritage protection.

It is impractical, in fact undesirable, for a single State agency to have sole responsibility for protection of the entire State's heritage. Long-term conservation will only be successful when it is driven by the community, and where the community actively participates in and supports the process of nominating and protecting the heritage items which are valued. Local councils are best placed to continue to undertake this fundamental principle on the broad scale. The new section 84 include a statement of a local council's obligation to protect the heritage through the planning system. It is considered important to make this clear statement in the Heritage Act to clarify in the eyes of the community, the respective and complementary roles of the two levels of government in heritage management. It is emphasised that this amendment will not add to the current workload of local councils as it simply the re-statement of the role established in 1985. Nevertheless, I am sensitive to the need to provide local councils with assistance and support to identify and protect heritage. The Government will give local councils the necessary tools in the areas of interim protection, direct funding and in the form of practical guidelines and advice.

Temporary Protection of Heritage by Councils

To date, however there is a basic problem that local environmental plans can take a number of months to prepare and councils have not had the ability to temporarily protect sites under threat. This has lead to councils requesting my intervention to protect sites of local significance. As stated earlier, as a result of the amendments, I will be able to authorise councils to make interim heritage orders under the Heritage Act where the council believe that an item has local heritage significance and may be harmed, to allow for time for LEPs to be made. The effect of the order is that local council approval for works will be needed for the life of the order—up to 12 months. Applicants dissatisfied with a council's determination will be able to appeal to the Court.

There will be strict limits to the use of these new powers by councils. I will only authorise councils which have a proven record in heritage management. I will also be able to place conditions on the making of orders and can remove the power of councils to make orders should there be an abuse of the powers. Local council interim heritage orders can not be placed on sites deemed by me to be of significance to the State—in accordance with the Environmental Planning and Assessment Act—nor for development carried out by the Crown. The Heritage Council will monitor the making of the interim heritage orders as the councils will be required to notify the Heritage Council of each one made. I will retain the power to intervene and make an interim heritage order.

Guidelines and Advice to the Community

In addition, as provided by the amendments, I will instruct the Heritage Council to prepare the guidelines in consultation with local government and peak community interest groups to ensure that the guidelines are practical and reflect the broad range of community interests in urban and rural New South Wales. In the New South Wales Government heritage policy, I previously foreshadowed the need to assist councils in their heritage management responsibilities. As outlined in the policy, the Heritage Office has prepared a model heritage local environmental plan which councils will be able to utilise as a template, adapting it to local conditions. This will save councils considerable time and expense in having to "re-invent the wheel".

I believe that these initiatives will greatly assist councils and the general community in heritage conservation in their areas and provide clarity and certainty to owners and developers for future development proposals. The amendments will encourage councils to continue to take a more comprehensive approach to heritage protection. More upfront planning by councils will improve certainty for the community and developers—with heritage sites being identified early through a consultative

process, reducing continual disputation over individual development sites over heritage issues.

7 Heritage agreements

A key element of the proposed changes to the Act is the introduction of the capacity for the Minister to enter into heritage agreements with owners of heritage items of State significance. These agreements are legally binding agreements which set out agreed undertakings between an owner and the Minister, such as conservation works to be carried out in return for funding incentives or exemptions from statutory approvals agreed by the Government. Heritage agreements have been successfully working in other States for a number of years. Their major attraction is to allow for a negotiated approach, ensuring good heritage outcomes to major heritage projects—a much needed alternative to the traditional and somewhat inflexible statutory approvals approach.

As heritage agreements are to be registered with the Land Titles Office and attached to the land title, it will be possible for owners to on sell properties with the negotiated undertakings as to development potential and conservation works clearly spelt out—a potential enhancement to the value of the property due to the added certainty. This co-operative approach will also enable the Minister to address any financial considerations and any other incentives which the Heritage Council believes will assist in the conservation of the item concerned. As with such measures the agreement relies on the co-operation of both parties and hence can be terminated or varied by the Minister when circumstances change.

8 Penalties

The wide range of heritage properties and items means that it is important to have an effective range of penalties to provide sufficient disincentive for offences against the Act. It will be clear to my honourable colleagues, that the disincentive for someone causing damage to a heritage property in the Sydney central business district must be quite different to that for someone in Corowa. It would also differ for damage to a building compared to a precious object. Clearly, the penalties available should reflect these considerations in order to create an effective deterrent. The amendments will increase both the amount and the range of penalties to provide a more realistic disincentive for non-compliance with the Act. The current maximum penalty of a $20,000 fine or six months in gaol is inadequate, particularly where the item in question is property within a major central business district.

There will in future be a maximum penalty of 10,000 units—in today's dollars this means $1.1 million. This is in line with provisions in recent heritage legislation in other States. Two new penalties reflect the emphasis of the amendments on the management of the heritage significance of places: In the case of major damage to or destruction of a heritage item, the future development of the site may, at the discretion of the Minister, be restricted to the same building envelope as the heritage item; or the Land and Environment Court will also be able to require the reconstruction of an item where this is a feasible alternative. The objective of these changes is to limit the appeal of wanton damage or destruction to owners of heritage items by limiting the financial benefits they can derive from such actions.

9 Other changes

The amendments will make a number of other minor changes to the Act:

Heritage Valuations

The Act presently allows for heritage valuations to be made by the Valuer General on properties subject to permanent and interim conservation orders. Heritage valuations benefit the owner in terms of rating and land tax obligations, by ensuring the value of the land reflects highest and best use which can be achieved assuming that the heritage significance of the item is retained. The amendments recognise the value of this incentive for owners, allowing for the continuation of heritage valuations for properties listed on the State Heritage Register. The concession currently operates by requiring that each property listed with a permanent conservation order under the Heritage Act be assessed separately for land tax as if it were the only land owned by the owner. This concession thereby has the effect of granting, to certain owners, a potentially greater additional discount to land tax than would otherwise had been the case.

As such, the concession benefited only a small proportion of the community—those with multiple land-holdings. Under these amendments, this secondary benefit under section 128 will be phased out over five years. This is in relation to properties already subject to a permanent conservation order. A five-year sunset clause was carefully chosen to give owners sufficient notice of the change. No properties added to the new State Heritage Register will be eligible for the new section 128 land tax benefit, however they will still attract the heritage valuation benefit in terms of other property imposts.

Heritage Council Functions

Legislative protection for heritage resources of the community is very important but I am convinced that wider community education about and community understanding of heritage will be a major tool for heritage conservation in the future. The present range of functions of the Heritage Council established under the Act will specifically underline the education and promotional emphasis of the Government's heritage policy.

Revised Definitions

Various minor revisions to definitions in the Act will be made to improve their workability and to reflect current heritage practice.

Streamlined Annual Reporting Requirements

The annual reports of the Heritage Council and Heritage Office will be combined into one comprehensive report. This will remove the unnecessary and artificial separation in the reporting of the achievements of the council and the office. The amendments will enable the community to gain a single and more coherent picture of conservation management achievements made by the Government.

10 Conclusion

The bill will provide a more effective basis for the identification and protection of the community's environmental heritage in New South Wales. It will also provide certainty and consistency in terms of the responsibilities for management of heritage by the State Government, Heritage Council and local government. The revised Act will enable the Heritage Council and the Heritage Office to undertake the necessary reform of the heritage system so that Government agencies, owners, developers and the public can have greater confidence that the system is working for the good of the community as a whole. The proposed changes reflect current community and industry views and the proposed amendments

have received strong support form major community groups such as the National Trust. I commend the bill to the House.

The Hon. M. F. WILLIS [5.38 p.m.]: The Opposition does not oppose the principle or the purpose of this proposed legislation. Honourable members will be relieved to know that I do not propose to speak at any length on the matter. The matter was extensively canvassed by the shadow minister, the member for Vaucluse, in the other place, and there would seem little purpose in my repeating, albeit in different words, what he had to say. However, in Committee the Opposition will move three amendments that have been circulated. Those amendments are in response to some serious representations made by interested parties on the question of relief from land tax.

In the other place the honourable member for Vaucluse quite rightly forecast that in his opinion there will need to be follow-up legislation to tidy up this bill. He made a commitment on behalf of the coalition to do just that when the coalition returns to the Treasury benches next March. A case in point is the very real concern regarding local councils raised by the Local Government Association, which said:

> The proposed changes only act as a disincentive for councils to issue IHOs. Why should a council risk the costs of an appeal when the same decision by a Minister cannot be appealed?

With those few words the Opposition supports the bill. However, I should mention that the Opposition has been privileged to be given copies of amendments that the Hon. R. S. L. Jones intends to move in Committee. I give notice that the Opposition will not support any of the amendments and will move three amendments of its own.

The Hon. R. S. L. JONES [5.40 p.m.]: The Heritage Amendment Bill introduces amendments to the Heritage Act based on the philosophy that the community should be responsible for identifying and protecting their heritage, and that the State should support the community in that role. The bill allows the Heritage Council to delegate authority to local councils for development applications on significant State items and allows the Minister to appoint a ministerial review panel, instead of a commission of inquiry, to consider objections to heritage orders. It requires developers to seek a permit if they know, or have reason to know, that an archaeological relic may be uncovered during the course of work.

The bill also allows the Minister to delegate to local councils powers to place one-year interim orders. It requires State Government agencies and State-owned corporations to list and manage their heritage items, and it allows the Minister to make heritage agreements with owners of State significant heritage items which will run the land. It increases the penalties for offences against the Heritage Act in relation to State significant items.

I examined the bill in some detail and identified a number of concerns with it. I presented those concerns to the Minister and have received a number of responses from him. One of my concerns was that, in relation to a building or work, the definition of "harm" included "demolish". I wondered whether that referred to demolishing a part or the whole of a building. The Minister said it means demolishing a part as well as the whole of a building. A further concern was whether there would be any public input in arriving at the criteria mentioned in new section 4A(3). I have been satisfied by the Minister's response.

A number of other issues were raised with the Minister. As a result, in conjunction with Jeni Emblem and the Environmental Liaison Officer I have drafted a number of amendments and I will move them in Committee. It would take up too much time to list all of my concerns now; it would be more appropriate to detail them in Committee. So, I support the legislation but I have a number of problems with it that I shall deal with at length in Committee.

The bill makes no specific provision for the National Trust or environmental groups to appear before the commissioners of inquiry. I hope that will be corrected. No public input is provided on the guidelines for the preparation of environmental planning instruments, and such instruments may not be legally enforceable. No monetary allocation is made for the Heritage Incentive Fund. Proceedings for offences for failing to maintain or repair buildings, works or relics can be instituted only with the written consent of the Minister. Orders to remedy failures to maintain and repair do not extend to natural areas. The current land tax concessions for a property subject to a heritage order are removed. This will be addressed by one of the amendments foreshadowed by the Hon. M. F. Willis, which is desirable. In response to my draft amendments the Minister wrote to me as follows:

> I wish to advise that after consideration of the issues you have raised I will not be supporting any of the amendments in Parliament. A number of the issues you have raised will receive further consideration once the bill has had the opportunity to be put into practice. These include guidelines for protecting items of moveable heritage under the new maintenance provisions and the review of the ministerial review panel guidelines during the first year of the MRP's operation.

He referred to a letter from Jacquie Svenson, the Environmental Liaison Officer. She was under the impression that my proposed amendments had received support from the National Trust. That was not so. The Minister seems to think that Ms Svenson deliberately misled the National Trust, but that is not so. The office of the Environmental Liaison Officer does an excellent job but it is obviously underresourced for the amount of work that needs to be done. I assure the Minister that there was no deliberate intention by her or me to give false information. With those few words I support the bill.

The Hon. I. COHEN [5.46 p.m.]: The Greens New South Wales support greater protection of heritage in New South Wales, whether it is natural or cultural. This cultural Heritage Amendment Bill has a number of key provisions. Does the Hon. Dr B. P. V. Pezzutti have a problem with that? I have always said that the Greens New South Wales are good on heritage matters and on many other matters. In a number of those key areas the bill could be improved.

The Greens believe that there could be better representation on the Heritage Council, including from both Aboriginal and conservation interests, and a more transparent and accountable process—especially in respect of the ministerial review panel. There should be a system for protecting heritage items from all development, regardless of whether it is being carried out by a State agency or a developer, and for developments of State significance.

The Greens consider that the increase in local government powers for issuing interim heritage orders should be restricted to councils which, in the opinion of the Heritage Council, have shown the requisite levels of responsibility and expertise needed to implement those powers. In conjunction with the Hon. R. S. L. Jones I will move a number of amendments that have been developed in consultation with the Nature Conservation Council, the National Trust and the Environmental Defenders Office. Each of the amendments has been through considerable consultation.

This evening the Opposition has circulated a number of proposed amendments which are substantially similar to those mentioned by the Hon. R. S. L. Jones. We look forward to the coalition's support for those amendments. On behalf of the Greens New South Wales I support the bill.

The Hon. PATRICIA FORSYTHE [5.49 p.m.]: The coalition does not oppose the bill, and it would have been nice to have been able to give the Government full support and praise for some aspects of the bill. With this proposed legislation the Government is on the right track, as it should be because the process of reform was commenced by the coalition when it was in office. Many of the reforms highlighted in the bill were recognised by the coalition as being important. Underlying all of this is the fact that the coalition and the Government accept the importance and value of heritage.

Rather than regarding an item of heritage as something to be preserved only when it is in danger of being demolished or attacked in some form, we should do better to introduce a note of certainty so that everyone will come to understand the value of and support the heritage of this State. The sad thing about the bill is not that the Government has taken the wrong track; indeed, it has taken the right path with the bill. The bill will introduce heritage as part of the curriculum in schools so that young people will better understand the value of heritage.

When I read this bill and consider the direction the Government has taken I remember that each time I come to Parliament House I drive past that ugly hole at the end of Macquarie Street: the remnants of the Conservatorium of Music. That hole is seen as part of the apparent reconstruction. However, the convict-built road and drainage system have been effectively destroyed by that work, without any intervention by the Government.

Honourable members would recall that last June the coalition sought to move a motion in relation to that work, but it was not supported. On 2 November the *Sydney Morning Herald* reported that an independent assessment of the conservatorium site carried out by Mr Justin McCarthy, the Managing Director of Austral Archaeology, and commissioned by the National Trust, delivered a scathing report on the work of the Government. In his report Mr McCarthy stated that the discovery of the remains of the convict-built road and drainage system would:

> normally . . . lead to conservation policies which would conserve (and perhaps interpret) the site in situ. However . . . there is one factor which prevents this occurring—namely, that the site is earmarked for a major redevelopment.

One major factor influenced that decision; it was Bob Carr's project and nothing was allowed to stand in its way. The Government introduced this, in principle, fine heritage bill, although it needs amendments. In Macquarie Street, the most historic precinct in New South Wales, we are seeing one of our oldest convict remnants being destroyed as a result of poor work on the historic conservatorium

building. If the work had been carried out by a private developer, the heritage legislation would have come into play and the work would have been stopped. A permanent or interim conservation order would have been applied but, because this is Bob Carr's project, this historic precinct is being damaged.

Tonight I was impressed that Government members spoke about curriculum. As a former history teacher I know that teachers bring high school students from across the State to Macquarie Street, because it embodies so much of our early history. That includes many features of our early colonial architecture; not only Parliament House but also St James's Church and the Conservatorium of Music. Had it been possible to preserve the convict work that had been uncovered as part of that excavation, as one would have expected, it would have fitted that description. Under other circumstances one would assume that that work would have been preserved.

I support the legislation, but I say that the Government's record is tarnished by its actions. The Minister's good intentions have been tarnished because the Government did not properly conserve that site. Having said that, I agree that many of the other principles contained in the bill are important. One of the most important is the introduction of an element of certainty. One reason why heritage has not been well regarded in this State is that it is only when a building is under threat that we introduce heritage interim orders and seek conservation orders—a knee-jerk reaction—rather than ask what we should acknowledge, what should we have on a register, and what are we trying to achieve.

Everyone with an interest in heritage would welcome this legislation, and to that extent it should be supported. An outstanding amendment to the Act is new subsection (1)(b) of section 160, which states that if a building is destroyed, a new structure can be erected only within the existing envelope occupied by the heritage item. That is important, because, as we all know, over the years mysterious fires and other damage has occurred in buildings which have been earmarked for heritage conservation. Of course, developers assume that they can then build larger buildings on heritage sites, but the bill acts as a disincentive to that sort of assumption. But beyond that we may be able to better encourage property owners to understand the value of their heritage. In order to do that, owners of heritage listed buildings or buildings on the State register will be supported by the Government through this legislation.

