LEGISLATIVE COUNCIL

Thursday 30 November 2000

The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The President offered the Prayers.

RURAL FIRES AMENDMENT BILL

HORTICULTURAL LEGISLATION AMENDMENT BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. J. J. Della Bosca agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second reading of the bills be set down as orders of the day for a later hour of the sitting.

Bills read a first time.

WATER MANAGEMENT BILL

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

INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

Motion by the Hon. Janelle Saffin agreed to:

That this House:

(1) Recognises that White Ribbon Day marks the International Day for the Elimination of Violence Against Women.

(2) Expresses concern that:

(a) human rights abuses and violence towards women and children include rape, trafficking in women, forced prostitution, sexual slavery, honour killings and sexual mutilation,

(b) State and non-State actors use rape and other forms of sexual abuse as a torture tactic and strategy of war,

(c) human rights abuses against women and girls are practised in countries across the world including across the Asia-Pacific region,

(d) the vast majority of refugees and internally displaced persons are women and children, and are particularly vulnerable to sexual violence by armed combatants,

(e) girl children are used as child soldiers and are also the target of sexual violence in armed conflict, subjected to rape, sexual slavery and sexual mutilation,

(f) violence is often directed at women human rights defenders who work to stop these abuses but often become the victims of torture, including rape, threats and other physical attacks.

(3) Notes the United Nations Security Council resolution on Women, Peace and Security passed on 31 October 2000, calling for women to participate equally in United Nations peacekeeping and negotiations for the protection of women and girls during armed conflict.

(4) Reaffirms its commitment to:

(a) end impunity of violence towards women by condemning abuses where they do occur and encouraging the prosecution of those responsible for crimes against women,

(b) end violence towards women by encouraging parties involved in armed conflict to respect international human rights law and protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse.

(5) Calls on all governments in the Asia-Pacific region to take position measures to stamp out violence and torture of women and girls.

TABLING OF PAPERS

The Hon. E. M. Obeid tabled the following annual reports:

Ethnic Affairs Commission, for the year ended 30 June 2000
Ministry for the Arts, for the year ended 30 June 2000
Art Gallery of New South Wales, for the year ended 30 June 2000
Australian Inland Energy, for the year ended 30 June 2000
Australian Museum Trust, for the year ended 30 June 2000
Historic Houses Trust of New South Wales, for the year ended 30 June 2000
Library Council of New South Wales, for the year ended 30 June 2000
Museum of Applied Arts and Sciences, for the year ended 30 June 2000
New South Wales Film and Television Office, for the year ended 30 June 2000
State Records Authority of New South Wales, for the year ended 30 June 2000
Sydney Opera House Trust, for the year ended 30 June 2000

Ordered to be printed.

PETITION

Council Pounds Animal Protection

Petition praying that the House introduces legislation to ensure that high standards of care are provided for all animals held in council pounds, received from the **Hon. R. S. L. Jones**.

GENERAL PURPOSE STANDING COMMITTEE No. 5

Reporting Dates

The Hon. R. S. L. JONES [11.10 a.m.]: I inform the House that General Purpose Standing Committee No. 5 resolved on 17 November to extend the date upon which it will report its findings on its inquiry into Sydney Water's Biosolids Strategy from 4 December 2000 to 29 June 2001, and to report on its inquiry into Oil Spills in Sydney Harbour by 2 April 2001.

FISHERIES MANAGEMENT AND ENVIRONMENTAL ASSESSMENT LEGISLATION AMENDMENT BILL

Personal Explanation

The Hon. I. COHEN, by leave: During the debate on the Fisheries Management and Environmental Assessment Legislation Amendment Bill there was a degree of confusion about a number of amendments. I moved amendments following their withdrawal by Reverend the Hon. F. J. Nile. Subsequent to that, Reverend the Hon. F. J. Nile said that the Greens were setting back the cause of Aboriginal reconciliation. To clarify the situation, I refer to a letter from Mr Rod Towney, Chairperson of the New South Wales Aboriginal Land Council. The letter, addressed to me, states:

> I refer to the discussions that occurred between you and representatives of the New South Wales Aboriginal Land Council [NSWALC] in relation to the NSW Government's proposed Fisheries Management and Environmental Assessment Amendment Bill 2000 ("the Fisheries Management Bill"). The discussions commenced on Tuesday 14 November 2000 at a weekly briefing meeting of the Legislative Council cross-bench members.
>
> During the discussions the NSWALC position in relation to the Fisheries Management Bill was expressed to be that the bill did not adequately address NSW Aboriginal communities needs and that it fell significantly short of an adequate level of protection of Aboriginal rights in NSW fisheries.
>
> The NSWALC proposed a number of amendments to the Government's Bill to be introduced by the Rev. Fred Nile in the Legislative Council. A copy of the proposed amendments is attached to this letter.
>
> As you know on the floor of the Legislative Council on Tuesday 21 November 2000 the Rev. Nile introduced the amendments to the Fisheries Management Bill however he did not move them. In response to his introductory remarks the Minister for Fisheries

(Eddie Obeid MLC) read a prepared statement in relation to the proposed NSW Government's response to the needs of NSW Aboriginal people in fisheries.

When the Rev. Nile withdrew his support as the mover of the NSWALC amendments to the Fisheries Management Bill considerable debate occurred between the Rev. Nile and other members of the cross-benches, including yourself.

During this debate the Rev. Nile referred to a letter from Ossie Cruse (NSWALC member for the Far South Coast region) that was said to authorise the Rev. Nile to withdraw his support as the mover of the NSWALC amendments (a copy of the letter is attached).

The NSWALC appreciates that the Rev. Nile's reference to this letter created significant confusion for those Legislative Council cross bench members who had supported NSWALC's position that the amendments should be moved.

The letter on its face does not indicate that the NSWALC had decided to withdraw its amendments however conversations between Rev. Nile and Mr Cruse prior to the debate on the floor of the Legislative Council may have led the Rev. Nile to conclude that the NSWALC's position had changed and that the amendments were no longer pressed.

The NSWALC's amendments to the Fisheries Management Bill were and continue to be pressed. The Rev. Nile's actions were the result of an unfortunate error in communication.

Your actions in attempting to revive amendments to the Fisheries Management Bill that accorded with the NSWALC's position are greatly appreciated by the NSWALC. The NSWALC is grateful for your sustained effort to ensure the Aboriginal perspective in relation to the Fisheries Management Bill was debated in the Legislative Council.

I understand that the Rev. Nile has made comments in the Legislative Council subsequent to the debates on Tuesday 21 November 2000 that suggest that your actions in relation to the NSWALC's proposed amendments to the Fisheries Management Bill were detrimental to the interests of Aboriginal people in NSW.

The NSWALC is the peak Aboriginal representative body in NSW. In the NSWALC's opinion your actions were not detrimental to Aboriginal people. Your actions demonstrated your strong support for Aboriginal people and your commitment to the NSWALC's position in relation to the Fisheries Management Bill (as it was put to you).

The Rev. Nile's views are clearly a result of the error of communication between him and the NSWALC described earlier.

The support you and other members of the Legislative Council cross benches have given to the NSWALC in relation to the Fisheries Management Bill and in relation to other Aboriginal issues is greatly appreciated. The NSWALC hopes that productive dialogue on these issues will continue in the future.

Rod Towney
Chairperson
New South Wales Aboriginal Land Council

The Hon. M. R. Egan: Point of order: Although the Hon. I. Cohen has finished, I still take a point of order because that was not a personal explanation, it was debate. The honourable member could have made this speech on the adjournment. The House grants leave for personal explanations on the assumption that a member is making a genuine personal explanation. The Hon. I. Cohen's speech was not a personal explanation. I formally take a point of order and inform members that in future the Government will be more prompt to take a point of order.

The Hon. I. COHEN: To the point of order: I note what the Treasurer has said. I apologise to the House if I was out of order. I raised this matter with sincere intent and I considered that it was appropriate to read from the letter.

The PRESIDENT: Order! Standing Order 70 provides:

By the indulgence of the House, a Member may explain matters of a personal nature, although there be no questions before the House; but such matters may not be debated.

It may have been more appropriate for the member to make a statement under Standing Order 71, which provides that a member may speak in explanation or in reply of some material point on which he or she has been misquoted or misunderstood. I remind members that Standing Order 70 refers to leave being granted for the purpose only of making a personal explanation.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (TRADEABLE EMISSION SCHEMES) BILL

Second Reading

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.17 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This bill is another example of the Carr Government's groundbreaking work to integrate environment protection and economic growth. It builds on other major achievements of this Government, including completely overhauling the State's environment protection legislation, introducing the world-class load-based licensing system and developing more flexible regulatory tools, such as tradeable emission schemes. The Government is committed to environmental regulation that provides a healthy environment that is ecologically and economically sustainable for us and for future generations. This bill is a further step along the path to sustainability.

It will provide the framework needed to introduce tradeable emission schemes, which are at the leading edge in environmental regulation. By tradeable emission schemes, I mean schemes that harness the market in order to protect the environment as cost-effectively as possible. This is achieved by limiting total emission levels and allowing emitting activities or companies to trade shares of that total so that emission reductions can be undertaken in the most cost-effective way. The result is a win-win situation: the community can have greater confidence that environmental goals will be achieved, and emitters can achieve those goals at lower economic cost. For example, if BHP needed to release inerts into the atmosphere it could obtain tradeable credits. It could do this by buying credits from another company that had reduced emissions and earned credits as a result. There are incentives built into the trading schemes to encourage all participants to reduce emissions and achieve a better trading position.

One such tradeable emission scheme has been operating in the Hunter Valley as a pilot scheme since 1995. The Hunter River Salinity Trading Scheme controls the cumulative impact of saline discharges to the Hunter River from coal mines and power stations in the valley in order to protect water quality, making the water safe for irrigators and others downstream to use. The Hunter scheme has been a world-class achievement in community co-operation between miners, farmers, environment groups and government agencies. It has taken the heat out of what was a major conflict over water quality, so serious in fact that new mining development in the region had virtually stalled prior to the scheme's commencement, at great potential economic cost to the region and the State of New South Wales.

Since its commencement in 1995, the Hunter River Salinity Trading Scheme has achieved the goal of protecting water quality while allowing economic development in the region to proceed in a viable way, with very significant benefits for the local community and the State economy. The 19 coal mines upstream of Singleton employ over 5,500 people. In 1997-98 they produced over 61 million tonnes of coal, with coal exports from the region worth $2.6 billion. Salinity levels in the Hunter River have now dropped by up to half their pre-scheme levels. Discharges from mines and power stations have not caused a single exceedance of the water quality targets agreed by the community in the past, a far cry from the problems that existed prior to the scheme's commencement. This has significant benefits for local agriculture, whose 1997 produce was valued at over $275 million, including more than $100 million from irrigated agriculture.

The Hunter scheme has to date been operated as a pilot scheme, implemented via licence conditions. The Environment Protection Authority [EPA] now proposes to formalise the scheme's operation via a new regulation under the Protection of the Environment Operations Act. Minor amendments to that Act are needed to support the proposed regulation, which will be the subject of a forthcoming consultation program. While the Protection of the Environment Operations Act already provides in general terms for economic schemes to be set up, it was drafted at a time when New South Wales had less experience with the administration of tradeable emissions schemes. We now have a better idea of the range of provisions needed to give effect to such schemes.

The bill will flesh out the framework already provided by the Act, addressing in more detail the development and operation of tradeable emission schemes. The bill's principal purpose is to strengthen the regulation-making powers with respect to tradeable emission schemes, providing the means to formalise the Hunter River Salinity Trading Scheme, as well as to implement other trading schemes that are currently under consideration. The bill does not itself give effect to such schemes but enables the EPA to set out detailed scheme rules in regulations. This, of course, means that all proposed trading schemes will be subject to thorough regulatory impact assessment and public consultation before they can be made.

The bill will empower the EPA to impose tradeable emission scheme rules as unappealable licence conditions in order to apply to all participants uniform rules, which are fundamental to the operation of each tradeable emission scheme. It also provides for a greater range of enforcement tools where a participant breaches scheme rules, so as to ensure that environmental goals are not compromised. The bill also provides for the recovery of scheme administration costs from participants by contributions to a special deposits account and deals with other necessary administrative issues. The bill will see New South Wales continue to lead Australia's efforts to integrate the economy and the environment as we move towards sustainability. I commend the bill to the House.

The Hon. J. F. RYAN [11.18 p.m.]: The purpose of this bill is to create a formal framework within New South Wales in which greenhouse gas emissions, salinity, nitrous oxide and other substances which cause environmental problems can be traded by polluters with the aim of limiting overall emissions. The bill provides for schemes to be developed by the Environment Protection Authority [EPA]. It will allow the EPA to recover costs from participants in tradable emission schemes and enable the EPA to impose tradable schemes, such as unappealable licence conditions. The bill will give the EPA greater enforcement powers and it will commit the Government to ensuring that proposed trading schemes are subject to regulatory assessment and public consultation. The Coalition parties encourage and support, in principle, the use of economic tools such as emission trading schemes to reduce pollution over time. However, we must remember that the schemes are not an end in themselves; they are a tool, amongst others, to achieve necessary environmental objectives.

Although we do not oppose the bill there are some areas of detail that give us concern. We believe that some aspects of the bill will create difficulties and unnecessary costs for industry. It is, in the view of the

Opposition, a rather heavy-handed, clumsy, unaccountable and untransparent attempt to achieve a worthwhile objective. The Opposition acknowledges that the Hunter River Salinity scheme, which has been operating since 1995, has produced good outcomes in the Hunter area. Salinity levels in the Hunter River have dropped to half their pre-1995 levels. Many jobs have been retained in local industries, which has given a good result for people in the Hunter area. Additionally, our local forest industries have benefited enormously from environment trading schemes that have been paid by overseas companies to create carbon sinks in the environment of New South Wales.

We recognise that there is some debate about the whole concept of tradable emissions schemes, and I have no doubt that members of the crossbench will take this opportunity to ventilate some of the interesting controversies that were ventilated in the recent conference in Europe. Generally speaking, the argument runs that it would be better for us not to create pollution at all and for us to work at reducing pollution generally rather than giving people what they regard as an excuses to continue bad habits, even though that might generate good environmental outcomes in other places. Sometimes these particular trading schemes are difficult to regulate and measure. One needs to be absolutely sure that when one gives a company the opportunity to create pollution in one place that a genuine and measurable effort is made to reduce pollution in another. We recognise all of that to be true.

Notwithstanding that, the Opposition believes, and I think the Government would agree, that often the best way to get good environmental outcomes is to support them within the marketplace. If economic drivers are forcing people to reduce their pollution they are more likely to do so than if they are simply relying on the lead hand of the government regulation for compliance. The introduction of economic incentives, which is ultimately what this scheme does, means that if a company pollutes less it will not have to buy pollution credits elsewhere. It becomes not only environmentally wise for them not to pollute, it becomes economically wise for them not to pollute. When people have an economic incentive to do these things they are more likely to comply more willingly than if they are responding to government fiat. When the bill was debated in another place my colleague the honourable member for Southern Highlands outlined a number of concerns the Opposition had with the bill.

By and large, our concerns were twofold. There appears to be too little constraint and scrutiny on what the Environment Protection Authority [EPA] does with the funds it collects. The bill creates an opportunity for the EPA to have a cost-recovery scheme, so that the cost of running the scheme is taken from the people buying all the credits. We are concerned that this can too easily be overrun as another opportunity for the Government to collect tax. This has happened previously in the environmental area. For example, the levies created in waste disposal have largely become a tax because the Government collects the money as it is repaid to Consolidated Revenue, but the Government also expects companies that have been providing waste management to have cost recovery. There is a level of double charging, and it becomes a double level of taxation. The Opposition would have preferred greater scrutiny in the legislation of the charges the EPA has the right to levy under these arrangements.

Our other concern is that these schemes do not deal with diffuse sources of pollution. A good example is nitrogen oxide, or NOx pollutants. As all honourable members know, NOx emissions produced by industry are probably less than half of the total NOx emissions in the atmosphere. Most of our NOx comes from motor vehicles. Clearly, we need to address both ends of the spectrum—point source and diffuse—and, to some extent, a tradable emissions scheme creates a focus on the point source that is not necessarily legitimate. One of the other things we might note in passing is the wonderful opportunities for the Government to create pollution credits, which it has not taken up. For example, the M5 East tunnel will have an exhaust stack which, if the Government had filtered it, could have created environmental credits. The trouble with trading schemes is that there is very little incentive for the Government to reduce its pollution in places where it is relevant. Nevertheless, the Opposition supports the bill. I understand that some amendments will be considered in Committee. By and large, the approach the Opposition will adopt is if the Government supports the amendments—and I believe it does—we will not oppose them.

Ms LEE RHIANNON [11.25 a.m.]: The Greens have very serious concerns with the bill, and the whole concept of emissions trading. What exposes emissions trading as a massive con is the excessive use of environmental rhetoric to describe the so-called advantage of the scheme without actually delivering. In reality, emissions trading delivers a greater benefit to industry that pollutes and degrades the environment. The fundamental issue is that emissions trading allows for a certain quota of pollution. It is effectively a licence to pollute. The goal of these schemes is to stabilise pollution at a certain level and to allocate the right to pollute to those who are willing and able to pay for it. Pollution is commodified, so to speak; it becomes a commodity that can be bought and sold. The Greens have considerable philosophical problems with this approach, as well as identifying numerous practical issues. I would like to point out to my colleagues that there is another way.

The Green's policy, in contrast to emissions trading, calls for eco-taxes on polluting activity. Such taxes would provide an economic disincentive to pollute. The greater advantage of eco-taxes over emissions trading is that eco-taxes provide an incentive to reduce pollution to zero, with proportionate economic benefits for all concerned. On the other hand, emissions trading says, "Let's set a certain quota for pollution and that's okay." Eco-taxes, by their very nature, drive pollution as low as possible. That is the fundamental difference and that is where we part company with this whole concept. Another concern of the Greens about the bill is the potential for pollution to be locally concentrated. If a company that is a major polluter buys up pollution rights, it will obviously bring environmental benefits in other areas. But that action has the potential to concentrate disastrous amounts of pollution in one place.

We are saying that it is not good enough to talk about a certain quota of pollution statewide. One has to look at the local impacts, otherwise the situation could arise where statewide pollution actually decreased or individual rivers or communities within the State were devastated by massive pollution. In relation to compensation the Greens would like to sound a note of concern for the future. I am aware that the bill deals with this issue and provides that the Crown bears no liability. It is not hard to see, however, where this issue could head in years to come. Companies will have paid huge amounts for their pollution rights, justifying a further considerable investment in the factories and general operations. When the day comes that the EPA tries to reduce these pollution rights by reducing the overall quota, all hell will break loose. The companies will demand compensation for the loss.

Given how much the EPA and, of course, both Labor and the Coalition are influenced by big corporate interests, the pressure will be on to provide that compensation. It will be a pressure that I doubt the EPA or the Government will withstand. That brings me back to the fundamental problem with emissions trading. When one commodifies something—in this case, pollution—at the same time one bestows on it a property right. Our society expects that property rights cannot be removed without compensation. This will stand in the way of reducing pollution. In a nutshell, that is a problem. Once it becomes similar to a property right we have a real problem, and again the end product will bring us more pollution. It is of the greatest concern to the Greens that as the bill stands the Environment Protection Authority will have extensive power and the discretion to implement and administer these schemes. Although I am the first to acknowledge that many individuals working within the Environment Protection Authority [EPA] are people of principle with their hearts 100 per cent in the right place, clearly there is a problem with the culture of the organisation and a weakness in its leadership.