Minister Knowles in the other place regularly highlights the good job his Government has done by comparison with former governments. The Minister noted in his second reading speech that currently there were 650 items protected by permanent conservation orders. In November 1994 in the Legislative Assembly Mr Knowles asked the then Minister for Land and Water Conservation, representing the Minister for Planning, Mr Robert Webster, a question regarding Heritage Act conservation orders. Honourable members would be interested to know that at that time there were 669 permanent conservation orders.

When the Minister does his usual comparisons he should note that the coalition did well; in fact, there are fewer items now protected by permanent conservation orders than there were in November 1994. The former coalition Government acted to preserve a significant number of buildings. Far from trying to put a division between the coalition and the Government on the subject of heritage, we should agree that in principle this is a bipartisan issue; we all support good heritage and it is time we introduced certainty. To that extent I support the legislation.

The Hon. Dr A. CHESTERFIELD-EVANS [5.56 p.m.]: The Australian Democrats basically support the bill, which has been seven years in development and has the support of heritage interests and the National Trust. The Democrats believe that too much of our heritage has been lost already and that it is certainly important to protect our heritage for the future. One of my good friends has been involved in developing the heritage database, which we totally support as an important tool in establishing in the education system an appreciation of the historic features of each locality. From an early age people should be able to appreciate not only what is there but also what is of significance.

Only when heritage concerns and pride are developed in young people and in the community can we get away from this last-minute fight against each development application as developers attempt to destroy what is left of our heritage. Each time I drive to the city I drive past the hole in the ground where the Regent Theatre once stood. I remember that there was a workable plan which involved building on part of the site and preserving it. But, no, the building had to be demolished because it was economically sensible to do so. If it was economically sensible why, ten years later, is there still a great big hole there? That is a most unsatisfactory situation.

When I come to work on the ferry I notice the Walsh Bay wharves and worry about their future; one of them has been preserved and a couple of them are about to go. As I wait at the ferry wharf, thinking that Circular Quay is pretty well at total capacity, I look at the row of "toasters" that are being built because we did not knock down the first one. All the other buildings are coming up to the same height and the lovely vista of the botanic gardens and the harbour in the distance is being totally lost; again, because of greed. I wonder what can be done about that!

The Hon. D. J. Gay: You have a short memory. You must have seen what was there 10 years ago. The building that was there was bigger than the existing building.

The Hon. Dr A. CHESTERFIELD-EVANS: The modifications that have been made at the quay were due to the fact that the height of the building was reduced after public submissions. The "toaster" is in fact a mitigation, in that the road was lost in exchange for a reduction in the height of the building. But that resulted from the fact that a single owner availed himself of a great opportunity, and the demolition of buildings along Macquarie Street. That opportunity was lost, I believe, through the lack of political courage and good sense, as well as a lack of vision.

We do not want such a thing to happen again. However, I recognise that this bill does not deal with such matters. Whenever I think of heritage I am reminded of Newtown's Elizabethan Theatre, which burned down in rather odd circumstances. I used to enjoy going to performances at that theatre. I recall also the Wintergarden theatre, which ended up as a mere postscript to its former stature. The spirit of the Wintergarden remains only to bump up the value of expensive town houses. That was the end of the Wintergarden! I worry about the Bondi Pavilion and the Balmoral Pavilion and their ownership and use by the general community.

It is important that we think carefully about what we do with our heritage. We should preserve it as it is, and not add a penthouse floor to it—another problem that arises from time to time when architects become involved in the restoration of heritage buildings. Customs House seems to have been affected by that problem. The Australian Democrats support the general thrust of the bill, because it will result in a little less adhockery in the implementation and observance of heritage policy. I foreshadow that the Australian Democrats will support the amendments to be moved by the Hon. I. Cohen and the Hon. R. S. L. Jones to toughen up the provisions of the bill.

The Hon. JAN BURNSWOODS [6.01 p.m.]: I support these amendments to our heritage legislation and I congratulate the Government on their introduction. I draw attention to a number of important steps in the implementation of heritage policy that the Government has taken since its election in 1995. Unlike the nasty, bitter and twisted speech made by the Hon. Patricia Forsythe, my speech will concentrate on positive things, rather than the raising of negatives and red herrings. Since the Government released its heritage policy in 1996, a number of very important changes have been made to that policy. I might point out that the previous Government had these heritage policy recommendations from 1992 onwards, but did absolutely nothing about them prior to losing office in 1995.

One of the most important things done in 1996 was the creation of the Heritage Office, so that separate advice was provided to the Heritage Council, rather than the Heritage Council being dependent on the services of the Department of Urban Affairs and Planning. That has been a most welcome change. I pay tribute to the work of the Heritage Office under Rosalind Strong. I had recent experience of this when I went to the Royal Australian Historical Society conference in Port Macquarie late last month. I found that not only did the conference deal overwhelmingly with heritage items, and not only had the conference received massive support from the Heritage Office, but more than half of the Heritage Office staff had come to the conference to give advice and guidance to Royal Australian Historical Society delegates gathered from rural New South Wales in particular.

As it is Government policy that local communities, and in particular local government, should play a much bigger role in protecting and preserving our heritage, the assistance and advice provided by officers of the Heritage Office at that conference was most important and very much appreciated. The introduction of these recommended steps in heritage policy in 1996 marked an important step forward. Of course, Labor governments in New South Wales have a fine record in respect of our heritage, going back many years.

The attacks made by the Hon. Patricia Forsythe on happenings in Macquarie Street strike me as absolutely outrageous, particularly in light of the record of the Wran Government, in particular of Neville Wran and Jack Ferguson, in relation to the protection and preservation of Macquarie Street. This parliamentary building, the hospital, the Mint, the Barracks, so much of the street scape of Macquarie Street, would not exist as we know it now if it had not been for the fantastic efforts of

Neville Wran, Jack Ferguson, the Government Architect's Office and the historic buildings branch under that Government. So, for a member of the Opposition at this point to criticise this Government strikes me as hypocritical indeed. I will mention briefly just a couple of points about the conservatorium.

I suppose that the Hon. Patricia Forsythe found she could not, for once, support a bill without throwing in a whole lot of nasty remarks. It seems strange—I can only put it down to her desperate desire to prop up the leadership of Peter Collins—that she would make such remarks. All members of the New South Wales Parliament, particularly members of this House, know about the ridiculous debates that we had about this time a year ago regarding the setting up a select committee in relation to the conservatorium. Peter Collins has some sort of obsession about moving the conservatorium to the Rozelle hospital site—despite the advice of everyone else in Sydney, everyone in the music community, everyone in the heritage community, in fact anyone in relation to anything whatsoever.

The overwhelming opinion is that the Sydney Conservatorium of Music should not be moved, nor does it want to move, to the site of Rozelle hospital. Peter Collins continues with his childish obsession that that is where the conservatorium should be. It is not, therefore, surprising that the Hon. Patricia Forsythe is still trying to prop up poor little Peter by attacking the work now going on at the conservatorium. The Sydney Conservatorium of Music has been at its current site for something like 90 years. That fact in itself, given our 200-plus years of European civilisation, probably qualifies the conservatorium for heritage listing.

As for the nonsense about the convict road, I remind honourable members that about 80 metres of sandstone remains of that road. Unfortunately, a small amount—something like three metres of the drain at the side of that old road—was damaged. That is being repaired. That is hardly an issue on which to devote the majority of a speech on these important changes to the Heritage Act.

I briefly mention the importance of these amendments not only to make sure that local government plays its role in the protection of our heritage but, as this becomes a bigger and bigger task, to emphasise that none of us should think that a centralised State body alone can protect our heritage. If we do not have the co-operation of local government, in reaction to the fine work of local historical societies and other heritage groups, then we will not be able to protect our heritage.

Another really important issue—one in respect of which I pay tribute to the Government—is that this legislation moves towards a preventive philosophy. Rather than act once damage is imminent or already taking place, we need to act in advance to identify what is valuable and protect it. That applies not only to buildings but to Aboriginal relics, archaeological evidence and our movable heritage as well. We must put in place processes that protect heritage items before they are threatened with destruction or before an atmosphere of crisis occurs.

The penalty increases provided by this bill are well overdue. Until now, the penalties have been viewed with derision by developers who stand to make large profits from proposed developments. The considerable increase in penalties, plus the Minister's power to require reconstruction of a damaged site and to limit redevelopment of a site will go a long way towards preventing cowboys in the development industry from deliberately damaging heritage buildings and sites because, in the end, they would still make profits from their actions. This legislation is another step in an important series of heritage protection items that Minister Craig Knowles has introduced under this Labor Government.

I would correct another error made by the Hon. Patricia Forsythe. It is quite wrong to say that more permanent conservation orders were made under Minister Robert Webster than are being made now. I do not know where the honourable member got her figures, because she has forgotten that the Hon. Robert Webster removed some conservation orders which led, regrettably, to the destruction of some buildings. The honourable member has also forgotten the process under way of removing the protection of certain items to local environmental plans. Her speech was motivated only by the desire to oppose for the sake of opposing and to throw in negative items which have absolutely nothing to do with amendments to the Act.

Reverend the Hon. F. J. NILE [6.10 p.m.]: The Christian Democratic Party supports the Heritage Amendment Bill. This bill will amend the Heritage Act 1977 to replace provisions for the making of permanent conservation orders by the Minister with provisions for the listing of items on a new State Heritage Register; provide for the making of heritage agreements between the Minister and the owner of an item of State heritage significance; establish the Heritage Incentive Fund, to be used to provide financial assistance to the owners of land subject to heritage agreements; provide for minimum standards of maintenance and repair for items listed on the State Heritage Register and to provide for the enforcement of those minimum standards by the

Heritage Council, in place of existing provisions based on an offence of deliberately allowing a building or work to fall into disrepair; authorise the Minister to restrict future development of land to the envelope occupied by a heritage item when a person has been convicted of certain offences involving the heritage item or has not complied with an order to repair and maintain a heritage item; and provide for a number of other miscellaneous matters.

These changes will promote the ability of the Heritage Council to delegate authority to council for development applications on State significant items when a council can show that it has the experience and expertise to deal with such heritage issues. Currently, an objection to the placement of a heritage order automatically triggers a commission of inquiry.

Under these amendments the Minister will have the discretion to appoint a ministerial review panel to consider the objection—the panel will be appointed by the Minister—or to appoint a commission of inquiry. This will allow a more flexible process, when a commission of inquiry may be an overly cumbersome process. The ministerial panel option is already in place in other States. The provisions relating to archaeological relics will be amended. Currently, the Act states that developers of land must seek a permit when they intend to move, destroy or alter a relic. This will be changed so that developers are required to obtain a permit if they know or have reason to believe that a relic may be uncovered during the course of the work.

The bill provides that the Minister, on the advice of the Heritage Council, will be able to delegate to local councils the power to place section 130 orders—one-year interim orders—when they have shown responsibility and expertise in heritage management. It further provides for increased penalties for offences against the Heritage Act. There will be a formalised process for action against owners of State significant heritage properties who do not take steps to protect an item from permanent damage, that is, basic protection from fire, water or vandalism. It will not require restoration works, et cetera, but it will protect an item from permanent damage. Some honourable members have criticised the Government's action in relation to the Sydney Conservatorium of Music.

The Select Committee on the Sydney Conservatorium of Music, of which I was chairman, spent a great deal of time investigating the two options: to redevelop the conservatorium where it is presently located or to shift the conservatorium to Balmain. The Government accepted the committee's recommendation that the conservatorium be redeveloped on its present site. The more I have considered the matter and examined the current building development and improvement of the conservatorium, the more I believe the select committee made the right decision.

The Hon. Patricia Forsythe referred to the conservatorium as no longer heritage—in other words, many buildings surrounding the conservatorium detracted from the heritage aspect of the conservatorium. The Government has removed the old buildings, classrooms, et cetera and virtually restored the building to its former heritage status. It should be commended for the sensitive way it has dealt with redevelopment of the conservatorium. I am pleased to support the Heritage Amendment Bill.

The Hon. R. D. DYER (Minister for Public Works and Services) [6.14 p.m.], in reply: I thank honourable members for their contributions to the debate on the Heritage Amendment Bill. The Hon. Patricia Forsythe made some quite disproportionate and inaccurate statements regarding development of the Sydney Conservatorium of Music. An unfortunate accident occurred on that site last week involving damage to part of the drains that had been discovered on the site. However, I emphasise, as did the Hon. Jan Burnswoods, that just over three metres, out of a total of some 80 metres of heritage drain on the site, was damaged. I indicate that it will be possible to repair the damaged section by using parts of the drain previously removed from the site and carefully stored by the Department of Public Works and Services.

That is not to say that I am not concerned that any damage, however minor, occurred. Indeed, I have instituted an investigation of that unfortunate event. The inquiry is being presided over by the Acting Government Architect, Mr Peter Mould. He is interviewing all persons involved and will report his findings in due course. I note that the Heritage Office, via Ms Roslyn Strong, made a statement last week to the effect that while the damage was unfortunate it was relatively minor. They may not be Ms Strong's exact words, but I am grateful that she described the matter in that way because that is what happened.

During debate on this bill it is not appropriate to enter into a wholesale debate regarding the Conservatorium of Music site. However, I thank Reverend the Hon. F. J. Nile for his comments, because I strongly agree that when the development is complete it will be seen to be a major improvement over the improvements already made to the site. As the honourable member said, ugly

concrete classrooms were added to the heritage building during the 1960s but they have now been demolished, revealing the heritage building. I have seen illustrations and art work of the heritage building dating from the last century which show the old Government House stables viewed from Farm Cove. They show a very attractive and, indeed, beautiful building. When the development is complete the public will see that the work now occurring will have been worthwhile. With those few comments I commend the bill to the House.

Motion agreed to.

Bill read a second time.

WORKERS COMPENSATION LEGISLATION AMENDMENT (DUST DISEASES AND OTHER MATTERS) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [6.19 p.m.]: I move:

That this bill be now read a second time.

The main purposes of this bill are to increase the fairness of workers compensation and common law provisions relating to dust diseases, to make procedural changes to enable more efficient disposal of proceedings in the Dust Diseases Tribunal and facilitate the settlement of claims, and to make other miscellaneous revisions. Dust diseases, to which this legislation relates, are defined to include conditions such as asbestosis, mesothelioma and silicosis. While asbestos is no longer mined or in general use in New South Wales, its harmful effects on individuals, families and society continue. Many of the current cases of asbestos-related disease arise from exposure during the 1950s, 1960s and 1970s when few, if any, adequate precautions were taken to protect workers and others.

It is an established principle that the relevant employers have a responsibility to fund claims under the separate workers compensation dust diseases scheme and related common law claims. This bill provides a package of improvements that is designed to be fair and reasonable to all parties affected. One of the main proposals relates to common law entitlements for dust diseases in circumstances where the claimant dies before his or her claim is determined by the Dust Diseases Tribunal. In those circumstances, the entitlement to general damages—that is, damages for pain and suffering, loss of amenity and related items—is automatically extinguished.

It is not uncommon for workers and other persons suffering from the most serious type of dust disease to have very limited life expectancy. Consequently, claimants are often under considerable pressure to try to finalise their general damages claim before death, for the benefit of their families. This has meant that in some cases hearings have been held in harrowing circumstances when the claimant is on the verge of death. Having regard to the special nature of dust diseases, the bill provides that where the claimant dies before completion of the Tribunal proceedings the claimant's estate will still be able to pursue recovery of the outstanding general damages. This is intended to avoid the arbitrariness and added distress involved in the present situation.

Associated procedural changes are included that are intended to facilitate earlier hearings through more efficient procedures. Specifically, the tribunal will be empowered to make rules requiring claimants to supply particulars, or additional particulars, at prescribed times. Another proposal involves the relationship between a worker's rights to workers compensation and to damages at common law in respect of the same dust disease. In the December 1997 decision of *James Hardie v Newton* the Court of Appeal extended the previously accepted principles for offsetting between those two categories of entitlement.

It was held in that case that although the worker's common law claim related only to damages for pain and suffering the amount of weekly compensation already received by the worker must nevertheless be deducted from those damages. The Government considers that that approach tends to result in an inordinate reduction in the worker's overall entitlements in these cases. The bill will restore the status quo that applied before that decision. The result will be that workers compensation entitlements of a person claiming damages for a dust disease will still be deducted, but only from the part of damages relating to economic loss.