The EPA has not established a strong track record as an organisation tough on polluters or those who break environmental laws. Until we remove that culture from the organisation, we will have serious problems in this State. The EPA is big on talking, setting up initiatives and establishing guidelines, but not much else. With the EPA there is no stick—in fact, there is barely any carrot. Unfortunately, the Greens and the environment movement generally do not have confidence in the EPA to administer these schemes in the best possible way. Clearly, many questions remain unresolved. I hope in his reply the Minister will provide answers to the following questions. How will the EPA deal with the problems of locally concentrated pollution? How will the EPA ensure these schemes will actually reduce pollution and continue to do so? How will the EPA determine the ideal, the minimum or maximum amount of any particular type of pollution that should be allowed? Finally, how will the EPA cope with the inevitable compensation claims if it tries to reduce pollution rights of companies that have paid large sums of money for those rights?

For these reasons the Greens will move amendments to introduce requirements for public notification and consultation, and to have compulsory contents of each scheme. We do not think that for one second the amendments will address the inherent problems of emissions trading, but at least they will provide some transparency, some public participation and some guarantee of a reduction in pollution. The Greens amendments represent some small steps in the right direction. I strongly urge my colleagues to support the amendments in Committee.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [11.31 a.m.]: I shall speak briefly on the Protection of the Environment Operations Amendments (Tradeable Emissions Schemes) Bill. In my capacity as shadow Minister for digging things up and burning them it is important that I contribute to this debate. The objects of the bill are certainly pointed in the right direction. I congratulate the Government on that. The bill gives the Environment Protection Authority the power to develop and implement schemes involving economic measures as a means of achieving cost-effective environmental regulation or environmental protection through measures such as tradable emissions schemes. An example of such a scheme was explained in the other place by reference to the Hunter River Salinity Trading Scheme, which is a pilot program. The intent of the bill is to make further provisions for similar schemes, particularly with respect to tradable emission schemes.

Certainly a number of areas in this State need to take on board this type of legislation. Across the State some areas are severely affected by salinity—a problem that must be addressed and legislation provides a means by which this can be done. Obviously, the intent of the bill goes much further: It provides for pollutant emissions trading and whole carbon credits. The Protection of the Environment Operations Amendment (Tradeable Emission Schemas) Bill will establish a tradable emission scheme that may include the creation of markets for an entitlement holder who emits a particular pollutant or pollutants. Obviously, the scheme will have a broad scope and will require a great deal of regulatory power and detail to define the terms and the level of emission and credit systems that will be involved. The bill makes a determination also on aggregated limits in relation to any form of pollution in any locality. This provision will affect all creeks, streams and air quality across the State.

The bill provides also for the monitoring and reporting of emission and pollution levels as part of the conduct of the tradable emission scheme. My colleague in the other place, the honourable member for Monaro, Peter Webb, has previously asked questions of the Minister for Transport, and Minister for Roads about information held by the Department of Transport on pollutants and pollution by motor vehicles in New South Wales, particularly in the metropolitan area. The whole thrust of the bill is to provide for the creation of tradable emission credits or credits generally. On the one hand, the bill gives permission to pollute by setting quantifiable limits and providing heavy penalties for breaches of entitlements under the permit to pollute and, on the other hand, it also provides credits for reduction of pollution. This is a balancing of the books, so to speak, by allowing industry to obtain credits for the reduction of pollution and by working through permits to control pollution. The bill envisages the initial sale or allocation of permits and the subsequent sale or allocation of tradable permits.

The bill provides safeguards against anticompetitive behaviour by participants in the scheme. It is interesting that the EPA is allowed an overall view, but the bill contains provisions to safeguard anticompetitive behaviour. New section 295B "Tradeable emission schemes" refers to the alteration, suspension, cancellation or forfeiture of tradable emission permits or credits or other rights or entitlements under the scheme. A number of provisions allow for the making of regulations that will relate to the emissions schemes. No doubt we will see these from time to time. As has been the case with a lot recent legislation, I believe not enough detail has been provided up front; much has been left for the regulatory powers to fast-track, if you like, the trading and marketability of the permits and credits associated with them.

The licence conditions and regulations to which I have just referred may impose all sorts of conditions on licences dealing with tradable emissions schemes. The original conditions that are granted can carry a lot of weight. To avoid doubt, there is no provision for appeal, and this is another interesting area. On one hand the system seems to be free and open but, on the other hand, the conditions that will be imposed by regulations do not allow appeals. New section 295E deals with the imposition of penalties for contravention of the scheme. We want to encourage people to get into viable emission pollutant trading markets, but I am not sure about the imposition of penalties. As honourable members know, the EPA has the power to penalise people heavily, which I hope would encourage people to get involved in pollutant trading schemes in the first place.

Earlier I referred to the participation in the scheme by the EPA. I am not sure about the detail of that participation, but it must be examined closely. New section 295H relates to cost recovery. Regulations may set up contributions towards all costs associated with the management and administration of the scheme, including any payments for the services provided by any person or body exercising functions under the scheme. The EPA is not required to pay a contribution, but the contributions are recoverable by the EPA as a debt in a court of a competent jurisdiction. The EPA can be active within the market, within the schemes and within the trading of emission permits and credits, but it does not necessarily have to make payments. However, people who wish to be involved in the scheme, either with a pollutant emissions permit or on the credit side, must pay heavy fees, which are regulated.

New section 295J refers to the exercise of the scheme functions by other persons and bodies. The regulations may provide for the constitution of committees to provide advice on tradable emission schemes and to exercise any other functions conferred on them by the EPA or by the regulations in connection with tradable emission schemes. In some respects, that will generate debate and bring about changes to regulations to facilitate the operation of the schemes.

The new section 295K refers to the liability for operation of the scheme, which is another area of doubt. The shadow Minister for the Environment, Ms Peta Seaton, in another place explained some of the Opposition's concerns in that respect. The Hon. J. F. Ryan detailed them in this House today. However, it is important that the Government has taken this pathway. The Opposition commends the Government for the introduction of the bill.

The Hon. R. S. L. JONES [11.40 a.m.]: I support the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill. The Minister stated in the second reading speech that if BHP needed to release inerts into the atmosphere it could obtain tradable credits. I phoned BHP in Melbourne and asked whether it knew about the bill. It had no idea; it did not even have a copy. After BHP obtained a copy of the bill I suggested to its spokesperson that there should be a conference in Sydney at which companies could meet to ensure that the scheme works properly in Australia. The spokesperson had just been to the United States of America, where the system is working, but it could work better. The problem was that companies were not co-operating. It was felt that it would be better if companies were to co-operate rather than try to do this on their own. Honourable members may have read an article in the *Sydney Morning Herald* on 23 November headed "Pollution traders ready to clean up". The article, which is about the world climate change talks 2000, was written by Simon Mann. Unfortunately, the talks have come to a grinding halt. The article states:

> In Houston, Texas, Petro Source Carbon's natural gas processing plant was belching thousands of tonnes of heat-trapping carbon dioxide (CO^2) into the atmosphere. So the company now traps the gas and funnels it along a 120-kilometre pipeline for use in crude oil recovery.

The article states further:

> In Canada, an Ontario-based power-generating company has bought 1.9 million tonnes of CO_2 equivalent (CO2e) created by Petro Source last year and this year. And in another transaction, a consortium of 11 Canadian energy groups has taken an option on more than 600,000 tonnes of CO_2e that will be created up to the end of 2012.

So here is an actual case of emissions trading occurring between two countries. The article mentions a web site, *CO2e.com*, which I promptly referred to. It contains interesting information about what is going on globally. It is a fairly recent web site and was tied up with the conference in The Hague. People were hoping that the conference would provide opportunities for emission trading around the world. It will be interesting to see whether the results of the conference will facilitate that.

The *CO^2e.com* web site summarises itself as "a global hub for carbon commerce and will soon transform into the fastest-growing business in the world". This is an extraordinary business that has come about as a result of global warming and an international consciousness about the effects of global warming on the environment, leading to the possible destruction of life as we know it on earth. Corporations will trade in their pollution to enable all of us to benefit as a result. We have to work with industry; we cannot work against it. The best way of working with industry is finding out what motivates it. What motivates it most of all is the bottom line. So if we assist the bottom line of companies they will assist the community in cleaning up emissions. Another web site called *emissions.org*, which is based in the United States, is a part of *The Emissions Trader*. There are a number of parts to the web site. An interesting article, which was written by Mark Perlis of Dickstein, Shapiro, Morin and Oshinsky LLP, entitled "A Scorecard for Private Sector Trading after COP VI", reads:

> Are private sector companies allowed to trade strictly for investment purposes? The key to development of a robust market for GHG rights is facilitation of trading for investment purposes, rather than for compliance purposes. Companies should be allowed to hold and trade freely GHG rights without regard to whether they or their nation of origin need GHG rights for compliance purposes. CDM credits must not be restricted to companies or nations that meet specific criteria. Once certified, CDM credits should be transferable to any entity, which may trade the credits for speculative, investment purposes, without obtaining any nation's approval for such trading. If the Hague Agreements allow host nations to restrict the trading of CDM credits, international emissions trading will be less robust.
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> Are GHG rights recordable and enforceable? The Hague Agreements will facilitate international emissions trading if a registry is established in advance of the Kyoto Protocol coming into force, so that companies can obtain legal recognition of credits purchased and forward contracts. The Hague Agreements will also facilitate trading if companies can enforce their trading contracts under international law and have recourse to fair tribunals, such as international arbitration panels. How much sovereign and regulatory risk is assumed by traders? To the extent the Hague Agreements reduce the scope of sovereign and regulatory risks that traders must assume in their contracts, trading will be facilitated.
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> How low are transaction costs? International trading will flourish if transaction costs are kept low and are reasonably predictable. Complex institutional requirements for verification and certification of GHG rights and cascading fees and taxes will dampen private sector enthusiasm to assume the inherent risks in trading GHG rights.

The conference in The Hague was vital to facilitate the reduction in greenhouse gases trade globally if only to facilitate the trading in the emissions globally. Companies are ready to trade globally and ready to make it into a major world market. It has been shown that this can have a significant impact on emissions. The *garynull.com* web site carries an article from *Rachel's Environment & Health Weekly* entitled "Sustainable Development, Part 5: Emissions Trading". It states:

> Tradeable pollution permits are a simple idea. First you decide how much total waste (pollution) to allow in an area. Second you create "rights to pollute" which, taken together, add up to the desired total pollution, and you establish initial ownership of those rights. The third step is where the market comes in. Some people (or corporations) can reduce pollution more cheaply than others. Those for whom reduction is cheap will proceed, thus freeing up some number of unused "rights to pollute". Those rights can then be purchased by firms for whom genuine reduction would be expensive. This scheme promises to provide society with the desired level of total waste (pollution) at the least cost. So far so good.

The article continues:

> Herman Daly likes this plan for one main reason: the process of issuing tradeable pollution requires a society to confront each of the three economic problems separately: sensible allocation, fair distribution, tolerable size.
>
> The problem of tolerable size must be confronted first: how much total pollution is tolerable? The market has nothing to say about this question. It is a political question. How many sick people is acceptable? How much crop damage caused by air pollution is OK? How many mercury-poisoned fish will we tolerate?
>
> Once that question is settled, then we move to the matter of fair distribution. How should initial ownership of "rights to pollute" be distributed? What is fair? Here again, the market provides no help. This is strictly a political question that citizens must decide among themselves, based on ethics.
>
> Should polluters automatically receive the right to pollute at the current level? This rewards polluters by freely giving them a public good (the capacity of the ecosystem to absorb wastes). Furthermore, it provides the biggest rewards to the biggest polluters. This hardly seems fair. (This is the system that Congress, with help from the Environmental Defense Fund [a mainstream environmental organization], wrote into the Clean Air Act, and this is the system that the U. S. government favours in the negotiations over the Kyoto agreement on global warming.)
>
> Another way to distribute pollution rights would be to declare them, collectively, a public good and auction them off to the highest bidder. This has the disadvantage of favoring the wealthy (many of whom made their fortunes by polluting). This doesn't seem completely fair either.
>
> A third way to distribute pollution rights initially would be to give a small pollution right to each citizen in the affected area. Citizens could then dispose of their personal right anyway they wanted—they could sell it to a polluter who could use it, or they could retire their right and thus provide a little cleanup.
>
> After the political problems have been solved (establishing the total pollution desired, and making a fair distribution of pollution rights), then the market can handle the problem of allocating pollution in the most economically efficient manner (as firms and individuals buy and sell each other's rights according to their circumstances). At least, that's the theory.
>
> On paper it looks good and Herman Daly is right: tradeable pollution permits expose three separate economic questions to public scrutiny, in the process revealing that the market has a relatively minor role to play in the overall scheme. The political questions are much larger and more difficult than the question of buying and selling pollution rights, and the market has nothing to do with them.
>
> In actual practice, however, tradeable pollution permits have proven to be a very unfair way to allocate pollution, and there is evidence that they do not always reduce pollution. In some instances, they may actually increase it.

I will now refer to a Congressional Research Service report for the American Congress entitled, "Air Quality and Emissions Trading: An Overview of Current Issues". It was prepared by David Bearden, an Environmental Information Analyst from the Resources, Science and Industry Division. The report, which is dated 16 August 1999, is available on web site *www.cnie.org*. Some interesting questions are posed and answered. It states in part:

> **How Do Trading Programs Work:**
>
> Trading programs use either credits or allowances. Credits are emission reductions that a pollution source has achieved in excess of required amounts. Sources that have earned credits can sell them to others that need additional reductions. Allowances differ from credits in that they represent the amount of a pollutant that a source is permitted to emit during a specified time in the future. If a source estimates that its emissions will be less than its allowances, it can sell its excess allowances to other sources that need them. Some trading programs also allow sources to save credits or allowances for meeting limits on emissions in future years. This practice is commonly referred to as *banking*.
>
> **What Factors Can Influence the Effectiveness of Trading?**
>
> For diffuse pollutants, decreasing total emissions over large areas through trading has the potential to improve overall air quality. For example, trading is well suited for pollutants such as nitrogen oxides, sulphur oxides, and carbon dioxide because they can drift far from their points of release. However, trading is less suited for pollutants that remain locally concentrated because excess reductions in one area would not improve air quality elsewhere, and localized problems with air quality could arise from trading if sources clustered in one area are permitted to offset substantial increases in pollution with credits or allowances. Whether trading can improve overall air quality depends on many factors related to program design, implementation and enforcement.

The report refers to defining the trading area and states:

> The geographic area within which trading occurs depends on how far a pollutant travels from its points of release. For example, if a pollutant disperses over a region of states, sources in different states could trade emission reductions and improve overall air quality. However, if emissions remain largely within a state or a portion of the state, trading would need to be confined within these boundaries because reductions in other locations would not improve air quality in the affected area.

A number of problems were referred to in the report, but I will not go into those at great length. Some problems detailed in information I obtained from the web site *www.globalideasbank.org* related to localised impact of trading in emissions in Los Angeles. Nancy Schimmel stated:

> … the folks who live near the refinery in the Los Angeles Basin (that was allowed to pollute because it bought up old polluting cars) do not think "the location of the emissions was unimportant". The scheme benefited all residents equally but the hazard was shared unequally and, guess what, the people near the oil refinery are low-income people. So the poor get polluted again. Bad idea. I hope you in the UK don't buy LA's scheme.

Honourable members will recognise that there are problems with the scheme in relation to trading, in that some people might actually be worse off—and I believe that the Greens may well refer to those problems later—whereby trading in one area can have a deleterious effect on people in another area. It is not an ideal situation. There is a trading scheme that is working quite well: the Hunter River salinity trading scheme. The following information about it can be found on the Government's web site *www.environment.gov.au*:

> The Hunter River is characterised by naturally saline conditions. Many tributaries have high salt loads, resulting from natural processes. The salinity problem is exacerbated by discharge of saline waters to the river by coalmines, power stations, irrigation and other industry in the catchment, which impose external environmental costs on various groups in the community. It has been estimated that for each unit increase in salinity measured in terms of electrical conductivity (EC), a $10,000 loss occurs throughout the catchment per annum from reductions in agricultural yield and increased costs of water supply and treatment.
>
> Under the provisions of the Clean Waters Act 1970, the EPA has licensed 11 coalmines to discharge saline waters to the Hunter River. The licences specified (i) a limit on the maximum allowable increase in conductivity in the river of 700 EC units after the discharge, and (ii) a limit on the maximum allowable increase in conductivity of 40 EC units caused by the discharge. This kind of discharge is described as 'trickle' discharge.
>
> Pacific Power, which operates two large electricity generating stations at Liddell and Bayswater in the Hunter Region, was also subject to EPA licence conditions. Pacific Power was permitted to discharge up to 700 megalitres per day from Lake Liddell to the Hunter River when the flow at Jerry's Plains was less than 2,000 megalitres per day, provided the salinity level in the Hunter River did not increase to more than 700 EC units. When the flow exceeded 2,000 megalitres per day, Pacific Power was permitted to discharge up to 700 megalitres per day with no salinity restrictions.
>
> After investigating the prospects of using instruments to control salinity in the Hunter, the EPA decided to introduce a system of tradeable salt discharge credits. The system was developed in consultation with the Department of Land and Water Conservation, the Coal Industry Association, the Hunter Catchment Management Trust and Pacific Power.

The article goes into great detail about how the scheme is successful at reducing the amount of salinity. I advise honourable members to log into that website to check it out for themselves. There was also an interesting case in the United Kingdom. I have some material that I shall refer to that I took from the website *www.carbonmarket.com*. A number of cases of trading are occurring, including Pacific Power. In one example Tesco, the United Kingdom supermarket chain, is buying carbon from the Carbon Storage Trust to absorb CO_2 emissions caused by a particular fuel's consumption. This fuel is then being marketed as having no net carbon emissions. So, even big supermarkets in Britain are involved in carbon trading.

It seems a very strange thing to be talking about trading in pollution, but if we are going to reduce pollution, working with industry is the only way we can go. We have to work with the industry bottom line and talk to the big corporations, such as BHP, to see how they can co-operate to reduce the total load of pollution, particularly greenhouse gas emissions, whilst at the same time ensuring that local communities are not adversely affected as a result of such trading. I will move an amendment in Committee to ensure that any person may trade. This was the intention of the EPA and the Government. The amendment I propose to move is accepted by the Government. It will ensure that any person, any school, or any environmental organisation will be able to trade in emissions, buy them up and retire them.

That is what happens in the United States of America. Schools and environmental organisations can actually clean up their environment by investing in pollution. It is an odd way of going about things. Not all schemes will lend themselves to this trading, but that will be listed in the regulations, which will be available. People, if they are so inclined, will be able to buy pollution and retire it so that we can breathe clearer air. We should be trading in emissions from the Scotts Creek vent, I suspect. We could buy it up completely and close it down. There should be no emissions from the various vents proposed by the Roads and Traffic Authority; but that is a political not a tradable decision. The Government has to make political decisions and as a result of those political decisions there will be credits available for trading.

Reverend the Hon. F. J. NILE [11.59 a.m.]: The Christian Democratic Party supports the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill, which provides a framework for the development and implementation of schemes involving economic measures as a means of achieving

cost-effective environmental regulations or environmental protection, such as the reduction of tradable emission schemes. The 1997 Kyoto Protocol commits the developed world to reduce greenhouse gas emissions by an average of 5.2 per cent below 1990 levels by the end of this decade. Unfortunately, Australia is a net gas emitter. The Kyoto Protocol allows Australia to actually increase its emissions up to 2010. This bill will allow New South Wales to move in the opposite direction by expanding tradable emission schemes in order to limit total allowable discharges.

The object of the bill is to make further provision with respect to such schemes and with respect to tradable emission schemes in particular. The principal purposes of the bill are to provide for more extensive regulation-making powers in respect of tradable emission schemes and, in particular, to allow the regulations to prescribe conditions of environment protection licences for the purpose of giving effect to a scheme, and to provide for the recovery of the costs of administering a tradeable emission scheme from participants in the scheme; to confer certain powers on the Environment Protection Authority [EPA] in connection with tradable emission schemes, for enforcement purposes and other purposes, including power to impose penalties for contraventions of the scheme, subject to the regulations; to exempt regulations relating to tradable emission schemes from staged repeal under the Subordinate Legislation Act 1989; to exempt trade in tradable emission scheme permits and credits from liability for duty; and, finally, to provide further protection to the Crown against claims for compensation and against any other liability that may arise in respect of schemes involving economic measures in general, and tradable emission schemes in particular.

As honourable members know, Australia has actively participated in international negotiations to reduce greenhouse gases. Just last week Australia participated in the United Nations talks in The Hague on greenhouse emissions. Australia is committed to reducing greenhouse gas emissions under the framework established by the Kyoto Protocol. The United States of America has used tradable emission schemes to great effect. A report by the United State Congressional Research Service stated:

> Emission trading is a market-based alternative to conventional regulation, in which sources facing high costs to control pollution have the flexibility to meet their emission limits by purchasing excess reductions from other sources that can afford to lower their emissions further than federal or state regulations require.

California has been operating a highly successful emissions trading program for many years. The Los Angeles area has established the Air Quality Management District [AQMD] to manage air quality. The AQMD assists the Los Angeles basin to comply with the Federal air quality standard for ozone. The AQMD newsletter dated 27 October 2000 stated:

> For the second year in a row, the greater Los Angeles metropolitan area has not had a single Stage 1 ozone (smog alert) episode when air quality is very unhealthy, proving that such ozone levels are a thing of the past.

The AQMD executive officer stated:

> AQMD's Air Quality Management plan predicted an end to Stage 1 episodes by the year 2000, and our air pollution control programs have allowed the region to meet that milestone.

The Congressional Research Service stated:

> Initial monitoring data indicate that these programs likely have reduced overall emissions at lower costs than conventional regulation might have done.

It is now looking at other areas of trading to address further air quality concerns. Tradable emissions are an efficient way of reducing greenhouse gases. Organisations which are able to economically reduce their emissions can make reductions and sell those emission rights to those who find it more costly to reduce emissions. An economist at Penn State University stated:

> A global system of tradeable carbon dioxide permits has the potential to galvanise support for a greenhouse gas emissions treaty that can solve the problem at lowest possible costs…

The Environmental Defence newsletter dated May 1993 stated:

> The challenge of global warming is not whether, but how, to reduce the build up of greenhouse gases in the atmosphere. These gases are created primarily from wasteful energy habits—particularly the inefficient use of fossil fuels in industrialised nations—which produce far more carbon dioxide and other GHG's than the global ecosystem can absorb.

For those reasons the Christian Democratic Party is pleased to support the bill. The bill will assist New South Wales to address these concerns through a well-developed tradable emissions scheme. The EPA will be

empowered to impose tradable emission schemes and they will have the enforcement tools to ensure that our environmental goals are achieved, thereby helping to reduce our overall carbon emissions before we reach the problematic stages of air pollution found in other countries and cities like Los Angeles.

As fossil fuels are the main cause of greenhouse gases in the atmosphere, and as they have a limited life—there will be a time when there will be no further coal or oil available—there must be further scientific investigation of other means of producing power. Projects thus far have involved solar power and wind power, for instance in the Holbrook area of New South Wales, but there must be further investigation into the safe, peaceful use of nuclear power, which has no greenhouse emissions. The Christian Democratic Party fully supports the objectives of this bill.

The Hon. Dr P. WONG [12.05 p.m.]: I support the intent of the bill, which is to protect the environment by putting in place schemes to limit total discharge from polluting industries. However, I accept that there are many pitfalls with tradable emissions. One danger is that tradable emissions can only become a commercial enterprise. Earlier the Hon. R. S. L. Jones quoted from an article by Simon Mann, which stated:

> Emissions trading—which big polluters such as the US, Japan, Canada and Australia say is critical to their strategies for cutting harmful emissions—is spawning a new breed of professional trader, many of whom are strutting their stuff in the corridors of the Netherlands Convention Centre.
>
> Their presence in The Hague, together with their mantra of "carbon commerce", lends weight to the adage "Where there's muck there's brass".

I also share the concerns expressed by many that one can encourage countries such as the United States of America, Japan and Australia to further pollute the atmosphere, but sometimes tradable emissions can be of little relevancy. The same article further stated:

> American Electric Power has helped double the size of a Bolivian national park.

How will that help Los Angeles or San Francisco? Last year, green groups such as the World Wildlife Fund, Greenpeace and Friends of the Earth said that the United States of America is dodging its commitment by buying pollution credits from Russia and the Ukraine, whose economic collapse in the early 1990s led to a sharp fall in emissions in both countries. The credits are really an illusion. Despite that, the bill allows a community to set up localised tradable emission schemes tailored to the community. I cannot disagree with empowering the local community to come up with its own solutions. I am impressed with the Hunter Valley scheme that the Minister mentioned.

I support the intent of the bill but there are few areas that require some amendments. For example, the bill does not, but should, make it mandatory for any scheme to set a maximum total emissions limit. A limit makes sense, if we are seeking to limit polluting emissions that harm the environment. I believe there is a strong case for putting some amendments in place. I understand that amendments addressing this and other key issues will be moved shortly by a fellow crossbencher. I will comment on the amendments at the relevant time. In this case when we talk about tradable emissions I believe that the Government is genuine and is acting correctly to address pollution in this country. It is a philosophical argument—whether one chooses to look for a practical solution or unreachable perfection. On this point I tend to agree with the Government.

The Hon. I. COHEN [12.10 p.m.]: As was clearly espoused by the previous Greens speaker, Ms Lee Rhiannon, the Greens have serious concerns about this bill. The Hon. Dr P. Wong expressed it appropriately when he said that the intent of the bill is to find a solution but that the substance of the bill does not provide an automatic follow-up. The bill is yet another example of the free market philosophy which is driving this Government's environmental policy agenda. The rationale for emissions trading is the belief that market forces will achieve environmental improvements. The Greens consider that this belief is at best naive and at worst a factor in continuing environmental decline. It is not only the Greens that question the ability of the market to stop pollution. Even the former Governor of the Reserve Bank, Bernie Fraser, has recognised the contribution that market failure makes to environmental damage. A *Sydney Morning Herald* article by Mark Metherell states:

> The former governor of the Reserve Bank, Mr Bernie Fraser, yesterday advocated environmental tax reform, accusing the Federal Government of putting too much faith in market forces to stop pollution.

The article quotes Mr Fraser as saying:

> Unfortunately our present Government seems to have excessive faith in market forces, and is either oblivious to or largely unmoved by the shortcomings and failures of the market system.

The article continues:

> Mr Fraser was speaking at the launch of the Australian Conservation Foundation's paper on environmental tax reform, which argues that environmental taxes, including taxes on air and water pollution, are now widely used in Europe. The paper argues that experience has shown that taxes are often more effective than environmental agreements between government and industry …
>
> Mr Fraser said that while it was true that an environmental tax package would result in higher taxes on electricity and petrol, there would be possible tax offsets and the issue needed to be debated openly rather than being dismissed out of hand.
>
> He said while globalisation was an important driver of the relentless push for economies and efficiency, it did not mean governments should leave the marketplace to sort out everything.

The article again quotes Mr Fraser:

> In fact, in my view globalisation requires more government vigilance and more intervention, not less.

Simon Mann, in an article headed "Pollution traders ready to clean up", states:

> Emissions trading … is spawning a new breed of professional trader, many of whom are strutting their stuff in the corridors of the Netherlands Convention Centre.
>
> Their presence in The Hague, together with their mantra of "carbon commerce", lends weight to the adage "Where there's muck there's brass".
>
> And while government leaders and their experts have hunkered down to hard-nosed bargaining in a bid to find a political solution to the planet's climate crisis, the New Age carbon traders have been enthusiastically promoting markets for dealing in so-called "pollution credits" or "carbon credits".
>
> Ultimately, they expect the trade to touch virtually every country as corporations look to trade away their dirty air in a bid to meet commitments to reduce emissions …
>
> They say trading emissions makes good economic and environmental sense because it encourages corporate innovation which locks in emission cuts and, subsequently, savings …
>
> Most green groups, however, together with a block of developing nations, argue that unlimited trading of CO_2 and other greenhouse gas emissions represent a cop-out, allowing heavy-duty polluters to escape tough decisions on energy use at home …
>
> Environmentalists claim unlimited trading will undermine Kyoto's ultimate objective of an average 5.2 per cent cut in 1990 emission levels by the end of this decade …
>
> Of course, emissions trading is not entirely new. US companies have for a number of years been trading in the industrial pollutants sulphur and nitrogen oxide, which contribute to "acid rain", and the World Wildlife Fund acknowledges the trade has helped meet targets and sharply reduce costs.
>
> However, the WWF's Mark Kenber said recently that the sulphur trade was transparent, tightly regulated, easy to monitor and subject to severe sanctions.
>
> "These are the lessons we can learn," Kenber said.

The United States of America insisted on a market for carbon trading which would enable it to buy the right to carry on polluting. Under this rubric it wanted to plant forests to absorb carbon in so-called carbon sinks, and even claimed carbon credits for changing the way it ploughed its fields. Firstly, that drove the international negotiations into a quagmire of mind-boggling detail, much to the fury of the Europeans, who justifiably claim that regulation, rather than a market approach to environmental pollution, reaps better results.

Negotiators got stuck on questions such as how this market was to be monitored and regulated without corruption. None of that was made any easier by the fact that scientists are uncertain about how and whether carbon sinks work at all. Some estimated that the USA proposals would lead to massive increases in emissions. Secondly, the consequences of the USA market-based approach—perhaps intentionally—with its highly technical negotiations, alienated any sustained public interest. It has become a textbook case of how to kill off public participation.

Evidence and a number of submissions put to the inquiry suggest that investment in sinks will only occur if provisions are in place for the allocation of tradable carbon credits for the carbon sequestered and for a clear national policy framework recognising the role of sinks. The issue of sequestered carbon as a tradable commodity arises from the potential inclusion of carbon credits in an international emissions trading scheme and/or domestic emissions trading. The system would work by issuing a carbon credit for each tonne of CO_2 sequestered in a Kyoto sink. Emissions permits and carbon credits would be interchangeable, as both would have the same unit of measurement.

Ultimately, it will be the price of carbon established in an emissions trading system that will determine whether carbon credits are a viable option. A consistent legal framework would also need to be put in place across the States for the registration of the ownership of carbon rights. Governments and industry have expressed general support for the incorporation of Kyoto sinks in a domestic emissions trading scheme, noting however that a number of design, legislative and methodological issues would need to be resolved in the first instance. A number of States have already taken steps to stimulate a market.

Clearly, the Greens do not rule out the use of economic instruments. Economic incentives and disincentives, such as ecotaxes, are capable of bringing about real environmental improvements. The Greens tax policy is designed to increase taxes on pollution and decrease taxes on jobs, such as payroll tax. This type of tax reform rewards companies which cause the least pollution and penalises the big polluters.

The main effect of this bill will be to provide the big polluters with pollution rights. This is inequitable and will do nothing for the communities that are forced to endure exposure to emissions as part of daily life. This situation has occurred already. We have seen the links between health and the environment at the Port Kembla smelter and resulting cancer clusters. An earlier speaker referred to a polluting industry which used its credits to buy up polluting cars, but concentrated the pollution in one area. This is what is happening in the community of Port Kembla, with terrible results.

Port Kembla is vulnerable. For generations it has been a strong Labor area and the people do not get any real political access. They have been subject to a highly polluting industry for a long time. Although the system and equipment have changed, the smelter still breaks the Environment Protection Authority guidelines in all too frequent and regular instances. As a result, people in that area lose. That industry may trade its carbon credits—that is, trade its pollution—or plant trees in another area to save environments overseas. But that does not save or assist the people in Port Kembla. It does not resolve the cancer clusters, which have been documented by a number of medical groups.

It is quite clear that we have to get to the source of the pollution, assess the situation, and consider how we can resolve it. The Government's solution is to allow a new industry to take over from an old, obviously polluting, industry. But that is not enough. Such an industry, particularly during start-up, creates excesses that then have a direct impact on people who are affected by pollution. They experience the accumulated impact of pollution over their lives, and as a result cancer clusters are developing. It is a real tragedy for the people of Port Kembla. This bill is more concerned with the corporate bottom line of community or environmental health. The big polluters are demanding emissions trading because it enables them to put a green spin on their dirty business.

I recommend to all honourable members a book by Sharon Beder called *GlobalSpin*, which talks in great detail about the ability of industry to create a situation that gets them off the hook, so to speak. So many of these industries should be shut down or at least controlled by a strong and vigilant environmental authority that will protect the community against emissions. I am afraid that the present process falls far short. I would like to quote from a report of the Senate Environment, Communications, Information Technology and the Arts Committee called "The Heat is On: Australia's Greenhouse Future". An additional report called "Climate Change and Australia" was written by Senator Bob Brown of the Australian Greens. The report states:

> The evidence suggests that stabilising CO2 levels in the atmosphere at 550 ppm (compared with pre-industrial levels of 280 ppm and the current concentration of 360 ppm) may be sufficient to avoid dangerous climate change and that this would require developed countries to reduce emissions by about 90%, to 10% of 1990 levels.
>
> By 1998, the most recent year for which figures are available, the State's greenhouse gas emissions were already 118% of 1990 levels, 10% over our Kyoto target of 108% of 1990 emissions by 2010.
>
> The government's big policy decisions are promoting increased greenhouse gas emissions while the strategies to reduce emissions are small, fragmented and, with the exception of the anaemic and compromised 2% fall renewables program, voluntary.
>
> Electricity reform and the introduction of the national electricity market have favoured existing brown coal generators (the worst greenhouse gas polluters) over all other energy services, including gas, energy efficiency and renewables. In addition the price of grid electricity has fallen by 30%. Result—greenhouse gas emissions increased by 18.4% between 1990 and 1997 and a further 9% between 1997 and 1998.
>
> Land transport consistently and massively favours road over rail, exacerbated by the GST package which reduced diesel taxes for heavy transport by 25c per litre, and petrol for business use by 10%, at an annual cost of about $3 billion. The price of public transport increased and the competitiveness of rail freight relative to road declined. Even before these changes road transport emissions had increased by 18% between 1990 and 1998.

> The Federal Government has failed to stop runaway clearing of native vegetation in Queensland and Tasmania. The current rate is over 400,000 hectares per annum.
>
> Carbon-rich old-growth forests are open for logging, and deemed a renewable energy source if burntfor electricity, under the new Renewables Energy (Electricity) Act 2000. The government does not measure greenhouse gas emissions from logging native forests.
>
> A striking feature of the Committee's hearings was the evidence of a lively, energetic and creative environmental technology sector is flourishing despite the structural impediments and lack of government support.
>
> Greenhouse-polluting industries portrayed action to reduce greenhouse gas emissions as resulting in unmitigated economic gloom …
>
> They also disputed that carbon dioxide was a pollutant—
>
> > "The issue really is that, if the industry is over polluting for its product, there is a responsibility for that industry to manage that process. I do not regard CO2 as a pollutant. CO2 is a natural part of the lifecycle; it is not a polluting gas."

That is a quote from Dr Rawlings of the Australian Coal Council, which appeared in *Hansard* on 26 May. The report continued:

> By contrast, the Committee heard from many companies and organisations of the great opportunities in the inevitable transition to a more sustainable future
>
> Carbon taxes have dropped off the big parties' political agenda because of the introduction of the GST. A carbon tax is nevertheless the simplest, most direct and efficient way to force greenhouse polluters to pay the cost of the pollution, promote environmental technology industries, and signal to the community that we are serious about tackling the climate change. The tax already exists in several Eastern European countries, can be introduced at a modest level to begin with, and can be complemented by emissions trading. A carbon tax of $30-$40 per tonne would reverse the 30% drop in electricity prices that industry gained between 1993 and 1997 and give it to the environment instead.

In relation to the Climate Change Implementation Bill the report stated:

> The only way to give certainty for industry and the community to plan ahead is through legislation to implement the Convention on Climate Change. Voluntary measures are not working, and a carbon tax and/or emissions trading alone will not do the job.
>
> Legislation is needed to set the target for reducing greenhouse gas emissions, provide mechanisms for consultation with industry and the community, and establish an independent statutory authority to manage the process and report on progress.

The Greens understand that reducing pollution is not an easy task, but that some polluting industries are making a real effort to address the damage they cause. We fully support those efforts and urge the Government to find ways to reward those companies. Cleaner production methods can result in a real environmental improvement while maintaining, or even increasing, jobs. Certainly there are a lot of opportunities at both the national level and local level, which is of great interest to me, where closed-loop production is increasing jobs in the renewable energy sector.

I note that many of these jobs are very labour-intensive when one gets away from the main transmission systems and moves to stand-alone systems or cogeneration schemes, be they solar or wind technology. A lot of these industries are set up as relatively small, green, clean production units that can develop a decentralised strategy. This also means that people in the community can feel that they are contributing in a significant way to lessening the impact of greenhouse gas emissions. The main problem with the bill as originally drafted was that it gave absolutely no indication of how emissions trading schemes would operate.

The Greens will propose amendments to the bill to incorporate mandatory pollution reduction requirements and other measures to achieve better environmental outcomes. These amendments will mitigate to some extent the deficiencies in the bill, but we remain convinced that the bill is fundamentally flawed. However, I congratulate the Government on accepting a number of the amendments. I hope that eventually we can step forward and move productively towards the mitigation of air pollution and greenhouse gas emissions, and the major problems that are facing us globally.

I am, and have been, rather appalled about the Australian position at the Kyoto conference and the recent conference in The Hague. As a major polluting nation we need to take responsibility if we are to have a significant impact on turning around this major global issue. If we do not we will experience quite a significant and catastrophic decline in the quality of the global environment, and the quality of our lives. We need to make an effort to assist those in our community and our neighbours who are most vulnerable. For many of the Pacific nations, greenhouse gas emissions are real. They will lead to a loss of environment and the opportunity to live in places such as Kirabati and other Pacific nations that are suffering the impact of the mighty technological nations of the world.

The Hon. P. J. BREEN [12.29 p.m.]: I am grateful for the opportunity to speak about the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill and to endorse the comments of the Hon. I. Cohen. This is a controversial bill that raises serious questions about industry and the environment. The Parliamentary Secretary Assisting the Special Minister of State said in the second reading speech:

> It will provide a framework needed to introduce tradable emissions schemes which are at the leading edge of environmental regulation.