That approach to offsetting benefits will achieve in a reasonable way the aim of avoiding double payment of benefits for the same disease. A related change involves the position of the Workers Compensation (Dust Diseases) Board in relation to parties—other than employers—who are liable at common law for dust diseases. It is not appropriate for the negligent party—for example, a supplier of asbestos products—to receive a reduction in its common law liability through offsetting principles as a windfall. The bill provides that where a reduction is made in the third party's common law liability, by virtue of compensation paid to the worker by the

board, the third party must reimburse the board for the relevant amount. If that does not occur, the compensation fund administered by the Dust Diseases Board, which is financed from an annual levy on employers, would be effectively subsidising third parties who have caused workers to contract these serious conditions.

The proposed reimbursement requirements are appropriate and equitable. They are similar to corresponding reimbursement requirements that already exist under the main Workers Compensation Act. Another important proposal in the bill relates to the time allowed for the bringing of common law claims for dust diseases. The existing provisions of the Limitation Act, which lay down a basic three-year limit for claims that runs from time of injury, do not easily fit the reality of gradual-onset dust diseases. Cases of dust disease may have a latency period of 30 years or more.

The current Act allows discretion to extend the three-year and related time limit provisions based on factors such as the claimants having been unaware of the disease or its cause or extent. However, application of such provisions takes time and involves additional expense for claimants who may have a short life expectancy. In recognition of the particular circumstances applicable to dust diseases, it is proposed to minimise such technical legal hurdles by providing that those current provisions do not apply in these cases. In consultation some organisations have raised a concern that changes, such as that proposed to limitation provisions, could increase the case load of the Dust Diseases Tribunal by encouraging forum shopping from interstate or overseas.

That concern is proposed to be addressed more widely in other legislation taking account of comments by the Chief Justice and the President of the Court of Appeal in the recent judgment in *James Hardie v Grigor*. The aim is to provide that a court's discretion to accept jurisdiction in forum shopping situations may include the question of diversion of limited judicial resources known as public interest. Several other items in the bill aim to make resolution of common law claims in the Dust Diseases Tribunal faster and more efficient. Firstly, the hearing of cases in the tribunal will be streamlined by changes to evidentiary procedures. Evidence obtained by discovery and other procedures will be able to be reused in subsequent proceedings where appropriate.

An additional change will prevent the relitigation without leave of the Tribunal of issues of a general nature that have been determined in prior proceedings. Possible examples of such issues may be the carcinogenic nature of certain types of asbestos fibres or the availability of safety precautions at a particular time. At present, the same generally applicable issues, having been determined by exhaustive and costly examination of evidence in one set of proceedings, may have to be heard and determined afresh in later cases. If issues fall into the proposed general category where relitigation would be restricted, the tribunal will have a discretion to grant leave for the reopening of such issues in appropriate cases. Criteria in exercising that discretion will include matters such as how the previous proceedings were conducted and the availability of new evidence.

The Dust Diseases Tribunal was fully consulted on these and other aspects of the bill. A further provision designed to improve procedures involves situations where the worker's employer has been covered by two or more insurers over the time when the worker was employed in dust-exposed duties. At present, disputes between those insurers about which of them is liable have the potential to delay payment of damages to workers who have a clear entitlement. The proposed changes address that problem by designating the last relevant insurer as the one responsible for initially dealing with the worker's claim. That will include acting as defendant in the proceedings and, if appropriate, arriving at a compromise or settlement with the claimant. Separate arbitration is to be provided to resolve the insurance issues, following resolution of the worker's claim.

The bill gives the disputing insurers in these cases scope to agree on some other process to determine the question of which of them is properly liable under the legislation. Arbitration will apply only as a last resort if the dispute is not otherwise settled by the time the tribunal gives its judgment in the worker's proceedings. If the matter then has to go to arbitration, the insurer found to be liable through that process—as well as covering the worker's entitlement—will generally have to meet the costs of the other parties, including the cost of arbitration. Those cost arrangements are to be detailed in rules under the legislation. Ancillary provisions will give the tribunal discretion to order part payment of damages to the worker on an interim basis. That will be available pending final judgment in the proceedings by the worker or pending subsequent arbitration of outstanding insurance issues.

Whether interim damages are appropriate in a particular case will depend on considerations that include the length of time likely until final

resolution. The tribunal is also to be given the flexibility to make orders under the rules for exemption, where appropriate, from the designated insurer and arbitration provisions. Another item will make improvements to promote quick and fair settlements, by overcoming technical problems in cases involving multiple defendants. One of those improvements will ensure that—where the claimant arranges to settle with one of those defendants—that a defendant's right to appropriate contribution from the other defendants remains open. These and other procedural refinements will be to the advantage of parties in individual proceedings, while also assisting the tribunal to manage its overall case load.

In the administrative area the Dust Diseases Board will be given a discretion to make financial grants to organisations or groups that provide support to dust disease victims. In conclusion, the proposals in the bill have attracted considerable interest and input from stakeholders since their initial announcement on 7 May. The draft bill has been substantially revised in response to submissions received. Various views have been expressed on the effectiveness and implications of some of the proposed provisions. It should be noted that the intention is that the implementation of those provisions will be monitored and if they are found to operate unfairly or unsatisfactorily they will be reviewed.

I acknowledge the useful contribution made by the Workers Compensation Advisory Council towards this legislation. It is important to note that the advisory council did consider the bill but no unanimous position was reached. The council did refer concerns of individual members to me and, as with all representations I received which did not affect the integrity of the bill, I took on board their individual views. Amendments of a technical nature were made to the bill accordingly. It was agreed that any issues of concern should be the subject of ongoing monitoring and review by the advisory council. That is an appropriate and reasonable position for the advisory council to take, given that its role is broadly to advise on and monitor relevant legislation, amongst other functions.

Members of the council include nominees of the Labor Council, the Employers Federation, Australian Business Limited, the Self-Insurers Association, the Construction, Forestry, Mining and Energy Union, the Nurses Association, the Australian Liquor, Hospitality and Miscellaneous Workers Union, the Australian Industry Group and the Retail Traders Association. Other organisations who participated significantly in consultations include the Asbestos Diseases Society of New South Wales, the Insurance Council of Australia, James Hardie Industries, CSR, Boral, Pioneer Concrete, the Australian Manufacturing Workers Union, GIO Australia, MMI Limited, Wallaby Grip, the Australian Business Chamber, the Law Society, the Bar Association and the Dust Diseases Board, as well as the WorkCover Authority and the Attorney General's Department.

This is a good package that has been worked through to help people in a tragic situation to facilitate legitimate claims of workers who are generally dying of terrible diseases caused by the handling of asbestos—usually many years ago. I am sure all members of the House have a profound sympathy for all people affected. These are good, appropriate, balanced measures that will facilitate the processing of these claims and benefit the victims of these diseases. I commend the bill to the House.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [6.32 p.m.]: The Opposition does not oppose the Workers Compensation Legislation Amendment (Dust Diseases and Other Matters) Bill. The concept of the Dust Diseases Tribunal was initiated by the Opposition. It was something very dear to the heart of the Hon. Neil Pickard and he pushed it as a policy issue before the 1988 elections. It was implemented by legislation introduced by the then Attorney General, the Hon. John Dowd. In principle the amendments before the House have the support of the Opposition although aspects of the legislation are of concern and I will outline those to the House.

An end to death-bed hearings is an aim all honourable members share. We have no argument with the Government's position that those who unknowingly risked illness through the handling of asbestos should have their claims for compensation addressed quickly and with minimal trauma. Unfortunately, the amendments proposed by the Government will not achieve this. The amendments are fundamentally flawed. They will increase litigation and costs and lead to delays for claimants in New South Wales. The impact of these changes will worsen rather than improve the situation for claimants. It will reduce the chance for sufferers to receive prompt compensation.

It is one thing to espouse the need for reform; it is another to get it right. Despite advice from the Government's Workers Compensation Advisory Council that the proposed reforms are flawed and despite the council's recommendations for achievable improvements, the Government has decided to introduce this bill warts and all and without regard to the consequences for the very people it is trying to protect.

The Government has chosen to ignore the members of the advisory council and their expert advice. These members—including the New South Wales Labor Council, the New South Wales Employers Federation, Australian Business Limited, the Self-Insurers Association, the Construction, Forestry, Mining and Energy Union, the Nurses Association, the Australian Liquor, Hospitality and Miscellaneous Workers Union, the Australian Industry Group and the Retail Traders Association—made several recommendations to improve the legislation so that it would achieve the Government's stated objective of an end to deathbed hearings.

In an endeavour to see an end to deathbed hearings the Opposition supports the bill but seeks a number of amendments based on the advice of the advisory council to ensure it achieves this aim. Further, the Opposition calls on the Government to table the advisory council's recommendations and to explain to the House why the recommendations of the council have been ignored. Our major concern centres around the likelihood that the bill in its current form will increase the time taken for sufferers of asbestos-related diseases to receive fair compensation. This will be caused by the abolition of the limitations period and the restrictions on relitigation which will force defendants to increase appeals. Accordingly, the Opposition seeks to remove three measures from the bill.

The no limitation period contained in new section 12A should be deleted. This section was included by the Government contrary to the advice of the advisory council. It would enable any claim currently out of time to be brought before the Dust Diseases Tribunal provided the claim has not previously been ruled upon by the tribunal or a court. In practice, this will increase the level of litigation and the delays in the Dust Diseases Tribunal by reactivating claims and the tribunal will be inundated with claims from other States and from outside Australia.

The removal of limitation periods is a radical, unprecedented and unjustified step which abolishes entirely a key tenet of the common law system. Limitation periods have been entrenched in statute since 1623. Australian courts have recently and repeatedly emphasised at the highest level the fundamental importance of limitation periods. In the 1996 case of *Brisbane South Regional Health Authority v Taylor*, which is reported in volume 70 of the Australian Law Journal Reports at page 866, Mr Justice McHugh said:

> For nearly 400 years, the policy of the law has been to fix definite time limits (usually 6 but often 3 years) for prosecuting civil claims. The enactment of time limitations has been driven by the general perception that "where there is delay the whole quality of justice deteriorates". Sometimes the deterioration in quality is palpable, as in the case where a crucial witness is dead or an important document has been destroyed. But sometimes, perhaps more often than we realise, the deterioration in quality is not recognisable even by the parties. Prejudice may exist without the parties or anybody else realising that it exists.
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> The effect of delay on the quality of justice is no doubt one of the most important influences motivating a legislature to enact limitation periods for commencing actions. But it is not the only one. Courts and commentators have perceived four broad rationales for the enactment of limitation periods. First, as time goes by, relevant evidence is likely to be lost. Second, it is oppressive, even cruel, to a defendant to allow an action to be brought long after the circumstances that gave rise to it have passed. Third, people should be able to arrange their affairs and utilise their resources on the basis that claims can no longer be made against them. Insurers, public institutions and businesses, particularly limited liability companies, have a significant interest in knowing that they have no liability beyond a definite period.
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> The final rationale for limitations periods is that public interest requires that the disputes be settled as quickly as possible.

The overturning of the principle of limitations periods is a serious challenge to the future administration of justice in this State. What will be next? Will it be removal of limitations periods in the courts generally? Perhaps worst of all, this section will increase delays and suffering. The advisory council, including representatives of both employees and employers, recognised this and recommended to the Minister that the clause be removed. The Opposition agrees with that recommendation. Opposition members will move that the clause be deleted. Similarly, Opposition members will move that new section 25B, the ban on relitigation, be deleted in line with the recommendations of the advisory council.

Of all the measures in the bill, new section 25B has the most serious potential to increase litigation substantially to the detriment of both plaintiffs and defendants. It will create a situation in which each case before the Dust Diseases Tribunal is in effect a test case in which every important issue will have to be pursued to its last legal avenue, as an erroneous decision could stand in perpetuity and impact on all future cases. Restricting the ability to relitigate without leave of the tribunal is unfair and impractical. At the very least it does not take into account the adverse impact of the proposal on plaintiffs as well as defendants. Every party to a case is entitled to feel satisfied that there has been a fair hearing by an independent judge, based on the evidence put before the court. If this proposal is implemented, that right will be denied to subsequent litigants, who will be bound by the finding in a case to which he or she was not necessarily a party.

The issue of relitigation has already received careful consideration by the common law courts. That consideration has given rise to principles—now long established—that appropriately balance the various competing public policy concerns. The existing common law principles of issue estoppel, res judicata, Anshun estoppel and abuse of process were developed by the courts to minimise excessive litigation. Those principles currently apply in the Dust Diseases Tribunal. Generally speaking, the principles provide that questions litigated between parties to proceedings cannot be relitigated between those same parties.

Recently the Federal Court held that the public policy which underlines Anshun estoppel did not support the extension of the principle to persons who were not parties to the earlier litigation. That was enunciated in the Federal Court in *Foodco Group Pty Ltd v Northgan Pty Ltd*. The current procedures for debating evidence before the Dust Diseases Tribunal provide a sufficient balance between the requirements of efficiency and of justice, including the requirement that justice be seen to be done. The existing procedures include section 23 of the Dust Diseases Tribunal Act, which confers on the tribunal wide powers with respect to informal proof and admissions, and section 25(3) of that Act, which provides:

> Historical evidence and general medical evidence concerning dust exposure and dust diseases which has been admitted in any proceedings before the Tribunal may, with leave of the Tribunal, be received as evidence in any other proceedings before the Tribunal, whether or not the proceedings are between the same parties.

In the view of the advisory council—the advice of which the Government has chosen to ignore—this provides an appropriate balance between efficiency on the one hand and the right of a party to adduce further evidence and argument on the other. New section 25B also assumes that medical and scientific knowledge will stand still and that there will be no further advances in knowledge about dust-related diseases and the application of the law in respect of those advances. Had such a law existed in the past, those plaintiffs who are successfully pursuing claims for mesothelioma would have had no chance to receive any compensation, because nobody knew that asbestos was the cause of their illnesses.

Additionally, the parties will require leave of the tribunal in order to relitigate, which in itself will lead to increased litigation and costs, as dissatisfied parties will seek to appeal a refusal by the tribunal to grant leave. The application of this proposal will now either effectively freeze the tribunal in an outmoded legal and factual environment or require the tribunal to grant leave frequently to relitigate a point—or require frequent appeals by litigants—thereby nullifying the purpose of the reform. New section 25B will clearly increase the amount of litigation, have deleterious impacts on the ability of the tribunal to provide sufferers with prompt compensation and compromise the integrity of the legal system. For those reasons, the Opposition argues that the clause should be deleted.

The Opposition will also seek to have new section 8E of the Act concerning recovery of compensation from third parties deleted from the bill. Opposition to this clause also reflects the position taken by the advisory council, which agreed that the clause should be deleted. The Opposition's concern about the clause rests primarily with its impact of making defendants liable more than once in a single case, and the flow-on effect that will have in ensuring that adequate resources are available to meet future claims as well as other potential sources of increased litigation.

Already defendants have contributed to the compensation fund of the Workers Compensation (Dust Diseases) Board, which is currently valued at $178 million. The clause will essentially force defendants to make the same contributions again. The net result will be to reduce the level of insurance cover available to meet dust-related claims and drastically increased legal costs. It is difficult to understand why the Government has insisted on such a measure when public records demonstrate that there is no financial justification for that. The board's 1997 report notes that its estimated outstanding liability for claims is $216 million, as against current funds of $178.6 million. However, the board notes that "all outstanding claims are to be fully funded by levies" and, presumably, earnings on the current funds.

The Workers Compensation Advisory Council has advised that there is no reason for the inclusion of new section 8E. That provision has the potential to generate increased litigation between defendants seeking to recover costs, lead to the enjoining of further defendants and the board as parties to claims, and force the board to act as plaintiff in cases not otherwise pursued. That will clog the tribunal with litigation beyond its objective of providing appropriate and timely compensation to sufferers. The Opposition will therefore seek the removal of new section 8E. Beyond the key clauses outlined, there are provisions which have drawn concern from the Workers Compensation Advisory Council. In view of this, I urge the Government to table the council's advice to ensure that it can be duly considered by the Parliament.

There are provisions of the bill that are strongly supported by the Opposition. New section 12B will enable the claim for general damages to be maintained by the claimant's estate. That clause will effectively eliminate the need for deathbed hearings, and makes the clauses outlined above effectively redundant. The Opposition supports legislation that ends deathbed hearings and reduces the pain and suffering of claimants. For that reason the Opposition will not oppose the passage of this legislation but, rather, will seek to make amendments at the Committee stage which improve the delivery of the bill's intent. When the Government introduced amendments to the workers compensation legislation to establish the advisory council the Minister said that the purpose of the council was that all legislative amendment proposals, including regulation-making proposals, be formulated by the advisory council and recommended to the Government.