Another view is that the bill represents the triumph of economic rationalism over the need to protect the environment. Nevertheless, I will support the bill for two reasons. The first is the importance of backing the Greens' amendments, which principally seek to cap emissions to prevent companies expanding their operations without regard for the consequences of their activities. Except for the Greens amendments, the bill is simply a licence for wealthy companies to pollute the environment. The second reason is that properly managed tradable emissions have some potential to cut greenhouse gas emissions. We ought to leave no stone unturned in our efforts to find a solution to the problem of global warming. The scheme contemplated by the bill is ideal for local schemes. There are precedents in New South Wales and overseas of local schemes being controlled and managed by tradable emissions. However, when we get to the bigger question of tradable emissions operating on a world scale, the equation is somewhat different.

Honourable members will know that the earth and its atmosphere is a closed environment. Greenhouse gases remain trapped in that environment and are heated by the sun to create chemical reactions and warm the planet. Before human industrial activity there was an exchange of carbon between the atmosphere, the earth and the ocean which was more or less in balance. The carbon cycle on land means that 110 billion metric tonnes of carbon dioxide is removed from the atmosphere every year by photosynthesis. About the same amount is returned to the atmosphere through plant and forest respiration and decomposition. In other words, the carbon cycle on land is a balanced exchange between the earth and the atmosphere. Something similar happens in the world's oceans. Each year about 93 billion metric tonnes of carbon dioxide is taken out of the atmosphere and dissolved in the ocean.

Three billion metric tonnes is taken up by plants and animals in the sea and eventually go to the ocean floor in the form of calcium carbonate. The remaining 90 billion metric tonnes is returned to the atmosphere through various biological and chemical processes. Again, we have a balanced cycle in the ocean. These existing cycles, one on land and the other in the sea, remove about as much carbon from the atmosphere as they add. However, once you factor in human industrial activity—by that I mean burning fossil fuels and destroying forests—the carbon cycle gets seriously out of whack. Before the industrial revolution the amount of carbon dioxide in the atmosphere was steadily reducing because of the three billion tonnes of calcium carbonate that finished up at the bottom of the ocean. For the purposes of this debate, I might call this nature's tradable emissions scheme. Each year before the industrial revolution planet Earth received a significant carbon credit from the existing carbon cycle.

Following the industrial revolution we now generate an extra six billion metric tonnes of atmospheric carbon through deforestation and burning fossil fuels. Instead of the previous three billion metric tonnes annual carbon credit, the earth now has a deficit each year of the same amount. We have reversed a process of carbon reduction in the atmosphere that has been going on for millions of years. What are the consequences of this human intervention in the processes of nature? Unfortunately, we do not know the answer. However, we are making some interesting observations. In an article in the *Sydney Morning Herald* of 22 November Penny Fannin provided information from the World Climate Change Convention in The Hague. Honourable members will know that this is the forum where the United States of America, Japan, Australia and Canada—some of the world's worst polluters—tried to wriggle out of their obligations under the 1997 Kyoto Protocol to reduce greenhouse gas emissions.

Penny Fannin makes the startling observation, quoting the CSIRO, that during the next 100 years we are unlikely to avoid doubling the amount of carbon dioxide in the air. This means carbon dioxide and other greenhouse gases in the atmosphere will be three times preindustrial levels. In the blink of an eye in evolutionary terms we have moved from carbon reduction of three billion metric tonnes each year to a threefold increase. Another amazing statistic quoted from the same report by Penny Fannin relates to rising sea levels resulting from climate change. If all the Arctic and Antarctic ice sheets were to melt, the sea level would rise by a staggering 68 metres. That would give a whole new meaning to the idea of living on the waterfront! One thing about which we know very little is the amount of methane trapped in permafrost. Methane is the most hazardous greenhouse gas and large quantities of it keep turning up in ice-core samples taken from polar ice. Atmospheric scientists fear that any significant melting of the earth's ice caps will release vast amounts of methane into the atmosphere creating a multiplier effect so far as global warming is concerned.

The Hon. Dr B. P. V. Pezzutti: Cows do that every day.

The Hon. P. J. BREEN: All the cows in the world would not make up the amount of methane in polar ice.

The Hon. Dr B. P. V. Pezzutti: That's not true.

The Hon. P. J. BREEN: We will have to take a measurement some other time. If cows have the potential to raise the sea level by 68 metres, I would be concerned. Polar ice has the potential to do that. From the point of view of methane in the atmosphere, we should err on the side of caution and do all we can to reduce greenhouse gas emissions. It is in this context of frontier atmospheric science and disrupted natural cycles that we consider the bill. So much of what is happening in climate change is new territory. For example, I recall reading several years ago—

The Hon. Dr B. P. V. Pezzutti: What about getting to the bill?

The Hon. P. J. BREEN: This is about the bill. I recall reading several years ago that about 40 per cent of the greenhouse gases generated by industry are unaccounted for. If that is still the position, and I have not read anything to the contrary, how do you operate a tradable emissions scheme in that kind of environment? Another aspect of greenhouse gas emissions that is difficult to get a handle on is the amount of carbon credit actually created by new growth or plantation forests, particularly those that replace old-growth forests. Honourable members will be aware of the scandal in Tasmania where tearing down old-growth forests in order to replace them with plantation forests has reached high farce and made Australia an international laughing stock. During the World Climate Change Convention in The Hague that concluded on the weekend—or perhaps we should say not concluded—Tasmania received second prize in the TREETANIC awards for companies implementing the worst carbon sink projects in the world. Catherine Moore of the Australian Greens forwarded to me a copy of a media release from Greens Senator Bob Brown, who said he was disappointed with the TREETANIC second prize being awarded to Tasmania.

The Hon. R. S. L. Jones: It should have been first prize.

The Hon. P. J. BREEN: That is right. Senator Brown said that Tasmania should have received first prize and that he would be appealing to the courts for a hand count of the votes! The problem of assessing the amount of carbon credits produced by large-scale plantations is exactly the reason the talks at The Hague broke down. This bill is in general terms and does not attempt to come to grips with that controversy; it merely sets up a framework or mechanism to allow tradable emissions schemes. In a sense, the bill assumes too much, given the extent of the controversy surrounding tradable emissions. Jon Sohn of Friends of the Earth produced figures at The Hague to show that the United States of America could achieve its Kyoto targets at a cost of less than $1 per tonne of carbon by trading emissions. The United States has included all carbon sinks without limits of any kind to achieve this figure. The United States buys credit from countries like Russia. Russia pollutes in concentrated environments, but overall Russian industry is not extensive enough to use all of its carbon credits. The United States buys those credits and continues polluting. The real figure per tonne of carbon would be about $31 if all carbon sinks were excluded from the equation, which is the position—I believe the correct position—taken by environmentalists. At The Hague Jon Sohn said:

> These figures demonstrate why the United States is aggressively pushing sinks. They provide cheap carbon credits for business as usual actions that avoid real and permanent reductions in domestic fuel emissions.

It is clear from the World Climate Convention at The Hague that the United States wants no limit on the amount of carbon credits it may buy rather than cutting emissions at the source of the problem. I again quote Jon Sohn at The Hague conference:

> While the United States has championed the cause of free markets, free trade rules and rampant globalisation, it is failing to match growth in the economy with sufficient safeguards to protect the world environment. The effect of this policy is the creation of damaging but powerful institutions like the World Trade Organisation and weak and ineffective international agreements to protect the environment.

Let me say something about tradable emissions schemes that is not found in the bill before the House. I have already mentioned that we have no idea where 40 per cent of our greenhouse gas emissions finish up. Everyone has taken the NIMBY position on this aspect of global warming, but I suspect that the emissions are lurking in the world's backyards, and time will bring us the bad news in due course.

Then there is the need to limit the amount of tradable emissions a company can buy. The Greens amendment is expressed in general terms, but limits might be set by regulation based on the Kyoto Protocol or, if that proves to be too difficult, a date needs to be set beyond which no credits can be obtained for additional

polluting. In other words, a factory must not pollute beyond a certain date or other benchmark without installing pollution control equipment. The easy option of purchasing tradable instruments should not be a licence to pollute as I said earlier.

Another aspect of tradable emissions that the bill eventually needs to address is the so-called "additionality clause" in the Kyoto Protocol. This clause stipulates that any trading in carbon is based on projects that would not have occurred if there was no such thing as carbon credits. Establishment of a carbon sink does not count unless it is additional to any that would otherwise occur. Plantations established as part of a normal timber operation, for example, are currently excluded under this additionality clause, and similar provisions need to be repeated in the regulatory framework of State law.

Tradable emissions also raise the fundamental question: when does the carbon taken up by a plantation forest actually become a credit? The clearing involved in planting a forest, including ripping the soil, releases carbon into the atmosphere, and this is a negative aspect to the emissions equation that is often forgotten. Yesterday I spoke at length with Dr John Turner, a Sydney-based forestry consultant, who informed me that 10 to 20 years might elapse before a carbon credit will begin to accrue in a large-scale plantation. In Australia we also have that extraordinary phenomenon called land clearing which brings an enormous amount of discredit on our governments and rural communities. In the last 12 months we have cleared between 400,000 and 500,000 hectares of native vegetation.

The Hon. R. H. Colless: You're wrong.

The Hon. P. J. BREEN: This is in Australia, and I obtained these figures from Dr John Turner just yesterday. In the same period, in the last 12 months, we planted only about 130,000 hectares of new plantation forests. Without wishing to belabour the point, there is no net gain to the environment when the area cleared is about four times the area planted as forests. In this context it is worth noting that the track record of tradable emission schemes in the United States provides a good example of what not to do in New South Wales. The New South Wales Parliamentary Library Research Service produced an excellent briefing paper on the issue entitled "The Use of Economic Instruments to Control Pollution". It states:

> The United States has been experimenting with tradeable permits since the early 1970s. Niland notes that, especially in regard to controlling air quality, the use of tradeable permits in the United States has led to cost savings of billions of dollars but has had negligible impact on environmental quality.

I asked Dr Turner about this apparent anomaly in the way that tradable emission schemes work in the United States. He said what Stewart Smith said in the parliamentary briefing paper, namely, that the most one can expect from tradable emission schemes is that they may achieve equivalent pollution control to a regulatory system but with considerable cost saving to polluters. Let us be clear, therefore, that this bill is no panacea so far as greenhouse gas emissions are concerned.

The same point was made in a Wilcox cartoon in the *Sydney Morning Herald* last week in which a journalist is interviewing the United States and Australian delegates to the World Climate Conference at The Hague. The journalist in the cartoon asks, "How do you intend to reduce your greenhouse gas emissions?" With one voice, the United States and Australian delegates reply, "We were sort of hoping there would be a pill." There is no pill and in particular this bill is no pill. Perhaps it could be described as a dose of economic rationalism.

The bill will not cure the epidemic we call global warming. I fear that history will treat our generation badly for the way we have failed to come to terms with environmental degradation since the industrial revolution. We have the technology at our disposal to virtually eliminate the destruction of forests and the burning of fossil fuels, but governments in most First World countries lack the political will to harness solar and wind power and build engines that burn the hydrogen in water. In the United States something like $11 billion is spent each year subsidising the fossil fuel industries. If that amount of money went into reducing greenhouse gas emissions and building up renewable energy sources it would result in an increase in jobs and in an economic boom. But while ever the vested interests of the oil and gas industries continue, First World countries will never take those initiatives. Make no mistake, we burn fossil fuels only because it suits the balance sheets of some of the world's largest corporations.

So that honourable members are not under any illusion about the minimal impact of this bill, might I conclude by saying that trees do not accumulate as much carbon as we may think. In Australia today about 1.2 million hectares are planted out to forest plantations, but the total amount of carbon accumulated by these

forests is still not sufficient to offset the carbon pumped into the atmosphere by the Loy Yang Power Station in Victoria, which runs on brown coal. In other words, one power station releases more carbon each year than the whole of the accumulated carbon taken up each year by Australia's plantation forests.

I am indebted to Dr John Turner for these statistics, and it might be worth noting his comments when I made available a copy of the bill. After reading the bill and the Greens amendments Dr Turner offered some constructive comments about capping emissions at current levels. He noted several things but perhaps the most important thing that he said was in relation to the role of the Environmental Protection Authority [EPA] under the bill. The explanatory note says that the EPA is given the power to develop and implement schemes involving economic measures as a means of achieving cost-effective environmental regulation. A closer reading of the bill, however, reveals a subtle change in the role of the EPA from policeman to banker. This is a retrograde and disturbing step. I suggest that the authority has a serious conflict under the bill that needs to be addressed. Future generations will not thank us for this bill. It promotes First World perspectives and values that suggest everything has a cost, even the environment. The most we can hope for is that future generations will say the bill did not add to the problem of global warming, and on that basis alone I commend it to the House with the Greens amendments.

The Hon. Dr B. P. V. PEZZUTTI [12.47 p.m.]: I support, as does the Opposition, the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill, with some amendments that will be moved. I understand that the Opposition will support the amendment to be moved by the Hon. R. S. L. Jones. Many pilot schemes around the world, especially the many that exist in the United States, are proving to be very useful environment protection devices, amongst others. The Coalition parties are very supportive of using economic tools such as the emission trading schemes [ETSs] as they have shown solid reductions in pollution over time. Emissions trading is increasingly being proposed as one means to improve the management of discharges into the environment. New South Wales is a forerunner with schemes such as the Hunter River Salinity Trading Scheme and the Nutrient Bubble Licence scheme, which I think were introduced under directions from the previous Fahey Government.

This bill provides the basic framework needed to set up emission trading schemes in New South Wales. The schemes use the market to protect the environment as cost-effectively as possible. No economy in the world prices its natural resources, and the impacts to them, properly. Such schemes moved in some way to finding markets to do this; to internalise the externalities, as the economists say. This is achieved by limiting total emission levels and allowing emitting activities or companies to trade shares of that total so that emission reductions can be undertaken in the most cost-effective way. Environmental goals can be set and achieved. There is considerable scope for achieving environmental goals with significant cost savings to the community by using market processes or financial incentives such as taxation, effluent charges and tradable permits. The advent of economic instruments used to control pollution has lifted dischargers free to respond to certain stimuli in a way they think most beneficial. A recent Organisation for Economic Co-operation and Development [OECD] survey revealed that 24 OECD member countries use economic tools for pollution control.

Examples in these countries show that economic tools offer considerable promise for improving the integration of environmental and economic policies. Economic tools provide strong incentives to producers and consumers about improvements to environmental resources and at less cost than the more traditional command and control instruments. They also promote the technological improvements necessary for improving environmental conditions into the future. By deploying new equipment and lowering costs, benefits can be achieved by dischargers and the community. Such incentives do not exist when command and control technology is used on their own. Thus, a system of incentives is created which encourages those who have the best knowledge about pollution control opportunities—the managers in the industries—to use that knowledge to achieve environmental objectives at minimum cost. In short, if emissions are made saleable they will be sold by those most able to put their resources into reducing emissions and bought by those who are not as good or as up to date at reducing emissions. The greatest productive value from these emissions is then obtained by society, together with an environmental objective.

I understand that the bill does not itself give effect to such schemes but enables the Environment Protection Authority [EPA] to set out detailed scheme rules in regulations. Thus, all future schemes will be subject to a regulatory impact assessment and public consultation before they can be made. As mentioned by Peta Seaton, the shadow Minister in the other place, there was not a lot of public consultation when the bill was introduced, consistent with complaints I have made about almost every bill on which I have spoken in this House this year. I look forward to the public consultation before any such scheme is put in place under the regulations. The bill will empower the EPA to impose tradable emission scheme rules and enforcement mechanisms where a participant breaches scheme rules so as to ensure that environmental goals are not compromised.

I give a little warning. The success of these schemes depends upon the initial and continuing responses of individuals and firms. Even individuals, industries or municipalities which participate readily at the beginning of a program may be discouraged by its lack of success and abandon their efforts. The instrument will depend upon the quality and quantity of information available to the public, and on the level of public education and environmental commitments. This all needs to be finessed and handled appropriately by the regulatory authorities. I wish the EPA all the very best in that regard.

I support the statements by my colleague Peta Seaton in the other place that this is a relatively heavy-handed and clumsy bill. It could be unaccountable and not transparent. However, the goal and the principles are worthy of enormous support. History has shown that such schemes need to be coupled with strong regulation. Also, such schemes will not work if the public is not brought fully into the process from the very beginning. Regulatory impact statements and other processes hopefully will cover this problem. Peta Seaton quite rightly made the point that consultation preceding this bill was poor. I shall not dwell on emission trading because that has been substantially covered by the last couple of speakers, though I must say, in the most negative fashion. It is better to trade and win than not to trade at all. The two schemes which are most widely available and have been trialled in New South Wales are the South Creek Nutrient Bubble Licence Scheme and the well-known Hunter River Salinity Trading Scheme.

A bubble is a small, self-contained trading scheme involving a number of sources within a restricted area. The South Creek bubble licence conditions cover the three Sydney Water Corporation's sewage treatment plants in the South Creek area of the Hawkesbury-Nepean River, Quakers Hill, Riverstone and St Marys. The licence commenced on 1 July 1996, with aggregate annual load targets set until 2004 for both phosphorus and nitrogen. The South Creek catchment covers 620 square kilometres in the west of Sydney, comprising 30 per cent of the Sydney region. The bubble licence conditions mandate significant reductions in nutrient discharges to South Creek, with 83 per cent reduction in phosphorus and 50 per cent reduction in total nitrogen by 2004.

Early monitoring data is yet to demonstrate a clear trend in the environmental response to discharge reductions achieved so far, however, this is to be expected at this stage of the scheme. The bubble licence has succeeded in providing a long-term planning perspective for Sydney Water Corporation, which has encouraged the optimisation of operations and provides certainty on performance outcomes required over the eight-year period. The Hunter River Salinity Trading Scheme is important because the House has just debated the Water Management Bill. Located in the river's catchment are more than 20 of the world's largest coalmines and two coal-fired power electricity generating plants. Both of these activities generate large quantities of clean but saline water that often cannot be managed on site. Traditional licensing arrangements requiring industries to minimise discharges were failing to protect river water quality. This has seriously impacted on the large number of primary producers who rely on the river for irrigation supply. It was almost impossible for new mines to be established, at great potential economic cost to the region. A salinity trading scheme was piloted in 1995 in an effort to combat these high salinity levels.

The basis of the scheme is the classification of river flows into "low", "high" and "flood". Discharge is not permitted into low flows and is not restricted during floods. During the intermediate high flows discharge is permitted via a system of tradable credits. A real-time credit trading facility accessed via the web and a program of auctioning of the discharge credits began in August 2000. The scheme has proved tremendously successful. The 900EC water quality objectives have been achieved and the average salinity levels have fallen by 20 per cent since the scheme began in 1995. During the period several large new mines have been granted discharge licences, with considerable economic and employment benefits. The EPA is now moving to formalise the four-year pilot into a permanent legislative framework. Although we may not overcome all of the problems in the world, at least these are practical solutions to difficult problems.

The Hon. P. J. Breen: Local problems.

The Hon. Dr B. P. V. PEZZUTTI: They are very large local problems covering one-third of Sydney and including the Hunter Valley and irrigation around the Hunter River. These are worthy of strong support. Improvements can be made to the bill and that will be done at the Committee stage.

The Hon. A. G. CORBETT [12.56 p.m.]: I support the bill, however, I stress the need to move ahead with caution as this is a new mechanism for achieving environmental pollution reduction that has had limited testing in New South Wales and Australia. Tradable emission schemes must be developed with safeguards and full public understanding, having regard to the environmental protection objectives of the Protection of the Environment Operations Act. As the world economy continues to grow, pressures on the environment are also rapidly increasing. There is now overwhelming scientific consensus that global warming is real and that if urgent action is not taken, temperatures on the planet could rise more quickly than predicted.

One of my concerns about emission trading schemes is that offsetting pollutants through the sink approach, without adhering to caps or targets on pollution levels, could set a dangerous precedent for the way trading schemes develop regionally and locally in the future. Unless we have pollution reduction targets, strive to meet them and continue to push down in the direction of zero pollution emissions, we might as well be shifting deck chairs around on the *Titanic*. Market mechanisms to reduce pollution have developed because it is considered by some that the command and control approach to pollution control stifles innovations in technology because it tends to force all industry to adopt uniform standards and methods of pollution control regardless of cost or effectiveness. It eliminates incentives for continued research and development, and industry is discouraged from trying new technologies or alternative production methods.

Tradable emission schemes are based on an assumption of thresholds below which some types of pollution are acceptable. If those acceptable levels can be agreed upon, industries can be given permits to emit their fair share of pollution. Any company below its limit can sell or lease the excess amount to another company. In theory, this allows pollution goals to be met in a most cost-effective way. If the schemes are to be successful in reducing pollution levels, they must drive industry towards zero pollution end points, pollution prevention, cleaner production techniques and reducing pollution at its source, which are the objectives of the Protection of the Environment Operations Act. These objectives must also be given effect in this Act and I urge the Government to support amendments to this effect. Caps on pollution levels need to be set that have to be regularly clawed back, otherwise overall pollution levels will not decrease. If pollution credits are limited and decreasing, they become more expensive.

The theory is that industries are then forced to either pay more or find innovative ways to reduce pollution so they can save money. A government or trading agency generally issues only a limited number of permits consistent with the desired level of emissions. The owners of the permits keep them and release the pollutants, or reduce their emissions and sell the permits. The fact that the permits have value as an item to be sold or traded gives the owner an incentive to reduce emissions. Emission trading schemes have been used in the United States of America for the Acid Rain Program, California's Regional Clean Air Incentives Markets [RECLAIM] Program, the Emissions Credit Trading Program and the EPA Lead Phasedown Program, and in the Kyoto Protocol for Greenhouse Gases. A number of honourable members have referred to the Hunter River Salinity Trading Scheme in New South Wales.

There is a philosophical divide about introducing a market-based system for pollution reduction, because it could be argued that it favours those who can afford to pollute while leaving the poor to suffer the consequences. They may also favour those already in business and stifle innovative competitors who enter the market at a later stage. While schemes may reduce pollution on a regional or even global scale, local communities could still be left to battle the big polluters locally. The following generalised example illustrates this point. The marketing of sulphur dioxide permits in the United States of America began as a means for power plants to reduce acid precipitation. The goal is to reduce sulphur emissions by 10 million tonnes per year.

Suppose a new plant can remove considerably more sulphur than it is required to remove by law, at a cost of only $100 per tonne. An older plant might have to spend $200 per tonne to meet air pollution standards. Owners of the older plant may offer to pay $150 per tonne for an allowance from the newer plant. The overall goal of reducing sulphur emissions will be met by this process, but the local community near the older power plant still has to deal with high levels of pollution that may be significantly impacting on their health and local environment. Another concerning aspect about emissions trading is that establishing a scheme in one area may force polluting industries into other areas where there are less stringent environment protection measures which would effectively move the pollution problem elsewhere.

It is of no use if Australia has stringent limits on air toxics and industry is forced to move offshore and create the same pollution elsewhere, which affects the whole planet regardless of where it is generated. There are some deficiencies in the bill before us which undermine confidence in the proposed schemes. If the community and industry are to support it and have confidence in market-based schemes to achieve pollution reduction, the schemes must be fully accountable and transparent, and deliver on their objective which is effectively reduce pollution emissions. Amendments to be moved by the Hon. I. Cohen and Ms Lee Rhiannon will ensure greater accountability and transparency through statutory public notification and consultation provisions where there is a change, suspension or termination of the scheme. A full regulatory impact statement and public consultation process must be prepared for any new schemes.

[*The Deputy-President (The Hon. Helen Sham-Ho) left the chair at 1.04 p.m. The House resumed at 2.00 p.m.*]

The Hon. Dr A. CHESTERFIELD-EVANS [2.00 p.m.]: I support the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill, which will amend the Protection of the Environment Operations Act 1997 and establish a slightly more comprehensive framework to facilitate the operation of tradable emission schemes within New South Wales. Basically, the bill will formally establish the operation of the Hunter River Salinity Trading Scheme by regulation under the Protection of the Environment Operations Act. The Hunter River Salinity Trading Scheme started as a pilot project in 1995. The scheme was established to control and mitigate the environmental impact of saline discharges into the Hunter River from coalmines and electricity generating power stations. It has had some success. Honourable members who have spoken about carbon trading are missing some of the point of the bill in that it deals with a model of trading in emissions, not only carbon emissions. Carbon emissions have received a lot of publicity following the greenhouse summit. [*Quorum formed.*]

The concept of trading in emissions is a way of limiting and controlling emissions to some extent and then getting some money for that. Emissions trading has been used in America, where it is assumed that a certain amount of pollution may be released into an ecosystem or area, and there is trading among different polluters for the pollution right, if that is the correct word. Of course, that disadvantages those who have to pay for the right as opposed to those who get cleaner technology. However, there is an incentive for a cleaner technology, although if the cleaner technology is more expensive than paying for pollution that tends to prolong the pollution. The European suggestion has been that the right of industry to pollute should be on a moving level. As technology to reduce pollutants is devised, the level of tolerable pollution should drop after a period, say five years, to encourage everyone to move towards best practice and thus improve the environment.

I have heard comments that this is more noted in the breach than in the observance, and I acknowledge that the idea of trading is not without its problems at a conceptual level. The Minister said in his second reading speech that the Hunter River plan has lessened the amount of salinity. During debate on the Water Management Bill there was no mention of putting water back into the system if it did not have an increased level of salinity. Obviously, the more saline the water that is put on land the more chance there is that that land will have salt deposited on it. If that occurs indefinitely the saline level has to be lowered. Having to pay for the amount of salt one put in would be an incentive to take out the salt. That would then improve the sustainability of the system in the long term. Of course, a trading system with an ongoing tariff seems to be a good idea. I understand that the bill will facilitate that type of project, not merely a greenhouse-type of system.

Proposed part 9.3A of the bill will confer powers on the Environment Protection Authority [EPA] to facilitate future development and regulation of emission trading schemes. As to the definition of "tradable emissions", Mr Stewart, the Parliamentary Secretary Assisting the Minister for Education and Training, in his speech on behalf of the Minister for the Environment summed it up as "schemes that harness the market in order to protect the environment as cost effectively as possible". It is a market-based theory achieved by limiting total emission levels and allowing emitting activities or companies to trade shares so that total emission reductions can be undertaken in the most cost-effective way. The problem is that it assumes a certain level of pollution but does not reduce that pollution per se. Mr Stewart also stated in the second reading speech:

> For example, if BHP needed to release inerts into the atmosphere it could obtain tradeable credits.

I do not know what that means. "Inert" is an adjective relating to gases that do not take part in reactions. Inert gases are those that do not react at all, such as neon, argon and xenon. Therefore, if BHP released inert gases into the atmosphere, it would not need tradable credits. I presume that "inerts" means non-reacting pollutants. If they do not react, why would BHP need credits? It is a sloppy use of language. I wonder whether the honourable member who delivered the speech understood it. If it is some type of industry jargon, what does it mean? It probably means that a company that releases pollutants into the atmosphere can obtain tradable credits. But pollutants are not inerts. I would be interested to know what the Parliamentary Secretary meant. The meaning of second reading speeches should be absolutely clear. The wording of the example I have given is nonsense. Obviously, the sentence refers to the right of a company to release pollutants into the atmosphere having obtained tradable credits. Again, that creates problems.

I could say a great deal about the issue of greenhouse gases, but I will not speak about it at length. I note that a number of previous speakers have referred to greenhouse gases. Tradable emissions should be viewed within the broad context of potential greenhouse reduction programs. It is a matter of concern that we talk about emission trading in the greenhouse debate, but not about cutting down forests. We talk about trees as renewable energy when we chop them down and burn them. We want to claim greenhouse credits for planting a tiny seedling, having just chopped down a tree. It is absurd that one can sacrifice a tree in a combustible fuel generation and get a credit for planting a tiny tree. We should look at the amount of non-renewable fossil fuels.

Even replanting forests to their previous levels will not fix the situation. Underground fossil fuel comes from cumulative carbon that has been stored for thousands of years. The amount oxygen stored in trees is only available for a certain time and will eventually reach a saturation level when the number of trees dying equals the number of trees that are growing. I suspect the tradable emissions system is a con, but I would not attempt to quantify it.

I refer honourable members to the Senate Environment, Communications, Information Technology and Arts Reference Committee document entitled "The Heat Is on: Australia's Greenhouse Future", released this month by the Federal Government. In the interest of brevity of debate I will not refer to the large number of recommendations, although I will refer to the two approaches to the tradable emission schemes. First, there is the cap and trade approach, which places caps on the volume of emissions allowed and limits the number of available permits to that cap. With this approach, whoever possesses permits and however they are traded, no volume of permits greater than the targets agreed will exist. It is intended to cap emissions at a certain level and parties with permits will not be allowed to exceed their allocated volumes of emissions. These can be traded in the marketplace among participants.

The other type of scheme is the baseline and credit trading system. In this approach each participant is assigned an emissions baseline which represents a schedule of allowable emissions over a designated period. When an entity's emissions fall below that baseline the unused credits can be traded, and if they are exceeded credits must be purchased on the marketplace. The Senate committee noted that the Australian Greenhouse Office was concerned about this approach because it limited the supply of available permits and cramped the market. Permits would only be created when emissions had fallen below the baseline. The baseline and credit approach also reduces policy flexibility in ameliorating the impacts on some sectors because permit revenues would not be available to government. Further, this approach is not compatible with an international emissions trading scheme. Obviously, the Australian Democrats prefer the cap and trade approach.

The concept of having tradable emissions that are identified and a price paid for that trade at least draws attention to pollution problems, such as saline being released into the environment, and gives hope that the market will begin to address these problems. We recognise that caveats are involved, and we do not want to lock ourselves into high pollution levels as a right. That is always a danger with these types of schemes. Certainly, within the limits suggested, this bill is a good start.

The Hon. R. H. COLLESS [2.16 p.m.]: I do not intend to speak at length to the Protection of the Environment Operations Amendment (Tradeable Emission Schemes) Bill. However, I want to raise an important issue. The bill will give the Environment Protection Authority [EPA] the power to develop and implement schemes involving economic measures as a means of achieving cost-effective environmental regulation or environment protection, such as tradable emission schemes. I am disappointed that the overview of the bill states, "cost-effective environmental regulation or environment protection". I would prefer that it were along the lines of giving the EPA the power to develop and implement schemes involving economic measures as a means of achieving cost-effective environmental protection, rather than regulation.

I am disappointed that this is a regulatory focused bill, rather than an incentive-based bill. This Government is strongly focused on regulation, as we have seen in a great deal of recent legislation, such as the Native Vegetation Conservation Act. More emphasis should be placed on incentives in environmental management. Farmers who live and work in New South Wales collectively control and manage the largest piece of land in this State. They have the greatest effect on what happens in the environment. This Government has attempted to control environmental management through regulation. It does not realise that regulatory measures cause antagonism in farmers and they react against them. They do not like being regulated. On the other hand, if farmers were provided with an incentive, particularly a financial incentive, they would do their best to meet the requirements, for very good reasons. In this regard, as has been mentioned several times in this debate today, trading in carbon credits has the potential to provide farmers with such an incentive. The Hon. P. J. Breen spoke eloquently and at length about the carbon cycle and how it works. I am sure that honourable members found his speech very interesting.

I want to talk about carbon credits not in the way we normally think about them, which is in relation to planting trees, but by actually storing it in the soil as soil organic matter. The soils of New South Wales traditionally contain somewhere between 1 per cent and 20 per cent organic matter, with higher levels in coastal and high rainfall areas. The soil organic matter is 60 per cent carbon. It is possible to increase the soil organic matter levels in the soil by changing land management practices. If we can increase the soil organic matter level by just 1 per cent, which is certainly achievable, we will store an extra 12 tonnes per hectare of carbon in the

soil. A farmer on the Liverpool Plains has increased his soil organic matter levels by 3 per cent. It is possible to increase the soil organic matter levels by up to 5 per cent. In a farming situation, if the soil organic level matter is 2 per cent, it is certainly feasible to increase the level to around 6 per cent or 7 per cent. That would store an extra 40 to 60 tonnes per hectare of carbon in the soil.

The farmer on the Liverpool Plains to whom I referred increased his levels by 3 per cent over a 20-year period, and continued to farm the property for the whole time. This farmer is a farmer in the true sense of the word; he is not a grazier. He does not own any stock. He farms all of his country every year. He has been growing cotton, maize, wheat and all sorts of cash crops on an irrigated basis, and he has been able to increase his soil organic matter by 3 per cent. That has put an extra 36 tonnes per hectare of carbon into the soil over his whole property. I note that the value of carbon credits is somewhat unresolved at present, but if we put a value of $20 per tonne on carbon, this farmer has generated an extra $720 per hectare over a 20-year period, and that basically is what it has cost him to change his land management practices to achieve that result.

There are some terrific environmental benefits to be gained from increasing the soil organic matter level. If you increase the soil organic matter level, you increase the soil structure, thus making the soil more resistant to erosion. It will also increase the rooting depth of plants, which means more efficient water usage, which, in turn, leads to better drought assistance, less flooding and more productivity for the farmer. It also helps to reduce salinity problems. Many of the environmental problems that people like the Hon. I. Cohen grapple with every day require a more pragmatic approach. We should consider carbon credits as an incentive mechanism rather than a regulatory mechanism to get farmers to adopt better land management practices.

The Hon. J. H. JOBLING [2.23 p.m.]: I will speak briefly to the bill. My colleague has eloquently put the view of the Opposition. The bill, which we do not oppose, creates an excellent framework within New South Wales to trade in emissions, whether they be salinity, NOx or any of the other polluting gases. Emissions may be traded by polluters with the aim of limiting the overall emissions, which at this stage are not disclosed. The bill will allow schemes to be developed by the Environmental Protection Authority [EPA]. Certainly, it will allow the EPA to recover the costs from participants; it will impose unappealable licence conditions on tradable schemes, which is highly desirable; it will give greater investment powers, a matter with which we concur; and it will subject the proposed trading schemes to a regulatory reassessment and to public consultation.

The bill will formalise the Hunter River Salinity Trading Scheme, which was instituted in about 1995. Because of the saline discharges from the power generators and some irrigators, particularly in my area, the emissions have been limited and managed. In fact, the salinity levels in the Hunter have dropped since 1995 to somewhere around half of what they were. As a result we have maintained jobs and industry, which are important. I am concerned that the EPA will have power to terminate a scheme at any time, even though it has taken administration fees and sold the credits in tradable parcels. Some of the credits could have been sold at million-dollar levels. If the EPA decides to cancel a scheme, does it retain the money it has gained through the sale of these credits? Further, what happens to any active credits that remain at the time of calculation? The Opposition does not oppose the bill.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.25 p.m.], in reply: The bill builds on existing provisions in the Protection of the Environment Operations Act 1997 dealing with economic measures, such as tradable emission schemes, that have been formed by the experience we have gained with tradable emission schemes since the Act was passed. The bill will allow for enhanced government regulation of polluting industries through schemes that allow the trading of rights to emit pollutants, thus enabling the industry to achieve environmental goals as cost effectively as possible. The bill does not set out the detail of any particular scheme. Instead, it builds on the regulation-making powers already included in the Protection of the Environment Operations Act. Details of proposed tradable emission schemes will be set out in regulations made under the Protection of the Environment Operations Act. Proposed schemes will be subject to detailed regulatory impact assessment and consultation with stakeholders before they can be made, as well as the scrutiny of the Regulation Review Committee.

The bill allows for the rules of tradable emission schemes to be set out in regulations as unappealable licence conditions. It also provides for enforcement action to be taken against those who breach scheme rules. These provisions are necessary to ensure that scheme rules apply uniformly to all participants, which means that poor performers are not able to flout scheme rules and undermine those who do the right thing by the environment. The bill will also exempt regulations that set up tradable emission schemes from staged repeal under the Subordinate Legislation Act. Instead, it makes provision for ministerial review of such schemes as set out in the particular regulation. This approach has been adopted because applying the usual staged repeal

provisions would undermine the goal of providing industry with enough certainty to enable it to invest in environmental protection in the mid to long term. It mirrors the approach taken in the Fisheries Management Act 1994, which exempts from staged repeal those regulations that set up share fishery management plans.

The amendments in the bill allow for regulations to require participants in tradable emission schemes to contribute towards the cost of administering the scheme. The fees for administering these contributions are to be deposited in a special deposit account. The level of any contribution to be paid by the scheme participants will be subject to regulatory impact assessment and consultation in the case of developing a regulation to give effect to a trading scheme. The bill will exempt from the Duties Act emission permits or credits to facilitate the efficient operation of trading schemes. The collection of duties on trades would likely hamper trading activity and increase transaction costs in return for minimal revenue. The bill provides for further protection to the Crown against a claim for compensation against any other liability that may arise in respect of trading schemes. This builds on provisions already included in the Protection of the Environment Operations Act, and fills the gap in the Act as it currently stands.

The bill also provides for committees to be set up to advise on and participate in the administration of trading schemes, and protect committee members from personal liability in respect of actions taken in good faith under the Act or regulation. A number of honourable members have raised certain aspects of the bill, which I will deal with briefly at this point, noting that some amendments will be moved in Committee. In response to the question of the Hon. J. H. Jobling about the termination of schemes, I advise that the bill provides for the alteration or termination of schemes. This is a responsible approach which allows for changes to address new environmental knowledge or situations. A question was asked also about compensation for credit holders in such cases.

The Government will only terminate a scheme when there is a clear environmental need to do so. The position occupied by industry in such a situation is the same as the position it would occupy if traditional regulation applied. In either case, the Government of course will deal fairly with all scheme participants. The details in any particular case would be set out in regulations. Some honourable members have made many comments that emissions trading could assist in allowing emissions to increase. This bill has been introduced by the Government to improve the environment. For example, since 1995 the Hunter Salinity Trading Scheme has halved river salinity. River water now has less salt than bottled mineral water. Industrial discharge is capped so that the river is much fresher than it was some time prior to the scheme. The Government wants to apply this success to other environmental problems in New South Wales.

I shall respond to the comments of the Hon. J. F. Ryan in the following way. The bill is all about helping industry to achieve environmental goals at lower cost than would otherwise be possible. The savings that have resulted from the implementation of trading schemes both here and overseas have been sizeable. For example, it has been estimated that the cost of compliance under the acid rain program in the United States of America is about two-thirds less than the cost that would have been incurred in the absence of trading. By 2005 it is thought the savings will be of the order of $US530 million, which is a substantial amount of money. Similarly, in the Hunter Valley the economic cost of not being able to accommodate further development in the region would run to hundreds of millions of dollars. Recognising this benefit to industry, the bill provides for participants to help meet the cost of scheme administration via a new tradable emission scheme fund, which will be established in the special deposit account administered by Treasury.