It is for that reason that the Opposition takes the view that the Parliament should be in receipt of formal advice on this legislation from that committee before final decisions are made. I therefore move:

> That the question be amended by omitting "now" and inserting after "time" the words "after the receipt by the House of the report of the Advisory Committee on Workers Compensation".

The motion before the House would thus read:

> That this bill be read a second time after the receipt by the House of the report of the Advisory Committee on Workers Compensation.

I believe that the committee could report quickly to the House so that the second reading of the bill could be completed by the middle of next week.

The Hon. FRANCA ARENA [6.48 p.m.]: I give my full support to the Workers Compensation Legislation Amendment (Dust Diseases and Other Matters) Bill. The main purpose of the bill is to amend the legislation for compensation for workers suffering from serious dust diseases such as mesothelioma, asbestosis and silicosis. I have examined the bill in great detail and have listened to and received presentations from many people. I have had the pleasure of meeting representatives of the Asbestos Diseases Foundation of Australia and from James Hardie and CSR. All parties have put forward their point of view, to which I listened carefully. I have reached the conclusion that this bill is good.

I fully support this legislation and I would like it passed in its original form. I will not be supporting any of the proposed amendments. The bill maintains the recognition of the special category in which asbestos diseases victims find themselves. I have met and received telephone calls from many sufferers and their families. I hope that the proposed legislation will go a long way towards ensuring that their pain and suffering during the years is attenuated.

[*The President left the chair at 6.50 p.m. The House resumed at 8.30 p.m.*]

The Hon. Dr A. CHESTERFIELD-EVANS [8.30 p.m.]: The Australian Democrats support the thrust of this bill with considerable passion. It is worth looking at the history of asbestos and its management as it is illustrative of the way in which our society works. The definition in a medical sense of pneumoconiosis in terms of asbestosis was made in 1930 by Price and Merewether in a British medical journal. It was not until the late 1950s that mesothelioma's association with asbestosis and asbestos exposure was observed, although it was recognised some time before that period that asbestosis predisposed sufferers to cancer more than some of the other dust diseases such as silicosis. In fact, the discovery of silicosis and its link to coal mining disease and tuberculosis occurred last century.

In 1961 mesothelioma was defined as a separate disease related almost exclusively to asbestosis. It might be noted that the Wittenoom asbestos mine was in operation from 1944 to 1966. The mine actually started 14 years after definition of pneumoconiosis, known as asbestosis, and did not close until five years after mesothelioma was defined as a separate disease related to asbestos exposure. Asbestos continued to be used in fibro cement, or asbestos cement as it was often called, until 1983 under the name Hardiplank. Interestingly, at Wittenoom a number of doctors who were extremely favourable to the industry seemed to continually fail to diagnose respiratory diseases associated with exposure to asbestos.

I am afraid the inspectorate, which was the equivalent of WorkCover, sadly was less than diligent about reducing dust exposure for the workers of Wittenoom, in the Pilbara region of Western Australia. People went to work there under fairly difficult conditions in order to make money quickly and then went elsewhere to settle down with their families. Sadly, life for those exposed to asbestos in Wittenoom has become a nightmare and more than 50 per cent of them, according to some studies, appear to be destined to die of asbestos caused diseases. I have worked up in the Pilbara but I have not worked near an asbestos mine in New

South Wales. Certainly the Wittenoom asbestos mine has had the most attention. It is also significant that companies based in New South Wales own those mines.

As a child I helped when sheds were built in the backyard. My father used to draw a line on the fibro and saw along it. He used to ask me to blow the dust away as he was sawing. I did not like the smell of the dust. It seemed to me that it would not be good for me. My father used to ask me to blow more often because I did not like taking breaths. Eventually I breathed one side, turned back and blew. I got a stiff neck from turning my head so often as the asbestos cement was sawn. I doubt that I am a high risk, but many people, especially those in the building trades, those who work within boilers as employees with the State Rail Authority repairing freights, and people in many other industries are at risk.

In factories in Marrickville where asbestos ropes and cloths were manufactured, workers were exposed to huge amounts of asbestos; so much so that there were asbestos dust halos around the lights. As a medical practitioner I am aware of the incredible harm caused by dust diseases. Silicosis in its more virulent forms—particularly that caused by Sydney sandstone, which is very high in silica—can cause a healthy person to become a respiratory cripple in only a few months. Asbestosis and silicosis are debilitating lung diseases. When working as an after-hours doctor in winter I have seen people hunched over their kitchen table, resting on their elbows and gasping for breath. Even today on building sites some people do not wear dust masks, and yet this House is debating these diseases.

I have seen people dying from various forms of lung cancer. Mesothelioma is among the worst of them. There is some argument as to whether they start as pleural plaques; many people exposed to asbestos have pleural plaques that do not seem to progress. My medical opinion is that they are pre-malignant but do not always progress. When they do, the course of mesothelioma is fatal within 12 months. The cancer grows on the lining of the lungs, between the lung and the chest wall. As it does, it simply squeezes the lung into a smaller and smaller space and effectively crushes it, depriving the person of the ability to breathe. As this happens the disease invades the chest wall.

Anyone who has suffered a broken rib whilst playing football will know how painful a single stimulation of an intercostal nerve can be. The intercostal nerves run between and inside the ribs, and normally they are protected by the ribs. Mesothelioma gets to the nerves on the inside of the ribs and the pain is unbelievable. That is the type of disease this House is dealing with. Those involved in the asbestos industry were happily setting up mines years after the facts about pneumoconiosis were known and they continued to operate the mines after information about mesothelioma had been published in medical journals. Those people had a duty of care and should have known about the diseases and taken appropriate action.

Now, 68 years after pneumoconiosis was discovered, Opposition members are talking about not being able to afford compensation for people who have been treated so negligently, and they are raising an issue about the six years statute of limitations. Those who were affected were supposed to take action within six years; 68 years later we are trying to get them out of their trouble by helping to pay for the problems that the companies involved created. I am extremely disappointed in Opposition members who are attempting to introduce amendments related to the statute of limitations in an effort to protect the companies that caused these difficulties.

I was examining State Rail and State Transit Authority personnel. I have already told honourable members about the 47-year-old man from the Marrickville factory. All of his friends who worked in that factory are dead. When he has his annual medical check up I tell him that he can have an x-ray, but if it finds anything it will not make any difference; there is not much that can be done. He says that he understands.

Today a 37-year-old man from the Asbestos Diseases Foundation came to me. He is an exceptionally nice fellow who has a wife and young children. He has mesothelioma. I remind honourable members of the old sick joke that sometimes doctors tell to defend themselves. The doctor says, "I had to give a bloke advice today. He is dying." When asked, "What did you tell him?" the doctor replies, "Just the usual thing: 'Have you got a will? If not, make one and, by the way, don't buy any LP records.'" It is not good enough when someone with mesothelioma comes to a doctor looking to all the world as though nothing is wrong with him and the doctor says that he noticed the person was a little short of breath but that an untrained person would not have noticed. That man has a death sentence over his head, yet members opposite are arguing about whether the companies can afford to pay compensation.

If members opposite believe in the free market, they will believe in the freedom of people to

do as they want. If companies make millions of dollars, that is fair enough: their astuteness earned them that money. The other side of the coin is that if companies killed hundreds of people through total and absolute indifference they should pay for that in the same measure that they made others pay. I wonder why we are talking about compensation. In my view those companies should be on trial for murder. I am not a public prosecutor and I am uncertain as to which crime they have committed. They showed complete negligence, ignored the medical evidence; they got doctors who were nice and tame and would not say anything; there was a nod and a wink to the inspectors so that there would be no interference; and away they went. Dust levels were completely unacceptable, and were known to be unacceptable to anyone who had taken the slightest interest in the subject.

The Hon. M. R. Kersten: Murder is deliberate.

The Hon. Dr A. CHESTERFIELD-EVANS: These were quite deliberate actions, because the companies knew what people were exposed to. In any event, if they did not know, they should have known. In respect of the asbestos industry it is worth noting that Johns-Manville, the big asbestos company in the United States, has gone into liquidation. Its profits and any earnings have been put into a trust for the people whose lives were ruined and for their dependants. Lobbyists for similar companies in New South Wales are asking for a better deal and have found a willing ear in members of the New South Wales Opposition, who have foreshadowed amendments to the bill.

The only parallel to the asbestos industry is the tobacco industry, which gets a fair run in this House as well. There has been discussion about the removal of the limitation. It would be a nasty legal precedent if people had only six years in which to lodge a claim. The latent period for this disease can be 30 years. How could people possibly have made a claim within six years? People injured in motor vehicle accidents know within a nanosecond that they have been injured. That has not been the natural history of dust diseases: people are not necessarily aware of their rights or of the exact cause of their shortness of breath. One of the prime movers in understanding asbestos related diseases has been the Dust Diseases Board.

People who are respiratory cripples say that everything is alright because they have a dust diseases pension. Those pensions are not worth much, but those who receive them are pathetically grateful. Their lives have been ruined and they have difficulty breathing—I speak principally about those with silicosis, who can continue for years with shortness of breath. Some of the asbestosis victims can do so also, unlike those with mesothelioma. They realise that they will receive their pensions until they die and that their families will be looked after when they are dead. That is some reassurance.

When members of this House argue about the workers compensation system, the day in court, solicitors, or the conflict and draining effect they have on people who are injured, I confess that I am very reassured by the model of a tribunal that guarantees that someone who has a disease will get the pension.

If I have to choose between a bureaucracy's medical model or a legal model I know which I would prefer—but everyone is scared of the costs. In the Dust Diseases Tribunal the diseases are well circumscribed and their causes and effects are very clear. If while driving home after debating in this House until God knows what hour I cause an accident, a negligence claim will be made against me; no doubt about it!

If, however, I manage a multimillion dollar corporation, do not read the journals and ignore the consequences of my actions in relation to dust diseases, I would not be negligent. No-one would challenge me or upbraid me, because there is no prosecution mechanism for that. I ask: Why not? The Opposition is debating costs and funds, but it should be debating the consequences for the managers at James Hardie and CSR who expose their workers to those diseases. What are the consequences to the captains of industry?

The bill attempts to correct some anomalies. If the head office of a business is in New South Wales, that is where the responsibility lies. Other contracts continue to run on existing corporate entities, and their obligations to the employees whose lives have been ruined must also have that continuity. The Democrats are sad that this House does not act against the rich and the powerful in the way it should; but the House is quick to act on any benefit gained by the poor and the weak. That is simply not the way society should be and it is not the way it should be led. I am disappointed at the Opposition's amendments. The Democrats will support the bill and I will do everything I can for a fair and just Australia. This bill is a small step in that direction.

The Hon. P. T. PRIMROSE [8.53 p.m.]: I do not have the medical knowledge of the Hon. Dr A. Chesterfield-Evans, who presented with great

eloquence his concerns about dust diseases and their effects. But I doubt that any member of this House does not know of friends, relatives, or others who have been victims of dust diseases. On a personal level and as a community health social worker I have known people who have suffered from asbestosis. After the doctors have told a person, "You are going to die", it is the social workers, nurses, doctors and others who are involved, along with the deceased's family, for a long time after death has occurred in trying to deal with this problem.

Everyone in the community is affected, everyone is touched. The Hon. Dr A. Chesterfield-Evans reinforced the absolute and continuing importance of the role played by trade unions in relation to occupational health and safety. Unions such as the Amalgamated Metal Workers Union, the Maritime Union of Australia and the Construction, Forestry, Mining and Energy Union are directly involved on a day-to-day basis in fighting unscrupulous employers and subcontractors, people who do not regard these issues as real. Yesterday I was dealing with people who do not regard safety as a matter of concern in what amounts to an increasingly competitive and increasingly free market environment. I also gleaned that message from the comments of the Hon. Dr A. Chesterfield-Evans.

The main purpose of the bill, of course, is to amend the legislation to provide compensation for workers suffering from serious dust diseases such as mesothelioma, asbestosis and silicosis. The amendments recognise the special nature of dust diseases by improving the common law rights of victims who contract such diseases at work, making technical changes to expedite and simplify hearings of cases in the Dust Diseases Tribunal, particularly by limiting deathbed hearings, and making other refinements. The bill was distributed as an exposure bill to stakeholders and extensive comments were received. In addition, a roundtable discussion was held with all interested stakeholders and the exposure bill was revised following the comments that were received.

One of the bill's main aims is to increase the fairness of common law entitlements for dust-related conditions in regard to the part of damages payable for pain and suffering. If a claimant dies before the Dust Diseases Tribunal has made its judgment the present law operates to automatically extinguish the part of the claim related to damages for pain and suffering. Medically, the most serious type of asbestos-related condition is mesothelioma; it is a form of cancer starting in the lungs or surrounding organs which seems to invariably lead to death within a relatively short period, often 12 months or less. This has meant that claimants, in effect, often engage in a race against time to have their pain and suffering damages claim finalised before death for the benefit of their family. Despite commendable efforts by the tribunal to expedite such hearings a number of deathbed hearings have resulted in claimants in extreme situations struggling to complete their evidence.

The bill aims to adopt a more humane approach and provides that where a person with proceedings pending before the tribunal dies from a dust-related condition the person's estate can pursue recovery of the damages entitlement for the deceased person's pain and suffering. Another significant proposal is the removal of current time limits on common law claims for dust diseases. The existing provisions of the Limitation Act, which lay down a basic three-year limit for claims running from the time an injury is received, do not easily fit the reality of the gradual onset of dust diseases. That Act allows the tribunal discretion to extend the three-year and related time limit provisions based on factors such as the claimants having been unaware of the disease or its cause or extent.

Application of such provisions, however, takes time and additional expense for claimants who may have a short life expectancy. In recognition of the particular circumstances applicable to dust diseases it is considered appropriate to remove the requirement to establish compliance with technical and arbitrary provisions on time limits for these claims. I am sure many members received a letter from Ms Ella Sweeney, the President of the Asbestos Diseases Foundation of Australia, dated 10 November, which stated:

> New South Wales has the highest rate of asbestos disease in Australia. That is to be expected given the extent of manufacturing, building, construction and refinery processes that have occurred in New South Wales over many years.
>
> The incidence of asbestos disease in this state will not decline for probably ten to twenty years.
>
> Many thousands of ordinary citizens of this state and their families will be affected by asbestos disease in the future. It is fair and proper that those people be properly compensated in a sensitive and dignified manner. The Bill will achieve this. Claims in the Dust Diseases Tribunal should be disposed of quickly, efficiently and in the most cost effective manner in order to reduce costs for everyone; claimants, employers and insurance companies. The Bill will achieve this. Funds should be made available to enable research to be carried out to find cures for these horrible diseases. The Bill will achieve this . . .
>
> I implore you to support the Bill . . . I thank you for your support in relation to this most important piece of legislation.

I could not put that appeal more eloquently on behalf of the victims and their families. Opposition members claim that people do not understand the bill and what it is about. People do understand the bill. The victims and their families, the lobby groups and the unions support this bill. The only people who do not seem to understand the implications of the bill are members on the Opposition benches, for they have indicated that the Opposition will move amendments that will water down this extremely important bill. I hope that their amendments, like so much of the Opposition's multinational rhetoric, will be disposed of in the waste bin of history.

The Hon. I. COHEN [9.01 p.m.]: I strongly and enthusiastically support the Workers Compensation Legislation Amendment (Dust Diseases and Other Matters) Bill. The Attorney General deserves congratulations on the introduction of the bill. Honourable members have been briefed by the Asbestos Diseases Foundation of Australia, which fully supports the bill. Some members of the foundation told us tragic stories about asbestos victims. It was quite a moving experience to hear about the suffering of people who have worked honestly on building sites and so on. We heard some of the history of the Wittenoom mine. Later I will say more about that mine and the terrible afflictions wrought on the Baryulgil Aboriginal community by a legacy of asbestos.

It was brought home to those of us at a meeting of the Asbestos Diseases Foundation of Australia that an average person on a building site on the central coast working with Hardiplank now has a death sentence related to asbestos disease. Until now, in many instances such victims have not been able to pursue to determination their compensation claims and obtain justice for the terrible wrongs done to them by this horrific disease, contracted after working for many years in a job that involved contact with dangerous materials.

The law as it stands at the moment sometimes ends in the awful situation of victims of the disease having to spend the last of their dying days in court or at bedside hearings, instead of spending those last precious moments with their families and friends. It is difficult to imagine how horrible it must be to go through that process, both for the dying person and for the family and friends. The children also suffer; many of the affected workers, predominantly men, die at an early age from this terrible disease. It is hard to imagine how horrible this experience must be.