The administration of special deposit accounts is governed by the provisions of the Public Finance and Audit Act 1983—this matter was debated ad nauseam yesterday—and the Public Authorities (Financial Arrangements) Act 1987. These statutes establish clear accounting rules and place limits on the purposes for which public money may be invested and expended. The tradable emission schemes bill stipulates that money in the fund can be used only for the purposes authorised in the bill, such as the cost of administering a tradable emission scheme. I thank honourable members who spoke in the debate for their intelligent contributions. The Government will support some of the amendments that will be moved in Committee. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

Ms LEE RHIANNON [2.33 p.m.], by leave: I move Greens amendments Nos 1, 2 and 6, in globo:

No. 1 Page 3, schedule 1 [3], lines 12-14. Omit all words on those lines. Insert instead:

Omit the subsections.

No. 2 Page 3, schedule 1. Insert after line 14:

[4] Section 293A

Insert after section 293:

293A Alteration, suspension or termination of a scheme

(1) The EPA may alter, suspend or terminate a scheme referred to in section 293 or any part of such a scheme.

(2) Before taking any such action, the EPA must:

(a) cause notice of its intention to do so to be published in the Gazette and in a newspaper circulating throughout the State or in the locality in which the scheme operates, and

(b) in that notice, invite the public to make submissions on the proposed alteration, suspension or termination, and

(c) allow a period of not less than 21 days for the receipt of those submissions.

(3) The EPA must take into account any submission received within that period in deciding whether to proceed with the alteration, suspension or termination.

(4) The EPA may alter the scheme or part of the scheme without complying with subsections (2) and (3) if it considers that:

(a) the alteration is not significant, or

(b) the alteration is necessary because of an emergency.

(5) The EPA may suspend the scheme or part of the scheme without complying with subsections (2) and (3) if it considers that:

(a) the suspension is required urgently in order to protect the environment, public health, property, or the integrity of the scheme, or

(b) the suspension is necessary because of an emergency.

(6) The EPA may terminate the scheme or part of the scheme without complying with subsections (2) and (3) if it considers that the termination is necessary because of an emergency.

No. 6 Page 5, schedule 1 [6], lines 30 and 31. Omit all words on those lines. Insert instead:

(3) A tradeable emission scheme regulation may be periodically reviewed by the Minister, in accordance with a timetable set out in the regulation. Any such review must include a review of the operation of the elements of the scheme referred to in section 295B (2).

(4) The Minister is to ensure that the public is given an opportunity to make submissions with respect to the review, and that any submissions with respect to the review that are received within the period allowed for the receipt of submissions are appropriately considered.

(5) In order to give the public an opportunity to make submissions with respect to the review, the Minister must:

(a) cause notice of the review to be published in the Gazette and in a newspaper circulating throughout the State or in the locality in which the scheme operates, and

(b) in that notice, invite the public to make submissions with respect to the review, and

(c) allow a period of not less than 21 days for the receipt of those submissions.

The Greens will move several amendments to the bill as outlined in the second reading debate. We have definite philosophical problems with the thrust of this legislation. However, as we always attempt to do, we have worked to try to improve the bill. We propose these amendments for the purpose particularly to increase public understanding of, participation in and input into the process. The Government is supportive of these endeavours. We have been working with the Minister's advisers and with representatives of the Environment Protection Authority [EPA], all of whom have been constructive and helpful in bringing forward these measures. Basically, our amendments are about strengthening public input. Amendments Nos 1 and 2 introduce requirements for public notification and consultation when the EPA alters, suspends or terminates an emissions trading scheme.

Consultations can still be waived, but only in an emergency or if suspension is required in order to urgently protect the environment, public health, property or the integrity of a scheme. Amendment No. 6 provides that the public notification and consultation requirements must be followed under a periodic ministerial review. We consider these amendments most important to ensure public input is real and not just another piece of rhetoric. We have proposed the amendments to ensure that trading emission schemes are transparent and accountable. The amendments do not affect the substance of the schemes; as I have emphasised, they are purely about public input. The amendments are basic measures and we are pleased to receive the support of the Government.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.36 p.m.]: The Government is pleased to support these amendments. The Environment Protection Authority [EPA] has an excellent record of undertaking thorough consultation before implementing new regulatory approaches. The Hunter River Salinity Trading Scheme is a good example. Despite the fact that consultation on the pilot scheme was not mandatory, the EPA and the Department of Land and Water Conservation undertook a major consultation process over the course of two years prior to implementing the scheme. The Government recognises that tradable emission schemes and other such schemes represent a new approach to achieving environmental objectives. Consultation is an important means to help raise awareness and understanding of such schemes. Public input facilitates efficient and effective scheme design.

As required by the Subordinate Legislation Act, the EPA will continue to undertake regulatory impact assessment and public consultation before making a regulation to implement the path of the new tradable emission scheme. Amendments Nos 1 and 2 will enhance formal opportunities for public consultation with respect to the alteration, suspension or termination of schemes involving economic measures. The Government still will be able to take immediate action when this is unnecessary, for example, in the event of an emergency or to protect the environment, public health, property or the integrity of the scheme. Amendment No. 6 will further enhance opportunities for public consultation regarding the operation of tradable emission schemes. As I have said, public input to ministerial reviews of such schemes will help ensure that they work effectively and are responsive to the views of stakeholders and the broader community. Accordingly, the Government supports these amendments and commends the Hon. I. Cohen for his initiative.

The Hon. J. H. JOBLING [2.38 p.m.]: The Opposition has considered Greens amendments Nos 1, 2 and 6, which were moved by Ms Lee Rhiannon. We have considered the effect of public consultation on the Environment Protection Authority. These amendments are totally reasonable and will assist in the event of trade emissions. We will support the amendments.

Amendments agreed to.

Ms LEE RHIANNON [2.40 p.m.]: I move Greens amendment No. 3:

No. 3 Page 4, schedule 1. Insert after line 3:

[5] Section 294A

Insert after section 294:

294A Exercise of functions by Minister and EPA
In exercising their functions under this Part and Part 9.3A, the Minister and the EPA are to give effect to the objects of this Act, particularly section 3 (d).

I understand that the Government will not support the amendment, which is indeed a tragedy. One wonders how a serious piece of legislation can be achieved without the amendment. It simply and directly requires the Minister and the Environment Protection Authority [EPA] to give effect to the objects of the Protection of the Environment Operations Act. How simple and basic. Without the amendment the overall thrust of the bill could be undermined. The amendment would safeguard the emission trading schemes so that they operate to improve the environment and reduce pollution. It would lock it into place. The object reads:

> to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development.

The amendment would provide a guarantee that emission trading will operate to improve the environment of New South Wales. As we know so well in this State, and indeed in many countries, it cannot be assumed that that will happen. The amendment gives clear direction to the Minister and the EPA—direction which is lacking in the bill as it stands. I remind honourable members of what occurred at The Hague in the past week or so. One of the most important pieces of information that many speakers referred to was that the World Health

Organization regards climate change as the most serious problem confronting human civilisation, the most serious problem that we have ever faced. That is why there is such great urgency about global warming. It certainly deserves legislation and the legislation needs to be as tight as possible. The amendment will provide that.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.42 p.m.]: The Government opposes the amendment moved by Ms Lee Rhiannon. It would require that every action of the Minister and the EPA in relation to economic measures should achieve the specific objectives listed in the Act. A similar amendment was proposed and defeated when the Chamber considered the Protection of the Environment Operations Bill in 1997. As my colleague said at that time, the objects of any Act are precisely that, objects, and it is not appropriate to use them to impose unworkable requirements on the Minister or the EPA in carrying out their functions. The proposed amendment would mean, for example, that every time the EPA collected a contribution towards the cost of administering a tradable emission scheme it would have to give effect to all the objects of the Act. This is clearly unworkable.

The proposed amendment would mean that the Minister and the EPA could not take other objectives into account, such as compliance costs for industry or socioeconomic impacts on the broader community. Clearly, and as required by the Subordinate Legislation Act, the Government needs to balance a wide range of policy objectives in its decision making. The Protection of the Environment Operations Act currently allows this balancing to happen and there is no reason why special requirements should apply to economic measures. The development and implementation of economic measures is already subject to the objects of the Act. Moreover, the Protection of the Environment Administration Act 1991 already requires the EPA to have regard to the need to maintain ecologically sustainable development in carrying out its functions. The amendment moved by Ms Lee Rhiannon is therefore unnecessary and would only prevent the Minister and the EPA from taking efficient action to develop and implement schemes to achieve cost-effective environmental protection. Consequently, the Government opposes the amendment.

The Hon. J. F. RYAN [2.44 p.m.]: The Opposition has been considering the amendment over the last few days and has listened to what the Government has had to say about it. Our initial response is to wonder what is so terrible about asking the Minister to give effect to the objects of the Protection of the Environment Administration Act. We understand that the Government was prepared to accept a different version of the amendment in which the words "give effect to" were replaced by "have regard to", which perhaps is not quite as strong a statement. The Opposition is prepared to move an amendment to the amendment to have that impact. In the various conversations we had with the Government, whilst the Government was not excited about this proposition, it was intimated that it was a version of the amendment that the Government could live with.

The Hon. J. H. JOBLING [2.45 p.m.]: My colleague has eloquently set out the view of the Opposition in relation to the amendment. I move:

That the amendment be amended by omitting the words "give effect to" and inserting instead "have regard to".

I believe that this form of words is acceptable and will make the amendment work more satisfactorily. It will give the Government and the EPA the necessary flexibility.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.46 p.m.]: The Government is happy to support the amendment to the amendment that has been moved by the Hon. J. H. Jobling.

Ms LEE RHIANNON [2.46 p.m.]: The Greens thank the Coalition for its assistance in bringing forward a solution to the problem. I would be interested to hear from the Parliamentary Secretary his attitude to the moving of amendments. He seems to be able to cope with them only when they are moved by men.

The Hon. J. F. Ryan: You just got three amendments up before this one.

Ms LEE RHIANNON: I know. That is extremely good. But it has to be said that they were attributed to a man and not the woman speaking to the bill. It is a curious situation.

Amendment of amendment agreed to.

Amendment as amended agreed to.

Ms LEE RHIANNON [2.48 p.m.], by leave: I move Greens amendments Nos 4 and 5 in globo:

No. 4 Page 5, schedule 1 [6], lines 6 and 7. Omit all words on those lines.

No. 5 Page 5, schedule 1 [6], lines 22 and 23. Omit all words on those lines. Insert instead:

(2) A tradeable emission scheme must include:

(a) a limit on total emissions of the pollutant or pollutants to which the scheme applies, or

(b) a scheme to offset pollution, or

(c) a program for the surrender of tradeable emission permits or credits over time, or

(d) a combination of any or all of the elements referred to in paragraphs (a)-(c).

(3) A tradeable emission scheme may include elements other than those mentioned in this section.

I understand that the Government also supports these amendments. It will be interesting to see what happens. The key matters involved are caps and offsets. They are urgently needed. I am pleased that these measures have been recognised and that they will be put into place. The amendments further define what a tradable emission scheme must include. Under amendment No. 5 a tradable emission scheme must include a total cap on pollution emitted or an offset scheme for a program for the surrender of permits or credits over time—or any combination of these options. In this way we can remove some of the discretion the bill gives the EPA and ensure that the schemes operate as well as possible.

The objective of the amendments is to again structure the provision of emission trading schemes to ensure the best possible outcomes. A limit on total emissions within a scheme would obviously stabilise the level of pollution being emitted, and it could provide for a reduction over time if the limit were to decrease. These offset schemes are essential. They are designed to tackle diffuse source pollution that cannot readily be decreased or regulated in other ways. Programs for the surrender of permits or credits over time are intended to provide for an initial transition phase between credits being issued to existing polluters and a full market system in which credits are bought and sold. These amendments have been developed in consultation with the EPA and others who are extremely familiar with the schemes. They are intended not to be limiting or prescriptive but to structure and to define emission trading schemes so as to guarantee environmentally positive outcomes.

The Hon. J. H. JOBLING [2.50 p.m.]: The Opposition does not oppose Greens amendments Nos 4 and 5. However, I would like to ask a question about new subsection 2 (c), as proposed by Greens amendment No. 5, which provides a program for the surrender of tradable emission permits or credits over time. I ask the Parliamentary Secretary to advise me on this matter because it would appear to be desirable that the definition from the Minister dealing with the quantum of credit reduction or the reduction of pollution allowed under each credit should be determined at the review stage rather than in a predetermined scheme, which is slightly more inflexible. I would be interested to hear the Government's view in that regard.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.51 p.m.]: This provision is needed to ensure regular opportunities for new industries or companies to obtain tradable credits. If credits were granted or sold in perpetuity, access to credits could be restricted to the detriment of the State and industry generally. Each scheme regulation would set out the details regarding the duration and surrender of credits. These details would be determined in the regulations only after full consultation with all stakeholders. In relation to Greens amendments Nos 4 and 5, trading emission schemes are designed to achieve cost-effective environmental protection. Such schemes can take a number of forms.

For example, a scheme can involve limiting or capping total emissions and allocating tradable emission rights up to but not exceeding that limit. This is the approach taken in the Hunter River Salinity Trading Scheme. Alternatively, a scheme may use offsets, thereby allowing an industrial facility, for example, to offset its own emissions by undertaking more cost-effective pollution reductions elsewhere. The result is that emission reductions are achieved at the least cost to the community. This approach has been used successfully in the United States of America, and the New South Wales Environment Protection Authority is currently exploring the use of offsets to address the pressing problem of nutrient pollution in the Hawkesbury-Nepean.

The Greens amendments, inspired obviously by the Hon. I. Cohen, make provision for schemes to include either emission limits or offsets. They also allow for the surrender of emission permits or credits over time. Such a mechanism can be used to gradually reduce emission limits in order to improve air or water quality.

A surrender mechanism can also be used as a way of making credits available to those who need them; for example, new development without compromising the environmental goals underlying the scheme. In this way schemes can integrate economic growth and environmental protection. The detail of how such schemes would be incorporated in the tradable emission scheme will, of course, be considered in detail in the course of developing each proposed scheme. Accordingly, the Government agrees to the amendments.

Amendments agreed to.

The Hon. R. S. L. JONES [2.53 p.m.]: I move my amendment:

Page 5, schedule 1 [6]. Insert after line 12:

(f) provision for the holding of tradeable emission permits or credits by members of the public.

This amendment is to make it quite specific and clear that any person, member of the public, organisation, school and so on will be able to participate in emissions trading schemes as laid out and defined in the regulations. Not every scheme will be suitable for trading. It has worked in the United States of America, where individuals, green groups and schools have acquired credits and then tucked them away so that the environment has been slightly cleaner. It was the intention of the Government to allow this to happen anyway, but I wanted to make absolutely sure that it was in the legislation and I understand that the Government is happy to accept the amendment.

The Hon. J. F. RYAN [2.54 p.m.]: What a brilliant idea proposed by the Hon. R. S. L. Jones! Of course the public should be able to own these credits and, if necessary, retire them or do whatever they wish. As I understand it, in the United States of America schools or community groups sometimes club together and buy a credit as a means of trying to improve the environment. In a democratic society there is no reason for objection to this. I suspect that the Hon. R. S. L. Jones is right and that the Government intended to include this measure. Certainly, if the Opposition had introduced a bill of this nature it would have included such a provision. The Opposition is very happy to support the amendment.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [2.55 p.m.]: Once again I congratulate the Hon. R. S. L. Jones on demonstrating why he is one of the great, effective Independent members of this Parliament. He works well with people all that time and he is to be congratulated on this amendment. It is a brilliant idea that probably makes some of the speeches that were made earlier in the debate less than real.

Tradable emission schemes in place in the United States of America and elsewhere provide for participation by members of the public. This is consistent with the objects of the Protection of the Environment Operations Act, which include the object of providing increased opportunity for public involvement and participation in environment protection. The amendment makes it clear that tradable emission schemes may include provision for members of the public to hold tradable emission permits and credits. The detail and design of each scheme, including public participation, will of course be subject to consultation.

Amendment agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

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

TABLING OF PAPERS

The Hon. I. M. Macdonald tabled the following annual reports:

Department of Industrial Relations, for the year ended 30 June 2000
Department of Land and Water Conservation, for the year ended 30 June 2000
Fish River Water Supply, for the year ended 30 June 2000

Ordered to be printed.

MARINE PARKS AMENDMENT BILL

Second Reading

Debate resumed from 23 November.

The Hon. I. COHEN [3.00 p.m.]: The Greens support the Marine Parks Amendment Bill, the object of which is to strengthen the Marine Parks Act. It is certainly not before time that we consider areas that should receive some additional and deserved conservation. The trend towards marine parks is something that the Greens hold very dear. Whilst there will be ongoing and healthy debate over no-take areas and the various usages of marine parks and the allowance of certain exploitation of those parks—which are different from terrestrial parks, which have a far higher degree of protection—nevertheless, the Greens believe that this bill is a move in the right direction.

Marine parks can assist and this bill is partly sponsored by Fisheries and partly by the National Parks and Wildlife Service portfolios. It is obviously an integral part of the environment and of great importance for the conservation of species, including commercial fish species, which, if there are to be sufficient no-take zones, would allow for the maintenance of fish stocks. It has been proved in many areas that this is of great value to the commercial fishing industry, quite apart from the conservation value of no-take zones. It has received the support of all peak organisations. I would like to quote from a note forwarded to my office by Andrew Cox of the National Parks Association of New South Wales. In that note he states:

> The Marine Parks were passed by Parliament in June 1997 and allows for the creation of marine parks, but as we have seen by the progress of the Marine Parks Authority, there is still a long way to go.
>
> Presently there are three marine parks in New South Wales waters—Solitary Islands Marine Park, Jervis Bay Marine Park, created in January 1998 and Lord Howe Island Marine Park, created in February 1999.
>
> Marine parks under the Marine Parks Act are far from being protected areas. Only with the sanctuary zone can the area be regarded as adequately protected. At present New South Wales Fisheries have shown little interest in incorporating large sanctuary zones into marine parks. With only the little "pocket" sanctuary zones we presently have you create the impression of protecting marine ecosystems while providing little control.
>
> NPA and other environment groups advocate that at least 20% of all marine waters be fully protected. Since marine parks cannot be expected to cover all New South Wales waters … then what few marine parks we have should consist of a major sanctuary zone component well above 20%.
>
> In political terms, the effect of 20% of marine waters zoned as sanctuary areas (ie fully protected areas—look but don't kill or take) leaves a full 80% of waters open to responsible fishing.
>
> Marine parks need to be regarded not as multiple use areas, but as actively managed areas that safeguard marine biodiversity and systems. This provides the dual benefit of nature conservation and the protection of the commercial and recreational fishing resource base. Substantial sanctuary areas are critical to achieving this.
>
> Aquatic reserves have historically failed to protect marine ecosystems. The legislation is not strong and they have only covered small areas.

Unfortunately, marine reserves encompass less than one-quarter of 1 per cent of the world's oceans. Of these areas, only a fraction have been designated as no-take reserves. During debate in the other place Andrew Fraser, the member for Coffs Harbour, claimed that restrictions on the use of Solitary Islands Marine Park would be bad for business. This is where Mr Fraser, as usual, has missed the point completely. He is speaking for Coffs Harbour, which has had some very significant spurts of development but has also had major problems in relation to sustainable tourism.

One only has to drive through Coffs Harbour to see a number of virtually empty resorts of significant size, perched in what were beautiful coastal rainforest valleys near the sea. All sorts of problems have occurred with that type of development, very much under his auspices, I am sure. To say that somehow these marine park restrictions would affect business is typical of Andrew Fraser's shortsightedness. Really, this restriction on use and the enhancement of the Solitary Islands Marine Park will be good for business in the long term, in a not dissimilar way to how the world heritage listing of the Blue Mountains area will be excellent for tourism in the future. It is up to the authorities to maintain the infrastructure so that those areas are not downgraded to the point where people are no longer attracted to them.

It is quite clear, and the Greens have said it time and again, that marine parks and tourism activities, such as diving, have significant economic benefits to sustainable, high-level employment to ensure that an

industry is ongoing and is not just a boom-or-bust, short-term proposition. It can become, as has happened in my home town of Byron Bay, an all-year-round event. We then become responsible as managers of the asset and it is set up in such a way that it is ongoing. That is of great significance, particularly to young people in these country areas who would otherwise not have access to reasonable levels of employment. A marine park has helped to create and foster these activities in a community on the North Coast of New South Wales.

There are certainly also some key economic reasons for restricting fishing in marine parks. The protection of fish breeding grounds results in economic benefit for the fishing industry. I enjoy distance swimming in the ocean. It is wonderful to swim season after season and see the different stages of productivity in the ocean; to see new schools of juvenile fish coming into an area, breeding and then moving on. One can see the resource developing before one's very eyes. Restricted fishing and no-take and sanctuary zones will assist in breeding up the resource so that the professional and amateur fishing industries can survive, and can survive sustainably.

There are important scientific reasons for marine park closures. Unless there are areas that are free from exploitation and available for study, scientists have little ability to evaluate the true impacts of fishing or other forms of disturbance on the marine environment. A note from Mr Ron Billyard, Planning Officer, Solitary Islands Marine Park in the Coffs Harbour area states:

> The very small group of fishers, commercial or otherwise, affected by the fishing closures required by sanctuary zones, are unlikely to suffer. The New Zealand experience suggests that the issue of displaced effort is largely a red herring. The sanctuaries there have become spawning grounds which make fishing at the edges very productive indeed. On the odd occasion when an active commercial fishing licence is genuinely affected, the Government might consider buying out that licence, but the Government should be wary of accepting at face value the claims of fishing licence holders that they have been affected by closures in sanctuary zones of marine parks. All such claims deserve careful scrutiny. The US has taken the lead with a number of proposals for 20 per cent full protection, and large no-take reserves off the Florida Keys.

It is important to recognise the positive steps forward undertaken in other parts of the world. We have seen many cases, and I know the Minister for Fisheries and a number of members of this House have been involved in the investigation into the fishing industry, as part of the activities of the Standing Committee on State Development. We have heard time and again of attempts to create balance in the ocean. No-take zones and allowing fishing only around the edge of those zones will create a biological mass that can be utilised without being harmed.

The ocean is an area of subsurface activity. Very little is seen on the surface but there is that point where we need to maintain areas in a close to original state, without interference, for their own sake. The concept of maintaining and respecting the environment of marine parks is not dissimilar to the respect that we have come to have for old-growth forests and various other areas. I accept that it might be easier to respect terrestrial reserves because they offer a greater opportunity to participate in the environment and to view it. Many people do not go into national parks—they may not be able to withstand the rigours of walking through them—but that does not mean they do not gain a degree of satisfaction from knowing that these types of ecosystems are there.

Similarly we need to maintain the oceans for their own sake quite apart from man's desire to utilise that resource or extract from it. We need to acknowledge that oceans are part of our viable ecosystem, part of the beautiful fabric of our environment. The oceans enable us to sense that there is something beyond the constraints of so-called civilisation and the man-made world; they offer the concept that there is a sense of wildness in nature, which is of great benefit. Although many people do not recognise that, it is an ideal for us to aim towards rather than continue to destroy so much of what is left of our planet.

The Hon. Dr B. P. V. Pezzutti: Are you still going? You said all of this during the debate on the water bill.

The Hon. I. COHEN: I would have expected that the Hon. Dr B. P. V. Pezzutti, as an avid fisherman, would be one to agree with me. I saw him fish from pens containing a massive number of fish. He was so imbued with fishing that he took a rod about six inches long and started fishing for fish about the size of a minnow. That is how keen he is. I would have thought that he would have a great appreciation of the wondrous aspects of marine reserves and protection areas in which he may stand on the edge of a non-polluted area and catch his share of the fish. Opposition claims that the bill interferes with land-holders' rights between mean high-water mark and mean low-water mark are rejected by the Greens. Even if the claim were true, interference would be justified.

It is essential that marine parks protection cover the intertidal zone. The ecology of tidal zones is very much impacted upon. One only has to compare Sydney beaches to other areas of the non-urban coastline to see

how severely degraded they are. The crowds who go to the beaches on the weekends are not educated about the value of the ecosystems which impact on coastal areas. The coastline offers a wonderful opportunity for children to see the various life forms in intertidal areas. I remember participating in school excursions to the flat intertidal zone at the north end of Bungan Head where an absolute wealth of biodiversity could be observed in its natural state.

It is important that that type of balanced ecosystem is maintained in a low-level pollution environment, because all the areas are interdependent. The tidal areas breed small fish and invertebrates that later move out into the deeper waters—they are all part of the food chain. We cannot break down one part of the ecosystem in the ocean without it seriously impacting on other areas. The Greens support the efforts of the Marine Parks Authority and the Government in establishing a representative system of marine parks. It is essential that a sample of all marine bioregions be included in marine parks. As I said, 20 per cent of New South Wales waters should be included in sanctuary zones. Andrew Cox, the Executive Officer of the National Parks Association, wrote:

> The Government must accelerate the bioregional assessment program of the five bioregions within NSW waters. At least one substantially-sized marine park should be created in each bioregion within the next two years. The Manning Shelf Bioregional Assessment is near completion, and by the first half of next year the Government should propose areas for declaration as marine parks.
>
> For all marine parks, zoning plans should be developed rapidly, in conjunction with an operational plan, and these placed on public exhibition, then adopted within a year after the creation of the Marine Park.
>
> Amendments to the Marine Parks Act in the future are still required to ensure that:
>
> - holders of mining leases have no power of veto over the creation of a marine park.
> - zoning plans are created within a set time, such as one year, from the creation of the marine park. At present there is no time limit, and as the example of the terrestrial national parks has shown, the preparation of a plan of management "as soon as practicable" can mean more than 25 years!
> - removal of an area of a marine park should not be possible without an Act of Parliament, regardless of the reason. This provision currently exists without major problem for terrestrial national parks, so there is no reason that this level of accountability could not be provided to marine parks.
> - management provisions for sanctuary zones and other zones within marine parks should be defined in the legislation. Boundaries for these areas should also be accountable to Parliament, making them consistent with internationally recognised standards for protected areas.

The Greens support the Government's efforts to tighten up the Act. In particular we support the proposed licensing systems for moorings and jetties, the redeclaration of marine parks to ensure that the boundaries are accurate, and the concurrence requirement prior to the granting of consent for a development application which may impact on the marine park. The Greens also support the amendments proposed by the Hon. R. S. L. Jones, which aim to further improve the operation of the Marine Parks Act. With those words I commend the bill and congratulate the Government on the first step along a long road toward marine conservation.

The Hon. D. T. HARWIN [3.16 p.m.]: Marine parks are a critical part of the natural heritage of this State, having the object of preserving remnant marine biodiversity along our coastline, and I strongly support them. Conceptually, they are quite different from our national parks system as they involve multiple use within protected areas. Under marine park legislation, a range of conservation, recreation and commercial opportunities are possible as part of the multiple-use conservation management philosophy contained in the legislation. The Coalition supported the legislation establishing marine parks in 1997 and we want to see the concept work, and work well. There are a number of areas along our coastline with high biodiversity, relatively undeveloped coastal environments, enormous natural beauty and a range of diverse habitats that have to be protected.

As a resident of Huskisson, I have a unique perspective on marine parks. Our town is surrounded on three sides by the Jervis Bay Marine Park, as the waters of Currambene Creek, Moona Moona Creek and the bay have been declared part of the marine park. I have the very considerable pleasure of living across the road from the Jervis Bay Marine Park. Without a doubt the Jervis Bay Marine Park is one of the most outstanding examples of temperate marine ecosystems in an almost pristine environment. The warm and cool currents of the bay contribute to a diverse range of animal and plant habitats. The Marine Park Authority Jervis Bay office is situated in Huskisson, along with its three very helpful and polite staff members.

Of course, the natural environment of the area is inextricably linked with the recreation and economy of the town of Huskisson and surrounding areas. While tourism and increasingly ecotourism dominate, fishing and boat building, which are the traditional industries of Huskisson, continue to employ local people. Dolphin and whale-watching cruises from Huskisson wharf and scuba diving are key contributors to the local economy. All those activities coexist with the marine park and will provide an interesting case study in multiple-use conservation management in the coming years.

It is important to record on this occasion the mixed experiences with the marine parks legislation. The 1997 Act authorised the making of regulations, which occurred during 1999. Honourable members should note Regulation Review Committee Report No. 7/52 on this Government's Marine Parks Regulation, which was gazetted last year. The committee, on which I serve, unanimously reported its unhappiness with the process that led to the making of these regulations. This started with the breathtakingly short time between gazettal and commencement—a matter of just a few days. We also reported on what we felt was non-compliance with the spirit and possibly the letter of the Subordinate Legislation Act 1989 in relation to regulatory impact statements. We called for full regulatory impact statements and consultation to occur at the same time as zoning and operation plans are prepared. We considered that as critical. We also called for the Minister to publish a timetable on the preparation of zoning and operation plans.

In December 1999 the *National Parks Journal*, which is issued by the National Parks Association, contained an enlightening article by Tim Anderson entitled "Slow progress with Marine Parks". Among the criticisms he records are: a minimalist Marine Parks Authority, implying that it is not adequately resourced to fulfil its legislative obligations; an inherent weakness in the approach with no effective increase in the protection of marine biodiversity as a result of the legislation until zoning plans are completed; and what he refers to as glacial progress towards actual protection. I am pleased that the authority released a planning issues and options paper for Jervis Bay in August 1999. However, almost 18 months later there is no greater certainty about the nature of protective measures. Uncertainty also remains about the way various issues will be resolved.

Twelve months later the situation described in the journal article is an accurate picture of the management of marine parks in New South Wales. Tim Anderson is right in saying there is effectively no protection of marine biodiversity while the Government fails to resource the preparation of zoning and operation plans. Sadly, in this regard, our marine parks reflect the experience of the national parks system. This Government's preparation of plans of management for national parks has not kept pace with the declarations of new national parks. In fact, there has been no significant increase in funding for the National Parks and Wildlife Service since the Coalition was in office and my former employer the Hon. Tim Moore was Minister for the Environment. This Government's counterfeit approach to conservation has been to chalk up the declarations while doing nothing to properly manage and therefore protect this wonderful asset for the State. Within the marine parks system, we have declarations but there is no proper protection in sight.

Apart from failing to protect marine biodiversity, the failure of this Government to adequately resource the preparation of zoning and operation plans means that a great deal of uncertainty remains about the future of the multiplicity of users currently occurring in our marine parks. I will give a few examples of activities facing an uncertain future from the "Planning Issues and Options Paper for the Jervis Bay Marine Park". Concerns were expressed in the paper about the protection of the reefs in the bay and the implications for the scuba diving industry. It also complicates finding a solution for proper refuelling and vessel effluent disposal facilities in an environmentally friendly boat facility, as proposed by Shoalhaven City Council. Concerns about the seagrass beds and mangroves put a question mark over recreational fishing in Currambene and Moona Moona creeks, around the edges of the town.

The paper discusses the option of restricting the number of dolphin-watching cruises, and there is the issue of commercial fishing in the bay, which has a value of about $1 million per annum. I note the remarks of the Hon. R. S. L. Jones and the Hon. I. Cohen about the benefits of sanctuary zones for commercial fishing. They are points that need to be made. I make the more general point about process and the resource end of the preparation of zoning and operation plans, so that Jervis Bay Marine Park will have sanctuary zones. The marine park does not currently have sanctuary zones. The finalisation of zoning and operation plans will give certainty to residents and commercial operators. Where sustainable alternatives cannot be found for activities that are environmentally unfriendly, those activities will cease and the biodiversity of the bay protected, as it should be.

It is useful to contrast this State's experience with that of the Commonwealth and its marine parks. By contrast, the Commonwealth recognised that there was a problem of delay in preparing management plans. When the Commonwealth issues a notice of intent to declare a marine park, it also issues proposed management arrangements, so that recreational and commercial users of the proposed protected area are aware of likely changes. While these proposals do not have legal force, they have resulted in users being able to approach the future with certainty. Also, actual protection of marine biodiversity has occurred before a final management plan is gazetted, as some incompatible activities have ceased even before legally forced to do so. This has been the experience with the Great Australian Bight Marine Park—in other words, the opposite to what has occurred in this State's marine parks—and is a much more desirable outcome.

The experience in this State does not inspire a great degree of confidence about where we are headed with this legislation. The Opposition does not have any particular difficulty with several provisions. In fact, we

welcome them. These provisions include sensible changes, such as broadening the classes of persons who can be appointed as rangers and the provision for the removal of shipwrecks. No-one could object to the inclusion of a scientist on advisory committees. But this amendment is a smokescreen for the major change to the advisory committees, which is to remove their appointment from the Marine Parks Authority and give it to the Minister. The advisory committees are also being downgraded in another important respect which relates to the closure of marine parks. That is not referred to in the Minister's second reading speech. Subclause (3) of clause 31 of the Marine Park Regulation 1999 provides that the authority has to consult with the relevant marine park advisory committee before renewing a marine park closure.

This bill brings that power into the legislation and takes the closure power from the authority and gives it to the Minister. However, in the new section in the bill there is no equivalent role for the advisory committee for reviewing closure renewals. I ask the Minister: Why is the advisory committee role being downgraded? I would appreciate a response from the Minister in his reply to the second reading debate. Another change in this bill which the Opposition has difficulty with is the extraordinary decision to revoke the declaration of the three marine parks, declare them for a second time and, in the process, remove the obligation for the authority to obtain consent for the incorporation of any private holdings, fixtures or permissive occupancies below the mean high-water mark in the marine parks. I describe it as extraordinary because of the complete disregard for process. It is an example of this Government's philosophy on marine parks. I do not disagree with the Hon. I. Cohen about the importance of intertidal zoning to the integrity of marine parks. However, I am concerned about the issue of process.

It is clear from the Minister's speech and honourable members' contributions in this place and in the other place that consultation with and the consent of affected landowners and users cannot be resourced by the Marine Parks Authority in the course of preparing zoning and operational plans. That is why the Minister has not been able to provide the Opposition with details of how many people are having their rights taken away by this bill. Today, before this legislation passes, Huskisson residents who live on the banks of Currambene Creek in permissive occupancies below the high-water mark were excluded from the Jervis Bay Marine Park unless the Marine Parks Authority obtained their consent for incorporation. When this legislation passes they will lose their rights. Because we still do not know what the zoning and operational plans will be for the Jervis Bay Marine Park, their future rights over permissive occupancies on the creek are uncertain. In the case of other marine parks, people with title to land below the high-water mark will have their property rights taken away without any consultation, consent or compensation. This legislation is an unsatisfactory outcome for marine parks. It will not advance the cause of marine parks which, by definition, must co-operatively and meaningfully involve their multiple users.

Reverend the Hon. F. J. NILE [3.30 p.m.]: I will speak briefly in support of the Marine Parks Amendment Bill. The enactment of the Marine Parks Act 1997 and the subsequent declaration of the State's first marine parks have been positive achievements of the Government, and we support them. The Act will now advance marine conservation and the ecologically sustainable use of marine resources. To date three marine parks have been declared: the Solitary Islands, Jervis Bay and Lord Howe Island. All parks are administered by the Marine Parks Authority. Draft zoning and operational plans for the Solitary Islands and Jervis Bay will be prepared as a consequence of submissions on the issues and options papers, and the advice received from interested parties. The Christian Democratic Party is particularly pleased that the legislation will again declare the Solitary Islands, Jervis Bay and Lord Howe Island as marine parks to remove any uncertainty as to their status.

I ask the Minister to inform us about the relationship of the naval facilities and the naval college at Jervis Bay with the marine park. I assume that they are now parallel. We are pleased that the legislation will preserve native title rights and interests in respect of areas declared to be a marine park. However, as the bill extends the classes of persons who can be appointed as marine park rangers, officers or employees of government departments, or public or local authorities, will the Minister indicate what action has been taken to encourage Aboriginal persons to seek employment as marine park rangers, particularly in the Jervis Bay area, which has a large Aboriginal population? Usually the level of unemployment in that area is high. As I have said in previous national park-type legislation, one of the priorities of such legislation should be to provide employment opportunities for Aborigines who live in reserve areas. Aborigines would make excellent rangers and they would be able to assist the public.

It is good for tourists to meet Aboriginal persons working in such roles because they could impart the Aboriginal background of the areas, which Australians and overseas visitors, particularly, would appreciate. Often overseas visitors hope that they will meet Aboriginal people who will talk with them and share with them

their concern for the protection of the environment. I note that the bill will enable the removal of sunken vessels and other obstructions from a marine park. Obviously, if a vessel is causing obstruction it should be removed, but who would meet the cost of such removal? Some wrecks are historic and there may be an argument that such wrecks should not be removed but be protected as part of our history. Now that we live in Gerroa, a small 400-person village right on the edge of Seven Mile Beach National Park, we are far more conscious of the need to protect the environment. Perhaps we were not so aware of it when we lived in Ryde for 17 years, right in the middle of suburban Sydney.

The Hon. Dr B. P. V. Pezzutti: You are lucky to have been able to afford to retire there.

Reverend the Hon. F. J. NILE: We have not retired there; that is where we live. We can now experience first-hand places such as Jervis Bay and other national parks. We are pleased to support the bill.

The Hon. Dr P. WONG [3.33 p.m.]: I support the Marine Parks Amendment Bill. The bill will allow the Government to move towards establishing a more comprehensive and representative marine parks system in New South Wales. I will also support the amendments that will be moved by the Hon. R. S. L. Jones, which will provide strong environmental protection. I am aware of the views of the Environmental Liaison Office and the National Parks Association, and the reasons for their support for the amendments. I commend the Government for negotiating in good faith on the detail of the bill. It will result in significantly improved legislation.

Ms LEE RHIANNON [3.34 p.m.]: I support the comments of my colleague the Hon. I. Cohen, who has outlined the Greens position on the proposed legislation. Like many of us, my home is beside the sea. Therefore I welcome these moves by the Government, even though they are limited in part. I was particularly pleased to see that it will no longer be necessary to get the approval of the owners and occupiers of a piece of land that is below the mean high-water mark if that land is to be put into a marine park. That position cuts out some ridiculous requirements that were previously in place. I acknowledge and thank Tim Anderson, who has spoken to me many times over many years about the necessity for marine parks and for a whole number of provisions to be tightened up.