One such dust disease is mesothelioma. It is caused by asbestos dust. Mesothelioma is a cancer of the lining of the lung. The average life expectancy of a mesothelioma victim is between six months and 18 months from diagnosis. Death caused by mesothelioma has been described by respiratory specialists in evidence before the Dust Diseases Tribunal as a most miserable death. The pain that victims feel is, according to an expert, Dr Schneeweiss, one of the most severe pains known to humans. Every breath is associated with severe pain and as a result pain-killing medication is provided. That in turn has a secondary effect of reducing the capacity of the respiratory centre in the brain to function normally.

I cannot imagine how horrifying the disease must be for those who are suffering from it. Victims in extreme pain, struggling to maintain lucidity, against a background of heavy narcotic analgesics, are examined and cross-examined, often at their bedsides in their homes or in a hospital ward. This procedure is necessary because the common law specifies that the case of the person who dies while still fighting for compensation for a dust disease dies with the person. The families of dust disease litigants who die cannot continue to fight the case, even if the victim was on the verge of winning. The bill ensures the survival of dust disease common law damages entitlements after the death of affected workers, for estates of the deceased workers.

Another excellent aspect of the bill is that it will remove the time limits on common law damages claims for dust diseases. It will do this by removing the effect of the Limitations Act 1969 on claims in the Dust Diseases Tribunal. Conditions suffered as a result of exposure to dust have a long latency period. The average latency period for mesothelioma is 37 years. The diseases have a gradual onset. Many victims have not known that they are able to take action in the courts once the disease is diagnosed. Victims may become aware of their rights through the media, the Asbestos Diseases Foundation of Australia or by other means and then come forward to make claims.

It is inappropriate that the Statute of Limitations operates in respect of these kinds of cases. One can only imagine the impact on an individual and the family when this particular cancer is diagnosed. How difficult it must be for them to gather their wits together and steel themselves for the task of undertaking a process through the courts rather than directing their energies to dealing with the calamity that has befallen them on becoming aware of the likely events following diagnosis. I pay tribute to the many victims who have fought through the courts. Theirs has been a real case of bravery in the face of terrible pain and suffering.

The bill also will remove an unfair anomaly involving the deduction of workers compensation paid by the Dust Diseases Board from damages payable by a negligent party. The bill restores the status quo. This legislation is very timely. I would have welcomed legislation to enable the laying of criminal charges against the executives of James Hardie, CSR and others who are involved in industries that knowingly deal with these life-threatening materials. I am not a doctor, but I listened with great interest to the contribution of the Hon. Dr A. Chesterfield-Evans, who outlined some of the detail of the disease. From documentaries and from information gleaned from activities that go back to the days of the Wittenoom mines, the dangers of this material was known to the industry. It was not so much a case of ignorance of the dangers and effects of asbestos.

For many years the community has understood the impact of asbestos. Though criminal charges are outside the leave of the bill, in my opinion it would be appropriate to introduce crimes legislation to bring these criminals to justice. Like executives of tobacco companies, the executives of companies involved with these dangerous workplace substances have been aware of the damage that those substances can cause over a long time. Those who make substantial profits from the labour of people who worked in asbestos mines and on unhealthy building sites have turned a blind eye to the realities and to the horrors of asbestos poisoning and cancers.

It is important to consider issues that remain totally unresolved today in New South Wales. I should like to read from *Hansard* extracts of a speech made by Mr Markham, the member for Keira. That member has taken a great interest in the Aboriginal people of this State, and he is to be commended for that. In his speech on Thursday, 16 September 1993, Mr Markham spoke about an allocation of $1,175,000 for Baryulgil, an Aboriginal community in the north of New South Wales. Mr Markham said:

> . . . not one penny has been spent on the rehabilitation of that mine site at Baryulgil.

Aboriginal people worked in the Baryulgil mine without protective equipment. I understand that the fill used on Baryulgil Square contained asbestos. Many people have died and many are still suffering as a consequence of working at the Baryulgil mine. A community continues to suffer while Baryulgil is not rehabilitated. Mr Markham further said:

> The Government must act expeditiously on this matter. The problem will not go away. While ever New South Wales has a mine site in the condition that the asbestos dump at Baryulgil is in, how can anyone have faith in the Government ensuring that other mining companies throughout the State will rehabilitate mine sites at the end of their lives?

I congratulate Mr Markham for having raised this issue back in 1993. Mr Causley, the former member for Clarence—

The Hon. R. S. L. Jones: Whose side was he on? Was he on the side of the victims?

The Hon. I. COHEN: It is difficult to say which side Mr Causley was on. Incidentally, Baryulgil is in the electorate of Clarence. Mr Causley said:

> Tenders for the rehabilitation of Baryulgil are being assessed. It will cost about $1.5 million to rehabilitate the site. That shows that rehabilitation is not cheap.

What a comment to make when we are dealing with people's lives, including those of the young people who play near the asbestos dump. Although Mr Causley claimed that rehabilitation of the site will not be cheap at $1.5 million, a community is suffering. That claim is incredibly insulting. The situation has been ignored for far too long; something must be done, and done immediately. I congratulate the Government on introducing this bill.

I am concerned about the amendments foreshadowed by the Opposition. They are sinister in their potential to continue the suffering of those who have this terrible disease. The Opposition should reconsider its proposed amendments. It has been reported in the media that this bill may not get through the upper House. I am confident that with the support of the Government and the crossbenchers the bill will be passed by this House, and passed rapidly. I ask the Opposition to reconsider its amendments which are an insult to humanity and to the people suffering from these diseases.

The Hon. DOROTHY ISAKSEN [9.12 p.m.]: I have had a couple of experiences in relation to this bill. Some years ago the Hon. Franca Arena and I were on the Women's Advisory Board with Joyce Clague. Joyce took us to the north coast to visit the communities with which she was connected. One place was Baryulgil, where Joyce introduced us to some local Aboriginal families. Few families had not been affected by the asbestos mine there. Many families had husbands who had already died or were affected by a dust disease. No compensation was available in those days. Shavings from the asbestos mine were part of the playground at the school that the children attended. Some of the stories were horrific. I remember being terribly moved and

concerned about Baryulgil and how little had been done to recognise the danger to which the Aboriginal workers in the mine had been exposed.

Whenever people talk about Baryulgil I remember that experience. Little did I realise that I would be involved indirectly with dust diseases. For many years my husband was a wharfie—it is 30 years since he left the wharves. About 10 years ago he received a letter from the Dust Diseases Board asking him to undergo an examination. Every 12 months he must have a check-up. I asked him why he needed a check-up when there was nothing wrong with him. He told me that he used to lug hessian bags of asbestos on his shoulders on a regular basis. He and the other wharfies used to throw the asbestos around and play with it because no-one told them that it was dangerous. Although the Maritime Union of Australia has since imposed strict work conditions, in the days when my husband worked on the wharves no-one considered that the workers should have a shower before they went home at the end of the day.

Workers came home with asbestos on their bodies, and their wives threw their asbestos-covered clothes into the washing machine with the rest of the washing. Those fellows must now have regular check-ups and there is always the danger that they will be told they have a shadow on their lungs. They know that once that shadow appears their life expectancy will be dramatically shortened. People worked under those conditions because the bosses did not give a damn about the dangerous working conditions. The workers were criticised if they wanted showers, protective clothing and the sorts of things that people take for granted today. Those men are now dying because of the conditions in which they worked. I fully support any proposed legislation that will in some way recompense those men for an unknown and uncertain future.

The Hon. D. F. MOPPETT [9.16 p.m.]: I had not intended to speak in this debate because I have no expertise in this area and I do not have carriage of this matter on behalf of the Opposition. However, like other honourable members in the Chamber tonight and, indeed, the public in the gallery, I was impressed by the vehemence with which the Hon. Dr A. Chesterfield-Evans spoke about this issue. The contributions of the Hon. I. Cohen and the Hon. Dorothy Isaksen were convincing to those who listened. The only aspect with which I would cavil is the way they inferred that people were responsible for the conditions visited on workers and residents, especially in Baryulgil and, to a degree, Wittenoom, and that those responsible were conscious of the dangerous working conditions and cynically disregarded the safety of the workers.

We have become more aware and have gained a better understanding of occupational hazards as medical science has revealed them throughout the twentieth century. We probably became aware first of the deterioration in the health of miners who simply regarded it as their lot to be dusted in the lungs, as it is known. Sadly, all the sufferings described so vividly by honourable members tonight were the experience of people at the beginning of this century. I do not think anyone understood how the physiological changes taking place in people's bodies could be overcome. Fortunately we have come to grips with those changes and we understand them better.

During the time I was in the navy reserve, to which I have sometimes referred, I sailed on ships that had asbestos sprayed on the deckheads, the bulkheads and so on. Most sailors thought the asbestos was a blessing, because without it the vessels were just absolute kettles. The deckheads dripped continuously on the sailors during hot weather. Asbestos was considered to be an improvement. Asbestos had been regarded as a miracle mineral and new deposits of asbestos were being actively sought for use as insulation in domestic situations, in stoves and so on, and as lagging around pipes in homes. The uses for asbestos industrially were unending for building materials to which reference has been made. It was only later that people began to realise that it might be the cause of health problems.

I cannot believe that the people involved in the development of this technology had, as someone suggested a moment ago, a sinister plan to make people suffer. I refute that idea, because it has no foundation. I compare it with the claims that were made about the Red Cross Society and investigated by the Standing Committee on Social Issues. It was suggested by some people—and I can understand why they felt so strongly about it—that the Red Cross Society acted in some perverse way by continuing to supply blood transfusions, especially to haemophiliacs, despite the assertion that the scientific world had the knowledge that HIV was a blood-borne disease. It was obvious to the Standing Committee on Social Issues that there had been due diligence on the part of the Red Cross. In fact, the Red Cross Society was one of the first health organisations to adopt the practice of screening blood.

The time delay in adopting that practice resulted in immense suffering being caused to a whole group of people, but it was certainly the considered view of the Standing Committee on Social Issues that no blame could be attached to the Red Cross Society. It had not acted in some sinister

way to ignore warnings that were coming from scientists. Indeed, within the scientific community those conclusions were still provisional. They were not accepted by the medical profession. The suggestion that the mining and the remedial works in Baryulgil were undertaken in the clear knowledge that they would destroy people's lives is something I cannot believe. Finally, although his comment came by way of an answer to an interjection, I do not think the Hon. I. Cohen set out to accuse the Hon. Ian Causley of trying to make little of the problems of the people in Baryulgil when he referred to the costs involved.

The Hon. I. Cohen: I just quoted him.

The Hon. D. F. MOPPETT: The honourable member quoted him, but it was only a little snapshot of what he said. Ian Causley, the member who represented those people, was most concerned about their future. The fact that it was expensive may have been the reason for his argument that money was needed. To take just a selective quote like that and suggest that the Hon. Ian Causley was cynical about the health of the people of Baryulgil is quite wrong. I refute that from my knowledge of the man and the circumstances of Baryulgil, and of the time it was realised that these people where exposed to danger.

The Woods Reef mine was one of the last mines opened. In recent history people felt it was an appropriate commercial enterprise. The Government gave them permission. The Department of Mineral Resources and all the people who license these enterprises agreed that the mine should go ahead. Just as that mine was approaching its peak of development, people worldwide realised we had to find something else, that the risk was a direct one and that we could not go on using asbestos in any application where loose fibres were likely to be inhaled.

Not long ago I spoke of the recent developments in the treatment of asthma. People who wear gloves when examining others to avoid the danger of blood-borne disease were finding that the innocent talcum powder that is put in rubber gloves so they can be put on and taken off easily was the suspected cause of a fatal condition. Johnson and Johnson, or whoever manufactures this powder, did not intend to put a dangerous chemical into the gloves so that people would be knocked about. Of course they did not. As soon as they learnt of the dangers they did something about it.

Honourable members can deal with this bill without making all these lurid claims. The Opposition wants to make sure the legislation works, that it is not rushed through in a flood of emotion that will require later adjustment to make it work. Members of the Opposition share the sympathy that has been extended to the victims of all these occupational diseases, particularly silicosis and mesothelioma, but we do not want to see this legislation rushed through in a counter-productive way.

The Hon. R. S. L. JONES [9.25 p.m.]: The Hon. D. F. Moppett just mentioned the spraying of asbestos on naval vessels. Who can forget the dignity and bravery of former State Governor David Martin, who was killed by asbestos. He stood here with such dignity when he knew he was only a few days from death. That man was killed by one of these companies. They knew in the early 1930s—

The Hon. D. F. Moppett: He did not say that.

The Hon. R. S. L. JONES: He was a gentleman. If he had not been such a gentleman he would have said that. He was killed and those companies are responsible. They have known for decades that this substance caused these problems. As late as 1983 they were still producing fibro that contained asbestos. Today honourable members met a man aged 37 who is seriously ill. I hope he has years to live, but I do not believe that that is the case. He looked very well, but he may be facing death within the next few months.

We met two other people who had lost loved ones as a result of the activities of these companies. It was tragic. I had a lump in my throat, as had other honourable members, when we met these people. We wanted to cry on the spot for what they and hundreds of other people have been through over many years. People are still dying and will go on dying for the next 10 or 20 years as a result of the activities of these companies.

The people in charge of these companies should have put an end to asbestos decades ago. They knew what they were doing. They knew that they were putting profits before people's lives. They did not care about people; they cared only about profits. This is one of the most immoral stories of the twentieth century. It is almost as immoral as the story about the tobacco companies. The same kinds of people run tobacco companies. The other night I had dinner with the Hon. Nick Greiner. He said his daughter is addicted to tobacco. She said to him, "I will go on smoking as long as you go on pushing it." His own daughter is addicted to his products.

These companies have been killing people for decades with this stuff. It is about time they paid and if my vote counts for anything I will make sure they do pay. I do not care if it costs New South

Wales $300,000 per settlement. The honourable member for Gosford in the other place said that the average settlement is $300,000 in New South Wales and only $175,000 in Victoria. That is not true. I have a letter here from John T. Rush, QC, that explains the situation quite clearly. He said:

> Mr Hartcher states that the average settlement in New South Wales is $300,000 and in Victoria $200,000. The one variable in the assessment of damages for an asbestos victim is damages by way of pain and suffering, loss of enjoyment of life. In New South Wales the Court of Appeal in the past 12 months in a number of cases has indicated a range of damages for pain and suffering, loss of enjoyment of life between $90,000 and $130,000.

That is insufficient in itself. The letter continued:

> In Victoria juries assess damages in this type of action. Juries have consistently awarded damages far in excess of the range that the New South Wales Court of Appeal has sanctioned.

Because those juries understand that people have suffered. The letter went on:

> In significant cases over the past 10 years it has been clear from the sum of damages awarded that juries in Victoria have assessed such damages consistently in excess of $200,000 and up to $250,000.

The honourable member for Gosford should get his facts right before claiming that the damages are worth $200,000 or $300,000. How can one put a dollar value on a life? How can one value the life of someone who dies, leaving behind a widow and children? These widows will spend 10, 20, 30 or 40 years on their own, perhaps never to marry again. How much is that worth? Is $200,000 too much? No amount of money could compensate a woman for the loss of her husband at the age of 35.

It is immoral of the coalition to push these amendments. It is immoral that the coalition is being conned by the companies. Come election time will there be some kind of reward for the coalition—perhaps some donation? Is that what the companies are offering? What are the companies offering in return for support of the amendments? Perhaps next year we will examine the returns and find out whether the companies have provided the coalition with money for its election campaign. What is the coalition's motivation in accepting these amendments from James Hardie Industries Ltd and CSR?

The Hon. D. J. Gay: Point of order: I ask the Hon. R. S. L. Jones to withdraw that allegation. Even given the extent of the allegations he makes in the House from time to time, that allegation is absolutely disgraceful. I would not think that he honestly believes that any Opposition member in this House would be party to any such thing. I request the honourable member to withdraw that allegation.

The Hon. R. S. L. JONES: To the point of order: I was not making an allegation. I was asking the question: What is the motivation of the coalition?

The Hon. D. J. Gay: Just withdraw it.

The Hon. R. S. L. JONES: I will not withdraw it. I asked a question and I ask you to answer the question.

The PRESIDENT: Order! I refer the Hon. R. S. L. Jones to Standing Order No. 81, which states:

> No Member shall digress from the subject matter of any Question under discussion; and all imputations of improper motives, and all personal reflections on Members shall be deemed disorderly.

The member may not have done so intentionally, but I consider that he implied that members of the coalition may have been influenced in some way, perhaps for reward, by companies involved in this matter. That is an improper reflection on the motives of honourable members. I suggest that the member either withdraw his comments or rephrase them.

The Hon. R. S. L. JONES: I have referred to Standing Order No. 81, and I withdraw my comments. One might say that I feel very passionately about this issue, and in my passion I cannot understand that any person could possibly be inclined to move these amendments. I cannot understand that anybody would accept these amendments when it is known that they would gut the legislation, when it is known that victims will have to wait for compensation and that some widows may miss out. How could members of the Opposition move these amendments? I can think of no explanation for that. Perhaps one day we will find out.

The Hon. D. J. Gay: So far as I know, not one of the amendments will mean that widows miss out.

The Hon. R. S. L. JONES: Then perhaps the Hon. D. J. Gay has not read his own amendments. I think it would be a good idea for him to spend some time reflecting upon his amendments. Victims have suffered a grave injustice for all these years. That injustice is finally being put right by the Government. I appreciate the fact that the Government has introduced this bill. The proposed legislation is excellent—the provisions are

compassionate and humane. This bill may cost James Hardie and CSR a few million dollars, but what are those few million dollars when it comes to lives? Tobacco companies in the United States are paying tens of billions and hundreds of billions of dollars in compensation. If CSR and James Hardie are forced into liquidation as a result of paying compensation claims, then so be it.

The Hon. Patricia Forsythe: Oh!

The Hon. R. S. L. JONES: Yes, so be it. If they go into liquidation as a result of paying compensation to these people, then so be it. Those companies should not have got themselves into the situation of having to pay compensation in the first place: they should have done the right thing decades ago.

The Hon. D. J. Gay: What about the people who have not yet been diagnosed? If you send those companies into liquidation, what will happen to those who have not been diagnosed?

The Hon. R. S. L. JONES: Perhaps the Government will have to pick up the tab at a later date. All I am saying is that if the result is that hundreds of millions of dollars in compensation has to be paid then so be it, because nothing can pay for the agony and anguish of sufferers or of their widows and their sons and daughters who have been deprived of their loved ones because of asbestosis and mesothelioma.

Reverend the Hon. F. J. NILE [9.34 p.m.]: The Christian Democratic Party supports this bill, which will amend legislation relating to compensation for workers suffering from serious dust diseases such as asbestosis and silicosis. The amendments recognise the special nature of dust diseases by improving the common law rights of victims who contract such diseases at work, making technical changes to expedite and simplify the hearing of cases in the Dust Diseases Tribunal—in particular, limiting deathbed hearings—and making other changes. The bill was distributed to stakeholders as an exposure bill, and extensive comments were received. In addition, a round-table discussion was held, to which interested stakeholders were invited. The exposure bill was revised following comments received.

The bill will amend the Workers' Compensation (Dust Diseases) Act to remove time limits on common law damages claims for dust diseases; ensure that a worker's dust disease common law entitlements survive after his or her death, and are payable to a diseased worker's estate; improve arrangements for the settlement of damages claims for dust diseases involving multiple wrongdoers; remove an unfair anomaly involving deduction of workers compensation paid by the Workers Compensation (Dust Diseases) Board for damages payable by a negligent party and restore the status quo; streamline claim procedures when a worker's employer is defunct; minimise litigation costs and delays in multi-insurer common law damages claims in the Dust Diseases Tribunal; enable the dust diseases board to recover compensation from third parties; and further minimise litigation costs and delays in the Dust Diseases Tribunal by streamlining procedures involving the reuse of evidence.

Two additional members of the Workers Compensation (Dust Diseases) Board will be appointed to represent the building industry, employers and workers respectively. Financial assistance from the fund under the Workers' Compensation (Dust Diseases) Act will be provided to dust disease victim support groups such as the Asbestos Diseases Foundation of Australia. As other honourable members have said, the mining and the wide use of asbestos in New South Wales ceased some years ago. However, workers who were employed in jobs that involved the handling of or exposure to asbestos, and their families and others, are still paying a tragic price in illness and suffering. This bill deals with tragedies that have resulted from the use of asbestos.

When asbestos was discovered it was thought to have a particular value. Without taking into consideration those who dealt with the material in construction and building work, the effect of asbestos has been felt by those who mined the material. Those who lived in the mining communities had no idea of the danger of asbestos. Asbestos was used in the building industry, in powerhouses and other facilities. As other honourable members have said, it was also used by the Royal Australian Navy. The navy used asbestos to wrap pipes for insulation and to assist in the heating of water.

I was particularly moved to read of the experience of a former Governor of New South Wales, Rear-Admiral David Martin, who died as a result of exposure to asbestos. He served as a young officer on aircraft carriers. It has been said that the expulsion shock on an aircraft carrier resulted in asbestos dust being shaken onto officers working in the operations room inside a carrier. During an operation those officers would be covered by asbestos dust, and they were not aware of the danger of the material they were inhaling. I understand that

the effect of asbestos fibres on the lungs is similar to that of having several razor blades inside the lungs, cutting into the flesh and causing intense pain. It is not very hard to imagine the kind of pain that would be felt.

Tragically, many young and active people working in the Navy, in mines or in the building industry were unaware how asbestos was sucked into the lungs and remained there. They become aware, almost at the point of retirement, that asbestos dust causes cancer. Often death follows within 12 months of diagnosis of the disease. The proposed legislation will speed up the claim process so that drawn-out litigation does not worsen the torment endured by sufferers, by their spouses and families, and they will be able to have their claims resolved before they die.

Victims suffer greatly a relatively short period before death, and for that reason the bill provides for a benefit to families who have lost a loved one in such circumstances. The Christian Democratic Party supports that provision in the bill and does not support the amendment moved by the Opposition to remove it. Wittenoom and Baryulgil and the tragedy experienced by the Aboriginal community have been mentioned in debate. Aboriginals would be even less informed about the health dangers of working in asbestos mines. I have met Aboriginal men desperate to take any form of work who were happy to work in such mines without knowing that a death sentence would be incurred.

Many men in rural areas, particularly those in the Aboriginal community, may not have access to information available to city people and would not know how to make a claim through the Dust Diseases Tribunal. Therefore, an open-ended no limitation claim system is necessary. The Aboriginal community is suffering discrimination because of its inability to be kept up to date and well briefed about legislative changes. Aboriginals do not make a claim unless someone takes the time to spell out the procedure to them.

This bill, as a result of *James Hardie Industries Limited v Newton* and other cases, will restore the status quo by specifying that weekly compensation paid for a dust disease is not to be deducted from common law entitlements for pain and suffering. Apart from that change, reasonable offsetting between workers compensation and damages will continue to apply in those cases. The reason for such a reduction in damages payable is that the Dust Diseases Board by paying no-fault compensation has already met part of the overall liability for the worker's disease. It is therefore appropriate and equitable for the negligent party to reimburse the board with the relevant amount. If that does not occur, the compensation fund administered by the Dust Diseases Board, which is financed by an annual levy on employers, will be effectively subsidising third parties who have caused workers to contract these serious conditions in the first place.

Another matter in the proposed legislation deals with the current arrangement under the main Workers Compensation Act. The proposed changes will extend those entitlements to other members of the diseased worker's family such as parents, brothers and sisters who are dependent to some extent on the worker. I made the point that often death occurs in a short space of time—within 12 months—once the disease has been diagnosed. The bill extends discretion to allow the board to grant financial assistance to dust disease victims support groups also. A number of organisations are involved in helping people who are suffering from asbestos-related diseases such as the Asbestos Diseases Foundation of Australia, whose valuable educational material I have studied. That material would be helpful to people who have been working in this industry and who have contracted an asbestos disease.

The Asbestos Diseases Foundation of Australia, formerly the Asbestos Diseases Society of New South Wales Incorporated, supports and helps the victims of asbestos diseases as well as families, friends and other interested persons. When the society printed one brochure it had 130 members, many of whom were victims of asbestos diseases. In the brochure it explained:

> Asbestos is a mineral which has been mined extensively and processed for many commercial applications throughout the world. It is commonly known in its various forms as blue asbestos . . . brown asbestos . . . or white asbestos . . .
>
> The resistance of asbestos to fire and chemical break-down and its fibrous structure are properties which have made it so useful in many products.

The fire resistance of asbestos is one reason why it was used extensively in naval ships and other ships. The brochure continues:

> . . . its use in building material as asbestos cement sheeting, insulation and various fireproof fabrics. It has also gained entry into homes in other forms such as ironing blankets, simmering pads for the top of stoves and the contamination of talcum powder.

That may cause concern to families and to mothers. The document continues:

> Asbestos fibres can become airborne because they are very fine. Some of them are small enough to get through the smallest airways of the lung . . . to end up in the air sacs where the oxygen gets into the blood.
>
> Asbestos can also be swallowed.
>
> Inhaled fibres are the cause of asbestos lung diseases.

Asbestos can even cause problems in the stomach. All types of asbestos are unsafe and dangerous to human beings. One could argue that the legislation and its amendments are needed because of the consequences of breakdowns in the dissemination of knowledge and the protection of society that occurred when asbestos use was widespread. There is not much point in trying to cast accusations in all directions. The question is how to improve the lives of sufferers with co-operation from industry, which is always concerned with the financial payout, the bottom line. Greater co-operation would be helpful.

Correspondence sent to me indicates confusion about the Workers Compensation Advisory Council and its decisions and about interpretation of the proposed legislation at recent meetings of that council. I conclude by referring to some of the letters we have received from people directly involved in this tragedy. Debbie Gibson wrote to me on 26 October about her father:

> My father—Reg Wooster was a clean living chap, he didn't smoke and only occasionally would enjoy a beer at a social occasion. He was an electrician and spent most of his earlier years working on power stations, which we now know were full of asbestos fibres.
>
> Our world fell apart in January 1996 when Dad was diagnosed with Mesothelioma—the fatal asbestos cancer. Dad was given seven months to live and we began the trauma of putting his affairs in order and deciding what he wanted to achieve in his last months.

It seems that once the disease is diagnosed the sufferer lives for only a short time, usually no more than 12 months. In this instance Mr Wooster lived for only seven months. The letter continued:

> Dad instituted legal proceedings against his employer through a Sydney legal firm who advised us that if Dad was to die prior to the case going to trial then the pain & suffering component of his case would no longer be available.
>
> Pain & suffering is the major component of most Mesothelioma claims as the victims are usually at retirement age or have in fact retired when they are diagnosed, (as the disease usually lies dormant in their lungs for up to thirty (30) years) thus the loss of future economic earnings is usually very low.

That demonstrates the human tragedy of the matter that is dealt with in this bill. It can involve emotional responses. Maureen Wooster wrote to me on 26 October:

> Sadly I now hear that the government have not passed it as the asbestos manufacturers and insurance companies are not happy with the proposed changes. My husband Reg Wooster died of Mesothelioma. It was devastating when we heard the news that he had an asbestos related cancer, as he had worked hard all of his life, and was a very fit man until this hit him.
>
> My children and I found it very hard seeing him in so much pain and we could not do anything about it, we had to just watch him die. We were lucky if you can call it that, as his court case was settled before he died, so he died knowing he had left us comfortable.
>
> We joined the NSW Asbestos Diseases Foundation and got a lot of support from them but I find it very sad to see quite a few families really struggling because their husbands did not make it through the court case, and it seems to go to the back of the pile.
>
> Their husbands would not have died if asbestos had been banned years ago. So I do hope the government will think carefully about the proposed amendments and pass the bill.

Some of these people were concerned because they had heard that the Government intended to withdraw the bill or not proceed with it. We have received correspondence also from the Asbestos Diseases Foundation of Australia urging us to support the bill. I quote a section of its letter dated 10 November 1998:

> I have been personally saddened by the opposition to the Bill and some of the arguments advanced in opposition to the Bill. Having attended the meeting of the Workers' Compensation Advisory Council on 19 October 1998 I can only assume that there are still people who do not understand and appreciate the plight of asbestos victims and their families.

The letter concluded:

> I implore you to support the Bill on behalf of my current members, their families and those who will become members of my organisation in the future and their families.

The foundation thanked us for our support of the bill. We received a detailed submission from the Asbestos Diseases Foundation of Australia replying to the second reading debate in the other place. The foundation was particularly critical of the comments made by the honourable member for Gosford, Mr Hartcher. I seek leave to table that submission replying to the remarks made during the second reading debate in the Legislative Assembly, some of which have been repeated in this House.

Leave granted.

I respect the honourable member for Gosford but it seems that he has been badly advised in regard to some of the material he quoted in his contribution to the debate which is factually incorrect according to other evidence we have received. Obviously, the honourable member would

not have made the remarks if he had not believed them to be correct. He has been poorly briefed on these matters. I refer also to correspondence received from industry participants. CSR expressed its concern about the impact of the bill. In its letter of 27 October the company stated:

> Because of the substantial impact the Bill will have on business and taxpayers of New South Wales, CSR suggests the Bill be referred to the Legislative Council's Standing Committee on Law and Justice to put a proper consultation process in place.

That letter is signed by Alec Brennan, the Deputy Managing Director of CSR. The Government could still give consideration to that proposal in the future. The WorkCover inquiry related to workplace accidents and disease. All members of that committee were staggered to learn that in a specific 12-month period more deaths occurred as a result of workplace accidents and diseases than as a result of road accidents. The matter has been reviewed to some extent by the Standing Committee on Law and Justice, but a further reference could be made to that committee without delaying the progress of the bill.

The committee could monitor the operations of the bill and determine whether further amendments were required in the future. James Hardie Industries Limited had similar reservations about the bill. In a letter dated 27 October 1998 the Managing Director and Chief Executive Officer of James Hardie Industries wrote:

> However, there are some elements of the Bill with which we have major concerns. They have the potential to significantly impact on both the resolution of dust disease claims in NSW and on the broader legal system by undermining a number of basic legal principles and promoting increased litigation in the DDT. The Bill also carries significant cost implications for employers, insurers and other parties, including the Dust Diseases Board. These implications have not been fully costed to date.

I am unsure whether the Government has costed what the changes might involve. The purpose of the proposed legislation is to speed up the payment of compensation, not to delay it. The company claims that it will be delayed. The Government will have to consider that matter and perhaps the Minister in his reply might assure the House that there is no danger of that occurring and that when the bill is enacted it will achieve greater efficiency and speed in supplying justice to those who have suffered and their families. We received a letter dated 11 November 1998 signed by L. J. Loch, Manager Corporate Communication, James Hardie, and Debra Stirling, General Manager Corporate Affairs, CSR. That letter stated in part:

> The impost on the New South Wales community will be significant if the Bill is not amended. Many employers, especially those in small businesses, have inadequate or no protection to fund newly created past liabilities and, as a result, will face downsizing or closure. Insurers will face increased payouts—an expense which will have to be passed on to current NSW employers and policy holders. NSW taxpayers will face increased exposure, not only through the increased exposure of the various State entities which appear regularly before the Tribunal, but also court running expenses which will increase as a result of increased forum shopping.

The Government may have an answer to the concerns expressed in that letter. To put the whole matter into context, I noted from the submission made by CSR that more than 90 per cent of claims against that company are settled, usually by the end of the first hearing day. That company spent $4.5 million on settlements last year. James Hardie claimed in its submission that 90 per cent of claims are settled prior to judgment, 60 per cent of them by the first day of hearing, and that last financial year $17.5 million was paid out. Those figures indicate that the companies have endeavoured to co-operate in finalising claims in the great majority of cases. Perhaps those companies should not have been attacked as ferociously as they were by members of this House. Compassion must be extended to those suffering and dying, and to their families. The Christian Democratic Party is not inclined in principle to support the amendments moved by the Opposition.

The Hon. ELAINE NILE [10.00 p.m.]: I thank God for this bill. Governments have to be moved and sometimes they move in the wrong direction. But on this occasion the Government has been moved in the right direction by the Almighty. I pay tribute to a family friend, the father of one of my daughters-in-law, who has just died. Three years ago Noel Dark was diagnosed with mesothelioma. Because of the medical profession he carried a lot of baggage. When he asked his doctor to refer him for pain management he was told to not worry as he had only a few months to live. That response deeply affected his wife and his two daughters. We watched him suffer.

We thank God that he was given three more years of life. He put himself on a health diet and did all the things that many general practitioners say not to do. His local doctor said to him, "I don't want to know what you are doing, Noel, or what your medication is, but keep it up." His family went through the torture of seeing his stomach distended and him undergoing the painful procedure of having fluid removed on a number of occasions until it gradually became too much for him. He was taking morphine and towards the finish received increasing doses. This was a difficult time for his family. Towards the end he said to his wife, "It is time to go."

They went to the Shoalhaven hospital and one of the doctors asked whether he had been sick for three months. His wife replied, "No, three years." In those three years he saw his two daughters married and his last grandson born, for which we were grateful. The Christian Democratic Party believes that this bill is overdue. At Noel's funeral, Montana, his three-year-old granddaughter, who is also our granddaughter, stood beside the grave and threw in a basket of petals. She said, "Bye, bye, Poppy, I know you are a star in heaven." We have continued to love her and to comfort her for the loss of a grandfather. We know of the anguish of those who watch their fathers or husbands go through this pain and suffering. The Christian Democratic Party thanks the Government for introducing this bill.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.03 p.m.], in reply: I thank honourable members for their contributions to the debate. I am moved by the eloquence of some of the contributions, particularly from the crossbenchers. There is a real understanding of the anguish and tragedy that results from dust diseases and the tragic and often rapid death of people who have been well for many years despite their handling of asbestos but are suddenly plunged into this dreadful illness.

I am personally moved by the contributions of honourable members and their general support for these measures, which are careful, balanced and sensible and should not be opposed. I say, bluntly, that it is appalling that the Opposition wants this bill to be shunted to an advisory committee. The Government has worked through it and has consulted with many employer companies. My officers have consulted in detail with the insurance companies, unions, and groups which represent workers inflicted with this dreadful disease. The bill has been through a consultative process; it is absurd to suggest it now be sent back to the workers compensation advisory committee.

The bill has been considered by the advisory committee and the Government has received its feedback. The Government has considered the committee's advice and taken the view that this package is defensible and ought to be sustained and pursued through the House. It is regrettable, lamentable and deplorable that the Opposition is taking an obstructive stance to this package which is defensible on moral, legal and financial grounds. I commend the bill to the House.

Question—That the amendment be agreed to—put.

The House divided.

Ayes, 14

Mr Bull	Mr Ryan
Mrs Forsythe	Mr Samios
Mr Gallacher	Mr Smith
Miss Gardiner	Mr Willis
Mr Gay	
Mr Hannaford	*Tellers,*
Mr Lynn	Mr Jobling
Dr Pezzutti	Mr Moppett

Noes, 24

Mrs Arena	Rev. Nile
Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Dr Chesterfield-Evans	Ms Saffin
Mr Cohen	Mrs Sham-Ho
Mr Corbett	Mr Shaw
Mr Dyer	Ms Tebbutt
Mr Egan	Mr Tingle
Mr Johnson	Mr Vaughan
Mr Jones	
Mr Kelly	*Tellers,*
Mr Macdonald	Mrs Isaksen
Mrs Nile	Mr Manson

Pair

Dr Goldsmith	Mr Kaldis

Question so resolved in the negative.

Amendment negatived.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [10.15 p.m.]: I move Opposition Amendment No. 1:

No. 1 Page 3, schedule 1. Insert after line 9:

[2] Section 3 (2) (c)

Insert after section 3 (2) (b):

, and

(b) a reference to a dust-related condition is a reference to a dust-related condition that is

attributable wholly or primarily to exposure to dust in New South Wales.

The purpose of the amendment is to ensure that a disease suffered by a claimant in New South Wales was generated by a dust-related condition attributable to either working in New South Wales or using a product that came from New South Wales. In recent times in New Zealand advertisements by solicitors have advocated that New Zealand people should come to New South Wales to sue for damages for work-related diseases.

The provisions of the bill will mean that, because the major companies are located in New South Wales, anyone in any part of Australia, or potentially any part of the world, who acquired a disease in New South Wales will be able to sue for damages here. The intention of the Opposition amendment is to try to ensure that New South Wales looks after those who have worked in New South Wales or who have acquired a disease as a result of activities within New South Wales. I commend the amendment.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.17 p.m.]: The Government does not accept the amendment, which we do not regard as useful. Obviously the amendment seeks to limit the jurisdiction of the Dust Diseases Tribunal to the hearing of claims for damages related to dust-related conditions. The effect of the amendment is that persons whose dust exposure occurred outside New South Wales, or partly in New South Wales but not primarily, will still be able to bring a claim in New South Wales courts but not before the Dust Diseases Tribunal. This is a specialist tribunal which was established to hear all damages matters for dust-related conditions, and the resources of New South Wales courts are arranged to have those matters heard by that tribunal.

The Opposition amendment may lead to confusion and duplication in such matters, with possible anomalies in decisions relating to dust disease matters. The amendment does not, as the Government sees it, achieve the outcome of encouraging inter-forum shopping. The Government takes the view that the question of a convenient forum is better dealt with in general legislation applying to litigation of all classes. The Government is taking on board the views of the Court of Appeal and of the Chief Justice and other members of the Court of Appeal in Grigor's case.

The Government is bound to take on board what those people have said about whether New South Wales courts should be used for litigation commenced by overseas litigants. The Government simply does not see this amendment as contributing to appropriate policy development in that area. The amendment really is conducive of more argument and more litigation on whether a particular condition is attributable wholly or primarily to exposure to dust in New South Wales.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [10.19 p.m.]: The Opposition notes the arguments of the Government. Put in its simplest form, it seems that the Government accepts that New South Wales has a specialist tribunal—the only tribunal of its kind in the world. It is acknowledged that awards of damages of this tribunal are more substantial than those of courts in any part of Australia. Therefore the Government, as a matter of principle, should encourage the use of the tribunal by all potential plaintiffs from any jurisdiction, whether in Australia or overseas.

Clearly the Government has adopted that policy, but the Opposition has not. The Opposition believes that the Government has a responsibility to those who have worked in New South Wales and to those who have contracted the disease as a consequence of activities carried out wholly or primarily in New South Wales. The Opposition is not seeking to establish New South Wales as the litigation centre of Australia for dust diseases, but that will be a consequence of the measure in the bill, and the Opposition does not accept it.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.20 p.m.]: Lest my silence be construed as acquiescence, may I say that the extrapolation put on my remarks by the Leader of the Opposition is not justifiable on the basis of anything I have said to the Committee. I said that the question of a convenient forum needs to be addressed, but it needs to be addressed generally in relation to litigation commenced in New South Wales by people from overseas. Nothing I have said supports the idea that there should be a special test, which would no doubt require considerable litigation, on questions of fact and law designed to ask the tribunal whether a worker has a condition that is wholly or primarily attributable to exposure to dust in New South Wales.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 14

Mr Bull	Mr Ryan
Mrs Forsythe	Mr Samios
Mr Gallacher	Mr Rowland Smith
Miss Gardiner	Mr Willis
Mr Gay	
Mr Hannaford	*Tellers,*
Mr Lynn	Mr Jobling
Dr Pezzutti	Mr Moppett

Noes, 24

Mrs Arena	Rev. Nile
Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Dr Chesterfield-Evans	Ms Saffin
Mr Cohen	Mrs Sham-Ho
Mr Corbett	Mr Shaw
Mr Dyer	Ms Tebbutt
Mr Egan	Mr Tingle
Mr Johnson	Mr Vaughan
Mr Jones	
Mr Kelly	*Tellers,*
Mr Macdonald	Mrs Isaksen
Mrs Nile	Mr Manson

Pair

Dr Goldsmith	Mr Kaldis

Question so resolved in the negative.

Amendment negatived.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.29 p.m.]: I will not move Opposition amendment No. 2. I move Opposition amendment No. 3:

No. 3 Pages 3 and 4, schedule 1[3], proposed section 12A, line 13 on page 3 to line 7 on page 4. Omit all words on those lines.

This amendment deals with the Limitations Act and is related to amendments Nos 20 and 23. In the second reading debate I spent some time addressing the implications of eliminating a limitation period. I made it clear that imposing no limitation period on the initiation of proceedings would eventually contribute to a significantly additional workload and lead to significantly additional delays.

The Government advocates an improvement in the administration of dust diseases claims, but any improvement would be undermined if it proceeds with this measure. The present Act works quite well—to the extent that only one application for leave to apply out of time has been rejected. Establishing New South Wales as a major centre in which to initiate proceedings and the only jurisdiction in common law countries without a limitation period is likely to result in the number of claims escalating abnormally. That would be to the detriment of the operation of the dust diseases tribunal. Eventually it would be to the detriment of those who want a speedy resolution of their claim. The Opposition regards this as a fundamental issue that would undermine the provisions of the Act. For that reason the Opposition opposes the amendment and will divide on it.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.31 p.m.]: The Government cannot accept this amendment. It seeks to undermine provisions in the bill that remove dust disease sufferers from the administration of the Act. The Opposition might say that those provisions are a radical move, but they relate to a distinguishable condition within a distinguishable area of compensation law. It is unique in many respects.

The Opposition amendment seeks to have dust disease victims comply with the Limitations Act and thus experience additional costs and delays involved with that procedure or miss out on entitlement to damages. Limitation periods under the Limitation Act are not appropriate for dust disease victims suffering from diseases of long latency. While the Limitation Act allows an extension of time for cases involving diseases of long latency, victims of dust diseases suffer delay and added costs in overcoming that hurdle.

Dust disease victims suffer swift deterioration in their condition, and under the Opposition's proposal plaintiffs would miss out on damages if they died before their claim is finalised. The Government contends that the Opposition amendment is harsh and disadvantages those who have much to lose.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 13

Mr Bull	Mr Ryan
Mrs Forsythe	Mr Samios
Mr Gallacher	Mr Rowland Smith
Miss Gardiner	Mr Willis
Mr Hannaford	*Tellers,*
Mr Lynn	Mr Jobling
Dr Pezzutti	Mr Moppett

Noes, 24

Mrs Arena	Rev. Nile
Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Dr Chesterfield-Evans	Ms Saffin
Mr Cohen	Mrs Sham-Ho
Mr Corbett	Mr Shaw
Mr Dyer	Ms Tebbutt
Mr Egan	Mr Tingle
Mr Johnson	Mr Vaughan
Mr Jones	
Mr Kelly	*Tellers,*
Mr Macdonald	Mrs Isaksen
Mrs Nile	Mr Manson

Pair

Dr Goldsmith	Mr Kaldis

Question so resolved in the negative.

Amendment negatived.

Schedule agreed to.

Progress reported from Committee and leave granted to sit again.

BENEVOLENT SOCIETY (RECONSTITUTION) BILL

ADMINISTRATIVE DECISIONS TRIBUNAL LEGISLATION FURTHER AMENDMENT BILL

INDUSTRIAL RELATIONS AMENDMENT (FEDERAL AWARD EMPLOYEES) BILL

LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) BILL

POLICE POWERS (VEHICLES) BILL

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

Suspension of standing orders agreed to.

ADJOURNMENT

The Hon. R. D. DYER (Minister for Public Works and Services) [10.42 p.m.]: I move:

That this House do now adjourn.

ST VINCENT DE PAUL SOCIETY RURAL ASSISTANCE

The Hon. A. B. KELLY [10.42 p.m.]: I take this opportunity to highlight some of the social issues confronting rural communities and to commend the St Vincent de Paul Society for its tireless work in assisting rural communities to cope with those issues. The St Vincent de Paul Society has had a long association with rural communities and has often found itself in the position of being the only provider of welfare assistance to people in some rural and remote areas. In April this year it released a social justice statement for rural New South Wales entitled "In Defence of the Bush". The document draws on the knowledge and experience of people in rural New South Wales to identify key issues affecting their communities.

Poverty, disadvantage, withdrawal of essential services, increased social problems such as drug use, crime, family breakdown and suicide were among the most serious conditions faced by rural towns. The report also revealed the strength, diversity and resilience of rural New South Wales. This was evident in the efforts of thousands of people striving to devise local solutions to revitalise their own communities. Unfortunately, it became apparent that these efforts were often being thwarted by the thoughtless, ill-informed decisions of governments. In particular, one of the recommendations asked that the New South Wales Government join with the St Vincent de Paul Society in approaching the Commonwealth Government to revise several elements of the social safety net that are currently causing undue distress to many families.

Another of the recommendations asked that the Federal Government give urgent consideration to the introduction of reciprocal trade barriers to counteract the current disparities that are severely affecting many rural producers. I have strongly endorsed that position in previous adjournment speeches. Several of the recommendations fell squarely within the jurisdiction of the State Government. We need to heed this serious warning that there is a growing swell of resentment, frustration and anger in country areas against politicians of all persuasions.

The Standing Committee on State Development has recently discussed incorporating social factors into its report on the competitiveness of New South Wales Agriculture. For too long competitiveness has meant cost-cutting, economic rationalism and job losses. The economy has become detached from the society that generated it. Community welfare has been thrown aside in the name of economic progress. By investigating the social health of our rural communities alongside other aspects of the inquiry the committee hopes to give an holistic picture of rural New South Wales. Perhaps this will enable us to develop a model of competitiveness that acknowledges the wealth of

social capital and human resources to be found in country Australia.

In producing "In Defence of the Bush" the St Vincent de Paul Society has provided governments with a very valuable document. It comes at a time when country Australia is under greater and more complex pressures than ever before. In these times of increased poverty and joblessness St Vincents must be commended for taking on a strong advocacy role and for speaking out on behalf of rural communities who find themselves stretched to breaking point.

Most recently the society made damning public criticism of the impact of the goods and services tax [GST] on the poor, including the rural poor. In a strongly-worded statement the society said it deplored the Federal Government's lack of compassion for our nation's poor and disenfranchised. In an interview with the *Catholic Weekly*, national president John Moore said:

> It is simply unjust and un-Australian if a new regime is introduced which leads to a deterioration in the wellbeing of the 30 per cent of Australians who are on low incomes.

Given the state of rural unemployment and the fact that there are twice as many working poor in the bush as there are in the cities, there is little doubt that our rural communities will bear the brunt of the GST. This is just another example of the Federal Government's disregard for rural and remote communities. At the same time that the GST will be pushing more families into seeking assistance, it will be severely reducing the ability of St Vincent de Paul to provide that assistance.

The new regime will apply to food vouchers and donations given to the society. It will apply also to accommodation services provided by the society and will increase general administration costs. In effect, the GST will be a tax on giving and a tax on caring. St Vincent de Paul is the provider of last-resort assistance to families who have nowhere left to turn. This is not economic policy, it is not rural adjustment. It is hard-hearted injustice. It places greatest pressure on those least able to endure it. In closing, I wish to quote from one of the rural forums that contributed to the social justice statement. I believe this sums up the frustrations faced by many rural people:

> We're told small, family farms are not viable. To provide services like hospitals in our towns is not viable. It's not viable to set up new industries. Bus services are not viable. It's getting to the point where our communities are not viable. What do they want us to do; disappear because we are not viable?

It is up to us to provide these things and to enable our struggling rural communities to secure themselves a better future.

GUN LAW UNIFORMITY

The Hon. M. R. KERSTEN [10.47 p.m.]: I bring to the attention of the House a further example of what I consider is an injustice meted out to a person who is seeking to follow his chosen sport. I refer to Mr Richard Murphy of 618 William Street Broken Hill. He wrote to Minister Amery in the following terms:

> I had a meeting with you in Broken Hill on the 7.9.98. Regards to our category "C" firearms.
>
> As you may recall [there] was a Mr Dave Edwards & myself at that meeting.

I spoke last week about David Edwards' plight. The letter continued:

> We informed you that we have been given category "C" firearm licence & Registration for same to use at the field & game range to shoot clay targets.
>
> But "C" category licence for our range has not been approved. I know that we have applied for this licence in the right way and for the right reasons.
>
> (1) E.G. Injuries to neck working in Broken mines.
> (2) Security arrangements Level 1 & 2 as laid down by commissioner of Police.
>
> As you may or may not know Western Aust. Northern Ter. Queensland & Victoria have that right. You informed us that you would bring it to attention to other Ministers on behalf of us.
>
> I trust you are a busy man and it has just [slipped] by you.
>
> [Hoping] to hear from you.
>
> Richard Murphy.

I have also a letter from the Broken Hill Field and Game Association to the commissioner of the New South Wales Police Service outlining Mr Murphy's case and recommending that he be given the right to use a category C shotgun for field and game shooting. Mr Murphy wrote also to Mr Richard Mould of the Field and Game Society:

> Broken Hill Field & Game had monthly meeting on Sunday 30.11.97 which I am a member. Our president informed us that our letter for club approval which he sent asking for category A. B. C. It was changed to only category "A" and "B".
>
> I [applied] for category "C" licence because of [injuries] received from working in Broken Hill mines. For field & game shooting (clay targets). Club president, Mr G Glasson, informed me can not use category "C" gun at range as of now.

> Monday 1-12-97 rang hot line and spoke to Mr C. Illies telling him I had a "C" licence. But could not use gun at range because of above. He said he would get back to me which he did. Told him when I got my licence I rang hot line asking were I can use "C" category gun was informed that I could use gun were ever they shoot clay targets.

In a letter to Mr Murphy concerning the new firearms legislation the Minister for Police said:

> I have noted your concern regarding the new firearms legislation. I would like to assure you that the Australian Police Minister's Council (APMC) and the NSW Government regards recreational hunting, vermin control, clay target shooting and other sports shooting as legitimate pursuits, and are aware that these activities are undertaken by many law abiding citizens across Australia.

The Minister outlined the various categories. The crux of the matter is that the Minister signed a letter in the following terms:

> Holders of semi-automatic or pump action shotguns will have access to category C firearms for clay target shooting if at the 15 November 1996 they were an existing member of a club affiliated with the Australian Clay Target Association. In addition, new applicants with a special need for a category C firearm will be permitted to use self-loading or pump action shotguns for clay target shooting.

Yet the Broken Hill Field and Game Association does not have the right to allow its members to shoot with category C firearms. That is dreadful news for its members, particularly for Mr Edwards and Mr Murphy, who through no fault of their own have serious injuries. They are responsible members of the shooting fraternity who are being denied the right to pursue their chosen sport of field and game clay target shooting because their association has not been given permission to allow members with a category C licence to shoot at their club. I implore the Minister to look at this matter carefully and to act in accordance with his undertakings in various correspondence, copies of which I have in my possession, to rectify the situation as soon as possible.

YOUTH HEALTH

The Hon. Dr A. CHESTERFIELD-EVANS [10.52 p.m.]: I draw to the attention of the House the problem of youth health and its determinants in our society. People in western society tend to think that because youth have enough food they should consider themselves fortunate, be grateful and be good little Vegemites, work hard and struggle along. There is a belief that despite there being insufficient jobs, people should struggle more to ensure they are not left behind; so they are among the top 90 per cent. By definition not everyone can be in the top percentage category. Therefore, it is not an adequate response from those in control of society that people in the top percentage bracket are okay.

Recently an Australian National University researcher told delegates at a National Centre for Epidemiology and Public Health conference entitled "Developing Health" that young people could be considered the miners' canaries of modern western societies in that they were particularly vulnerable to the peculiar hazards of our time. He said also that where the material needs have been met for a large slice of the population, health and well-being are being determined primarily by social conditions. Young people's health problems are more likely to be the result of social disruption, and not the biological processes that affect older people's health. Young people are the only age group whose health has not improved in recent decades, and in some respects it has deteriorated.

New research shows that problems such as suicide are only the tip of the iceberg and that up to one-third of young people experience significant psychological distress. It is distressing that from 1960 the suicide rate for the age group 15 to 24 years has increased 250 per cent. There is also a sense of social alienation with many young people not identifying with today's social institutions and goals, leaving them rudderless and disillusioned. While increased social disadvantage, poverty and unemployment are part of the explanation, the researcher, a Mr Eckersley, believes that an underlying reason for increasing psychological distress is the failure of modern western culture to provide an adequate framework of hope, belonging, meaning and moral values. Mr Eckersley said further:

> The bottom line in psychological well-being is the quality of relationships—personal, social and spiritual—and having a sense of meaning and purpose in life.
>
> Most young people are optimistic about their own lives but recent research suggests that even this may crumble under the pressures they face as they grow up and make their own way into the world.

Mr Eckersley believes that modern western culture has several characteristics hostile to establishing a deeper and broader context to our lives—economism, consumerism, post-modernism, pessimism and individualism. He described these problems in his book entitled *Measuring Progress—Is Life Getting Better?* He believes that there will need to be a fundamental shift in policy with less emphasis on the rate of economic growth and more on building natural and social capital. There is no point in simply becoming richer in order to consume more. Parliamentarians must make sure that they are

responsible for the whole of society, not merely their section of it. Honourable members have lobbied for small sections of society but it is really time that they took a broad-brush approach and looked after the whole of society. After all, they are elected to lead society, not merely to cry for their own friends in a market situation in politics.

WOMEN IN POLITICS

The Hon. Dr MEREDITH BURGMANN [10.57 p.m.]: For the recent Federal election the Liberal-National coalition produced a women's policy entitled "Opportunity and Choice". However, in reality the Liberal Party's policies have proved contrary to women benefiting from any opportunity or choice. The March 1996 Federal election resulted in the highest number of women ever elected to the Federal Parliament, but that was the result of the Liberal's good luck rather than its good planning. Many of the female coalition candidates in that election won seats that they were never expected to win. Ten of the 17 Liberal women entering the House of Representatives after the 1996 election won seats that were previously held by members of a different party. The Liberal women won in the 1996 Federal election primarily because they were the direct beneficiaries of the anti-Labor landslide and not because of Liberal Party initiatives to increase female representation.

Of the 34 female Liberal candidates in the 1996 election, 19 were given hard-to-win seats, needing a swing of more than 5 per cent. Twelve women were given marginal seats requiring a swing of less than 5 per cent and only 3 per cent were given safe seats. The October Federal election resulted in a decrease in the number of Liberal women in the House of Representatives and in the Senate. Since the 1996 Federal election the coalition Government has introduced so-called reforms that were against women taking a public role. That has resulted in a two-pronged attack. First, the Government is destroying the institutions and gains that have been made thus far. Second, it is taking away government services that allow women to take on a public role.

The coalition Government has destroyed the power of the affirmative action agency and has crippled the Office of the Status of Women and the Human Rights and Equal Opportunity Commission through massive budget cuts. It has abolished the register for women suitable for appointment to boards, and at one stage even recommended the abolition of the specialist commissioners, including the sex discrimination commission within the Human Rights and Equal Opportunity Commission through massive budget cuts. Clearly, the coalition Government's actions do not match the rhetoric to date.

The 1996 budget reduced spending to the lowest level since the 1970s, slashing $19 billion in net terms. The 1997 budget targeted a range of programs for further cuts, including child care, health and welfare. The abolition of subsidies for community child-care centres has resulted in a sharp rise in the price of child care. Women's groups have expressed concern over these cuts, especially those to child care. They will force women out of the work force because their wages will fail to compensate them for the cost of child care. The Federal Government argues that the family tax package will allow families, particularly those on low incomes, to keep more of their wages. However, such increases will be offset by the increase in the user-pays system.

Coalition members themselves have expressed these concerns. A recently published letter from Liberal Senator Helen Coonan to the Prime Minister expressed concern that coalition policies in child care, work, education and legal aid have alienated women. In particular, the coalition's Workplace Relations Act of 1996 specifies that awards cannot limit the number or proportion of employees in a specific type of employment or the maximum or minimum number of hours of work for regular part-timers. This provision contributes to Australia's standing as having the most casualised work force of all Organisation for Economic Co-operation and Development countries. It is women who predominate in casual work that is characterised by inferior entitlements.

Banning award specification of maximum and minimum hours for regular part-timers leaves the way open for conversion of full-time jobs into part-time jobs and the creation of part-time jobs with a very small number of hours. The coalition's introduction of Australian workplace agreements resulted in women being disadvantaged in the bargaining process, particularly through their status as casual or part-time workers. Women are therefore less able to negotiate an individual agreement to allow them to balance work and family responsibilities. Further, these agreements are not subject to public review and wholly replace Federal or State awards or agreements.

Women taking up this option may lose conditions. Further, the coalition Government's award simplification process means the specific issue of sex-based and sexual harassment is not allowed to be included. Women are unable to access

general advice and assistance on workplace matters from the Office of the Employment Advocate, as that office provides advice only in regard to Australian workplace agreements. Where exactly is the coalition's opportunity and choice in these policies?

OVERSEAS ADOPTION

The Hon. PATRICIA FORSYTHE [11.01 p.m.]: Last week in the adjournment debate I spoke about the disaster that confronted a family from Narellan Gardens in their attempts to adopt three children from Colombia and their experience with the Department of Community Services. I wish to continue my comments taken from that couple's diary, which contains a bizarre account of what happened to them. I am sure honourable members will be interested. On the last occasion I said that they had begun a course in the Spanish language in order to better accommodate the children when they arrive in Australia. They had also commenced to learn about the experience of other families which had adopted older children from Colombia.

On Monday 21 July the couple attended their first appointment with the social worker. The husband and wife attended separately. The social worker requested certain information and they were asked to provide $40 as a renewal subscription for *Australian's Caring For Children* and they gave a donation of $100. In August 1997 they had a third and final interview with the social worker. The husband and wife attended together. The interview sought to bring together various pieces of information. The diary states:

> Throughout the interview process with the social worker it became obvious that she had already decided three children were "too many and too much work" as a result of her own experiences. She was a mother of three and told us she wished she had not had the third as she found it much more difficult to cope.
>
> Her own personal experience was coming to the fore in our assessment and her bias toward one or two children being sufficient trouble for any family was very apparent . . .
>
> The social worker was to lodge the report with the Department before the end of August.

By September of 1997 the social worker's report had not been received. The diary continues:

> I phoned her on 5 September and she advised it would be faxed to us on 9 September.
>
> The report was received earlier than promised and on Friday 8 September we were able to read through the report and request some minor alterations. The report did not contain the worker's recommendations.
>
> When we spoke to the worker on the next Monday she advised all was O.K. and the report would be faxed to DoCS by Thursday 11 September.
>
> On the 25 September, having allowed a couple of weeks for the DoCS workers to check through the social worker's Homestudy Report I phoned the Department to inquire about their acceptance or otherwise of the report.
>
> I was advised that the worker allocated to our file was not in today (job share position) and that while she was working on our file I should allow until the following Tuesday or Thursday (1 or 3 October) of next week and call again.
>
> I was also advised at this time that the file would go to the Assistant Manager of the Department for approval within about two weeks (standard procedure).
>
> The following Thursday I called and spoke to the allocated worker about our file. She raised a number of questions . . . These "questions" included such things as "How would we, two people, be able to offer affection and attention to three children?" And "Do we have sufficient network of family/friends to support us if stressed and tired?"

That matter was not advanced any further, and on 13 October 1997 the social worker phoned and they were informed that the assistant manager of the department had decided not to approve the adoption of three children but told the couple that they had the right to appeal the decision. The couple spoke of the following procedures that would be undertaken:

> Our Social Worker made a final appointment for Monday 27 October 1997. We spoke about network available to us, also DoCS attitude to people seeking to adopt three children.
>
> At this interview she asked if we would be willing to consider local adoption. We were astounded because this had been our first enquiry to the department, and we were advised that because of our ages (47 and 41) our file would probably never move from the bottom of the pile as younger applicants would always be allocated children first.

The story continues. They phoned the department on 6 November and spoke to yet another office worker. The entry in the diary continues:

> She was unable to locate our file so she promised to speak to a third worker and call back.
>
> When she did call back it was to advise that the file had not been updated since 28 October 1997, and that the final update on our Homestudy report had not been received from the social worker.
>
> Later that evening I phoned the social worker who first of all informed me that "no local adoption sibling groups were available". She also said that the fact we had lodged an expression of interest for local and special needs programs would mean our file would automatically be processed if we got an approval for two children and no other family will take them—I don't think anything will come of that!
>
> The social worker advised she would phone our worker at the Department next Tuesday 11 November and state all is O.K.

She would also seek information about when the approval will be granted.

Tuesday 11 November I phoned DoCS and spoke to our allocated worker. I was advised the social worker's report was not adequate. That the answers to the questions she had been instructed to obtain were not supplying sufficient information.

I insisted we had supplied specific information as requested, so obviously the social worker had not written these up correctly. The DoCS worker said that the report appeared "vague" . . . I said I would not return to the social worker to waste another four hours answering the same questions and asked to speak to the department head.

Later that afternoon the department—[*Time expired.*]

NORTH-EAST WILDERNESS

The Hon. I. COHEN [11.06 p.m.]: In speaking about wilderness areas I thank Keith Muir, the Director of the Colong Foundation and advocate for wilderness, for his assistance. Unlike the announcement regarding the south-east forest of 26 October in regard to the Brogo wilderness, no wilderness has been announced for the protection of the north-east forest. The north-east of New South Wales has one million hectares of wilderness. Wilderness is an attribute of the land and should be mapped and identified independent of political processes. Assessment of wilderness should take place to identify forest types, endangered species habitat and soil types. It is wrong for politicians to interfere with the independence of the National Parks and Wildlife Service to determine what is and what is not wilderness.

The current round of north-east forest decisions affected 237,773 hectares of wilderness outside reserves existing prior to the decision of last week. Of this area only 37,226 hectares are to be reserved in the national park estate, and about one-third of this area is impossible to reserve as wilderness because some parts are now too small. The remaining 200,000 hectares are available for logging. In other words, for each hectare protected in reserves, five hectares were given to the loggers. The environment groups are seeking a continuation of the logging moratorium over the leasehold lands so that these areas can be acquired unlogged by the National Parks and Wildlife Service and added to the national parks estate.

The moratorium arrangement had continued since 1991 and covered mostly very steep land on the escarpment of the Great Dividing Range. Core wilderness areas with leasehold lands will now become available for logging and could wreck the integrity of these areas. The breakdown of the 200,507 hectares available for logging is as follows: 168,527 hectares are National Parks and Wildlife Service identified wilderness, of which 144,000 hectares are Crown leasehold, and a further 22,000 hectares are Crown leasehold in State forests—lands that have been protected from logging by a moratorium since 1991. The remaining wilderness area of 764,577 hectares is in existing reserves.

Considerable areas of wilderness in parks are not reserved under the Wilderness Act. The areas include about 100,000 hectares of wilderness inside national parks which were to be additions to the Werrikimbe, New England, Washpool, Bindery-Mann and Guy Fawkes wilderness areas, according to the Cabinet decision of 23 September 1996. Of the 27,273 hectares of the provisionally identified wilderness to be reserved, only 18,998 can be protected as wilderness under the Wilderness Act because some of the areas are too fragmented. What is wilderness? It is the largest, more intact remnants of the natural environment; it is a place where one can wonder and become lost; it is a place that has a primeval soft wetness; a towering cathedral of trees, of forest giants some of which have existed for more than 1,000 years in a symphony of silence; it has indescribable patterns of beauty.

Wilderness has indescribable patterns of beauty; it is certainly the womb of life. It is a place where society in decay can rejuvenate. It is a place where youth can grow and survive. It is an important aspect in a society in which, in its maturity or depravity—whichever way one looks at it—people are dying and suffering and have lost a sense of being. To some people wilderness is simply a prayer answered; it exists quite separate from the needs of society. As a Green I believe that wilderness is integral to the survival of our culture, our people and our wellbeing, both physical and emotional. Yet the Carr Government has traded this magnificence for power. History will judge it.

FLYING FOXES

The Hon. R. S. L. JONES [11.11 p.m.]: A letter I received from Wambina Wildlife Education and Research Centre stated that in February this year, at Bilpin, orchardists shot out a colony of flying foxes, but no-one was prosecuted. In the Lismore region there have been large scale shootings of this nature. Complaints to police and the National Parks and Wildlife Service have come to nothing. Night after night people are complaining, but the service has done absolutely nothing. A fruit carter complained that he had to drive over hundreds of dead flying foxes that were on the road; evidently they were shot out of the air rather than in the trees.

The euphemism "culling", instead of "killing", is mischievously misleading as "culling" is described as a scientific harvest of noxious animals with a view to controlling numbers. The Minister's announcement that she will allow culling is an absolute furphy and infers a regular census of the numbers and detailed records of the numbers and the reproductive condition of the animals killed.

Killing during the breeding season should be prohibited unless it can be proved scientifically that such action would not endanger the species. Obviously this has not occurred with flying foxes. There has not been any regular census of the animals, there has never been any record of the numbers killed and shooting has been allowed during the breeding season without this knowledge. Such information is definitely available, as a scientifically conducted census was done in July 1998 from North Queensland to Bass Strait using 300 counters under the direction of the Australasian Bat Society. It was found that flying fox numbers had decreased by 35 per cent. This information is sufficient to list these animals as threatened under the Threatened Species Conservation Act. I have received information from Dr Greg Richards—

[*Time for debate expired*.]

Motion agreed to.

House adjourned at 11.12 p.m.