I note that he has commented on the slow progress of this matter in New South Wales. The Greens will watch with interest how the legislation plays out. We already know that it will need to be revisited because the full aquatic area is in great need of preservation, and many of the rock platforms are particularly devastated as a result of intensive human use. When I was a young person, when I was studying and later with my children, I spent a great deal of time enjoying the rock platforms. I look forward to taking my grandchildren to the rock platforms of Sydney and along our coast. They are most enjoyable places to spend time and they are very educational. The bill goes some way to dealing with the problems, but it is something we will pay close attention to because there are clearly some weaknesses in it.

The Hon. JAN BURNSWOODS [3.36 p.m.]: I am delighted to support the Marine Parks Amendment Bill, particularly because of my involvement, with other members, in helping to birth, so to speak, our marine parks. The Act that was introduced in 1997 and the declaration of the first three marine parks in New South Wales are key achievements of the Government. I pay particular tribute to the work of the previous Minister for the Environment, Pam Allan. The marine and coastal environment in New South Wales represent a complex and important set of ecosystems that support a diverse city of plants and animals. The marine and coastal environment are a valuable, natural and cultural resource. As population pressure and resource pressure grow along the coast it will become even more important for us to manage the environment in a responsible way, to look after the coast and to create more marine parks. In many ways it is puzzling that it has taken us so long to create marine parks after 100 years or more of activity in creating terrestrial national parks.

Marine parks are important not only for marine biodiversity and other environmental benefits but also for the fishing industry. They are becoming increasingly important to the tourism industry and to all those involved in it, such as charter boat operators, dive operators and tourism groups. I would like to mention three national parks already created: Lord Howe Island, Jervis Bay and particularly the Solitary Islands in the waters just north of Coffs Harbour. I refer to the foolish days of the Fahey Government. Some honourable members may remember that I was one of the people in this House who made a number of speeches and raised many questions about the fight of the people of the Emerald Beach-Woolgoolga area against the ludicrous proposal to create a sewage ocean outfall at Look at Me Now Headland, right in the middle of an area that even then was proposed to be part of the Solitary Islands Marine Park.

There were those who, like myself, visited the area at that time and took part in the protest movement on the beach, supporting the people stopping the bulldozers as the Coalition Government and Coffs Harbour City Council tried to push the ocean outfall into that area. It was obvious to everyone that the area was not only

one of outstanding beauty but also one of marine biodiversity. Anyone can see today that the marine park contains an enormous diversity of marine ecosystems and habitat types. These include estuaries, island reefs, submerged coral reefs, sandy beaches, rocky shore lines, open oceans and the soft ocean bed. It contains a huge diversity of marine plants and animals due to its location on the edge of the subtropical and temperate zones. The Solitary Islands area is home to a number of threatened species, including humpback whales, dolphins, grey nurse sharks, sea turtles and many seabirds. For all those reasons and many more it is an important area for biodiversity, tourism and associated areas.

For its management and operation the marine national park will be required to work closely with Commonwealth authorities using the adjacent Commonwealth waters as a Commonwealth marine reserve. Planning for the park involved the preparation of a zone plan and an operational plan. That work has been under way for some time. In April this year an issues and options paper for the Solitary Islands Marine Park went on public display and more than 750 submissions were received. There was significant community interest in the management proposals generated and facilitated through public meetings and workshops with community associations, industry groups and local media. I have been pleased to see this work taking place and to see the continued development of the precious Solitary Islands Marine Park that was declared under the Carr Government's important legislation in 1997.

In many ways this bill is a machinery bill in that it attempts to come to grips with some issues that have emerged since the 1997 legislation, particularly those issues that delayed the progress that we all would have liked to see in the operation of these marine parks and in the declaration of new ones. It has proved to be difficult to make contact, to consult and to obtain consent from adjoining land owners. I do not want to go into these matters in great detail because they have already been talked about by previous speakers in the debate. However, I am very disappointed in the attitude of Opposition members to this matter. In 1997 the Opposition supported the Marine Parks Bill. I listened carefully to earlier speakers in this debate and I gather that the Opposition still wants to be believed to be supporting the legislation, but everything it has to say is followed by a "but".

It is all very well for Opposition members to talk about some of the specific administrative issues. I listened with care but also with confusion to the Hon. Dr B. P. V. Pezzutti talking at great length about the history of financial compensation from the days of the *Bible*, but some difficulties have emerged over the last three years. Everyone who supported the bill originally and who claims still to support the concept of marine parks should support the variety of provisions in this bill to make sure some of those difficulties have been fixed up and we can get on with making marine parks a reality in New South Wales.

The Hon. M. I. JONES [3.44 p.m.]: I will probably be the only person who opposes this amendment to the Marine National Parks Act. The Marine National Parks Act was enacted in 1997—it is now 2000 and zoning regulations have only recently been introduced. There was much controversy over the initial bill by people, particularly in the Coffs Harbour area. I believe Andrew Fraser was right to raise the concerns he did and I support his comments. When the marine national park was originally proposed it was not supported by the people of Coffs Harbour in general. However, the tactics I have come to expect from the Carr Government is that planning is made, the goals are set and then things tend to arrive by stealth. Marine national parks are no exception.

When the park was first declared nothing happened. There were no changes to anything and people thought, "This national park business is not too bad. There are no problems. We are still able to do what we have always been able to do." Then, bit by bit, zoning comes in, except this time it took an unusually long time—nearly 2½ years had passed. The Marine National Parks Authority is not an efficient organisation. People who phone it end up talking to National Parks and Wildlife Service staff. The national parks budget contains no expenditure for marine national parks because it is in the fishing portfolio. It takes a long time to come to terms with these problems. However, I shall try to restrict my comments to this amendment to the Act.

This bill imposes a specific infringement upon people's property. The bill contains the words "the consent of owners or occupiers of areas above but not below the mean high water mark". With shifting sandbanks the mean high-water mark could be a movable feast. A person could buy a property that may have an abundant sandbank, for which he pays a premium at a specific point in time, and then moving currents can remove that and he loses all rights to that area over which he once had sovereignty. This is 2000, not 1984! This is an incursion on people's rights that is wrong, wrong, wrong! During the debate I heard honourable members come out with various attitudes on fishing which, strangely enough, were quite opposed to those positions they purported to take during the debate on the fishing legislation. I shall revisit that topic at another time.

I oppose this amendment as I believe it is an unjust imposition on the citizens concerned. After listening to various comments I believe people have an attitude about a specific part of the coast. We now have three or four national parks and other specific areas are being looked at. As marine parks proliferate, as they surely will, more areas will be declared and as those areas have different topographies, wetlands and all sorts of things the problems will be compounded and more complex. This amendment will infringe upon the rights of those people. I do not believe it has been thought through properly. I do not support the bill.

The Hon. A. G. CORBETT [3.49 p.m.]: I support the bill and the amendments to it moved by the Hon. R. S. L. Jones. Together they provide the necessary adjustments to strengthen the Marine Parks Act and to progress towards a comprehensive marine park reserve system in New South Wales. Currently, New South Wales has three marine parks in its waters—Solitary Islands Marine Park, Jervis Bay Marine Park and Lord Howe Island Marine Park. Protection of marine ecosystems is paramount. In some parts of the world marine reserves are sanctuaries where no fishing or collecting is permitted. But marine sanctuaries represent only a tiny proportion of the world's oceans.

In some countries—for example Australia—governments have adopted a multiple-use approach, which allows for various uses such as tourism, diving, fishing and collecting within reserves. Multiple-use marine reserves usually cover larger areas and may or may not include sanctuary zones within their boundaries. Sanctuary zones within marine parks are extremely important to protect critical ecosystems from exploitation. The benefits of sanctuaries or no-take zones need to be better understood and more extensively demonstrated to specific user groups that do not always support their establishment or appreciate the benefits they can provide. No-take areas can assist with the recovery of species diversity and habitat quality, and can help increase the reproductive output of sedentary species which spawn within the protected areas. They improve public awareness and understanding and provide scientific and monitoring control sites.

Protecting fish breeding grounds is also to the economic benefit of the fishing industry. In one New Zealand study in 1990 it was shown that the abundance of the New Zealand spiny lobster in a marine sanctuary was 10 times higher than in surrounding unprotected areas. The average size of individuals was also greater and the local lobster fishery was enhanced by the protection. Compared to our knowledge of terrestrial ecosystems, there is far less known about the marine environment and there are far fewer marine areas protected. Making an area of the ocean a sanctuary ensures minimal disturbance and acts as an insurance policy against accidents or poor management elsewhere.

There is no question that the diversity of life in the ocean has been declining and is dramatically altered by unsustainable fishing practices. United Nations figures indicate that most major fisheries are overexploited and better protection of marine areas is vital. It is critical that the New South Wales Government accelerates the bio-regional assessment program of the five bio-regions in New South Wales waters so they can be protected as soon as possible. The dramatic collapse of the Canadian cod fishery in 1992 serves as a bleak reminder that the unimaginable can happen. Previously it was one of the world's most productive fisheries and was considered inexhaustible, having been fished for over 500 years. The collapse put 40,000 people out of work and cost the Canadian public $C2 billion. The long-term social and ecological costs have not been assessed and the fishery remains closed today.

It is not just fish species and numbers at risk. Many other creatures are affected and habitats are destroyed by wasteful and indiscriminate fishing methods. Over 40,000 albatrosses are killed annually on tuna longlines. I am encouraged to see the recent launch of SeaNet, a national fisheries extension service which aims to provide easy access to information and advice about environmental best practice for the commercial seafood industry on the minimisation of the catch of non-target species. Currently one-quarter of all marine life caught worldwide as by-catch is thrown back dead. The bill before us, and the amendments proposed by the Hon. R. S. L. Jones, will ensure marine parks are more effectively and comprehensively protected by speeding up the process of preparing zoning and operational plans while still ensuring full public consultation and public exhibition of draft plans.

There have been lessons learnt from the previous consultative approach, which resulted in considerable delays in the preparation of zoning plans for the first two marine parks, and this has hindered their declaration and full protection. In declaring marine parks, there have been difficulties in gaining the consent of all owners and occupiers because there are no comprehensive databases of owners of moorings, oyster leases, jetties, et cetera. I support the Government's amendments to remove the requirement to obtain the consent of owners or occupiers. In particular, I support the Government's amendments that ensure concurrence between the relevant Ministers before the granting of consent to a development application; that enable notifications of marine park

closures to be published, that will prohibit certain activities from being carried out in a marine park; and that clarify the boundaries of existing marine parks through redeclaration. I am supportive of increasing penalties for offences under the Act, but I hasten to add that enough resources must be provided to ensure compliance with the Act.

The Hon. Dr A. CHESTERFIELD-EVANS [3.54 p.m.]: The Australian Democrats support the bill. We believe that marine parks are a good thing. Removal of the requirement to obtain consent obviously is somewhat controversial. In New Zealand people cannot own land within one chain of the high-water mark, an area that was called the King's chain. This means that public access to the foreshore is automatic, which is a wonderful thing. Sydney Harbour has been described as a public pond in a private garden. This is the case for most of its length. I recognise that in some situations people are in danger from king tides occasionally coming up their front lawn. But these are small problems in the overall scale of things.

It is necessary to declare parks in order to maintain fish habitats. Whatever inconvenience it may cause holidaymakers, as they get used to the idea that fish are there to be enjoyed in other ways than by simply catching them, they will not consider holiday resorts to have been degraded by the declaration of marine parks. In a speech in the lower House an Opposition member complained about overloaded boats. I do not see that that has anything to do with marine parks, particularly given that overloaded boats have overturned, killing people. We support environmental groups in their sponsoring of the amendments moved by the Hon. R. S. L. Jones and will support the amendments to improve the bill.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [3.56 p.m.], in reply: I thank all honourable members who have contributed to the debate. The Marine Parks Amendment Bill provides sensible and necessary refinements to allow the effective administration of the Marine Parks Act 1997. Importantly, the bill strengthens the Government's ability to meet the objectives of the Act by requiring local councils and authorities that are assessing development proposals within marine parks to obtain the concurrence of the marine parks Ministers. Previously only "consultation" was required. I would expect that the powers of concurrence would normally be delegated to the Marine Parks Authority and that local marine parks staff would routinely be involved in making the decisions. The decision itself would be based on whether or not the proposed development was permissible under the zoning plan for the park; whether or not the development was consistent with the objectives of the Marine Parks Act and the zone in which it was proposed to occur; and an assessment in accordance with the Environmental Planning and Assessment Act of the environmental impact of the proposed development.

If it were concluded at any of these steps that the development should not proceed, concurrence would not be given. If no zoning plan were yet in place, a decision on the proposal would be based on the latter two of these criteria. If the proposed development were permissible but considered controversial, it would normally be referred to the local advisory committee for comment before a decision was made. The proposal would only be referred to the Marine Parks Advisory Council. However, if the proposal had statewide policy significance. The Opposition raised no real issues. It specified just one real concern relating to changes in the consent requirements for the declaration of marine parks. Its concerns are exaggerated. Freehold land only rarely exists below the mean high-water mark. Wherever such land was included within a marine park, however, ownership of the land would not change. So the entitlements of the owner would not be affected by the declaration itself.

The entitlements of the owner could be affected by the zoning plan which regulates activities within the park, but I would point out that zoning plans are developed only after exhaustive consultation with stakeholders and the community—in particular with land-holders whose entitlements could be affected. The bill makes specific provision for consideration of submissions from landowners, in a deliberate attempt to mitigate any such impacts. Moreover, any impacts would be only slight. The main activity that is likely to be affected would be fishing. And that can happen under the Fisheries Management Act whether or not a marine park is put in place. The land we are talking about is intertidal land, land that lies between mean high water and low water. This is land that is almost always covered by water. How significant could the impact on owners be?

The impact on lessees has been similarly exaggerated. The main type of lessees affected are oyster farmers, but their rights are specifically protected in the Act. I refer the Opposition to section 12 of the Act. Moorings normally only have short-term permissive occupancies and so their rights could hardly be significantly affected. The Opposition has referred to jetty owners. There are not many jetties in places such as the Solitary Islands Marine Park. I assure the Opposition that the Government will normally plan zoning of the parks in a way that mitigates as far as possible any significant impacts on existing jetty owners. The whole matter has been exaggerated. The Hon. R. H. Colless objected to the inclusion of diligent inquiry provisions. For the information of the honourable member, such provisions already exist in other legislation, including the Mining Act, so this is nothing new; it is just sensible administration.

The Carr Labor Government is committed to the conservation of marine biodiversity. It introduced the Marine Parks Act and declared the State's first three marine parks, and it is making sensible changes to ensure that the whole system is workable. The Hon. R. S. L. Jones had it right when he said that the Coalition has shown very little interest in this issue. The bill presents a series of sensible, practical and measured changes that should considerably ease the administration of the Act. In response to the comments by the Hon. D. T. Harwin, I advise that this bill upgrades the status of advisory committees; it certainly does not downgrade them. For the first time advisory committees will have ministerial status. Furthermore, the functions of the committee will now be set out in the Act and have legislative force. Advisory committees will continue to be consulted on the renewal of closures as appropriate.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WORKERS COMPENSATION PREMIUM DISCOUNT SCHEME

The Hon. M. J. GALLACHER: My question without notice is to the Special Minister of State, and Minister for Industrial Relations. When does the Minister intend to release details on the implementation of his premium discount scheme initiative now that the workers compensation legislation has passed through the other place?

The Hon. J. J. DELLA BOSCA: I am not sure what level of detail the Leader of the Opposition is looking for.

The Hon. M. J. Gallacher: For businesses outside.

The Hon. J. J. DELLA BOSCA: I have not considered a precise timetable. I will undertake to draw up such a timetable and make it available to the House and to the honourable member as soon as practicable.

The Hon. M. J. GALLACHER: I ask a supplementary question. Coincidentally, I just happen to have a copy of a WorkCover document entitled "Proposal for a Premium Discount Scheme", which is dated November 2000. Is this the same document that the Minister will shortly release, and can he explain to the House how he would expect to receive industry submissions when the document reveals that submissions must be received by 7 December—one week from today? The WorkCover document cites the Minister's name on a number of occasions and states that "WorkCover welcomes feedback on this proposal" and that feedback should be sent by Thursday 7 December 2000.

The Hon. M. R. Egan: That is not a released document so how do you know that is the date?

The Hon. J. J. DELLA BOSCA: The Leader of the Government makes the point that the document being referred to by the Leader of the Opposition is not a public document. In fact, the document is marked confidential or classified. The rough target for the scheme's implementation is July 2001. The document that the Leader the Opposition has in his possession—

The Hon. M. J. Gallacher: It is a false document, is it?

The Hon. J. J. DELLA BOSCA: I am not saying it is false or otherwise. I am simply saying it is not a released document.

The Hon. M. J. Gallacher: Then how did I get it?

The Hon. J. J. DELLA BOSCA: That is a good question. I intend to find out. I believe the Leader the Opposition is waving around paperwork that was at a briefing I had with a range of employers last week.

COMPUSLORY THIRD PARTY INSURANCE SCHEME

The Hon. R. D. DYER: I ask the Special Minister of State a question without notice. Will the Minister inform the House about claims for non-economic loss under the new green slip scheme?

The Hon. J. J. DELLA BOSCA: I commend the honourable member for his ongoing interest in the Motor Accidents Scheme. Earlier this month I was able to release a report to the Standing Committee on Law and Justice regarding the new Motor Accidents Compensation Act. It showed that the scheme was achieving what we set out to do: redirect premiums to meet early medical treatment and to promote a more affordable green slip. Some honourable members of this Chamber wish to argue against the well-documented trends presented in that report. I am aware that in last night's adjournment debate the Hon. G. S. Pearce argued against the success of the scheme. Putting it bluntly, he has got it wrong. On the non-economic loss performance of the scheme, members should not make the error that, just because the report indicates that there has been a decrease in the amount paid in non-economic loss damages, people are being denied access to non-economic loss. That is simply not so.

It is not surprising at this stage of the new scheme that few non-economic loss payments have been made, as claims from seriously injured claimants would not have been resolved at this stage. I note it has been suggested that somehow the new accident notification form limits an injured person's rights. Yet the early statistics show that more people now have access to quicker and earlier payments for medical treatment. In one year, 15 per cent more people have accessed the scheme. Under the old scheme these claimants would have been out of pocket for sometime while liability claims were argued. Injured people who are claiming for more than $500 medical expenses for other heads of damage can still lodge a claim as before. In regard to insurer profit, let me say this: The report shows profit loadings have decreased from 10 per cent to 8 per cent.

The Hon. M. R. Egan: Point of order: The Hon. Dr B. P. V. Pezzutti at one stage of his life took an oath to look after people's health. He is actually giving me a headache. Would you ask him to stop interjecting.

The PRESIDENT: Order! There is no point of order involved. The Minister may proceed.

The Hon. J. J. DELLA BOSCA: Any claim about insurer profits must take into account the long tail nature of the scheme and account acquisition costs. The acquisition costs include staff salaries and associated costs, marketing and advertising costs, leasing of premises and equipment, computer and software costs, commission, Motor Accidents Authority levy and reinsurance. Before insurers derive a profit from an accident year they must identify funds to cover all claimant benefits to be paid from the premiums they collected for the duration of those claims. Compulsory third party insurance is a long-tail business and claims can be active for 15 years after the date of the accident. The Motor Accidents Authority report on the first year's operation of the scheme makes it clear that there is still work to be done on the determination of insurer profits.

Finally, I remind the House that there are 798,000 motorists in the country zone. The number has dropped from 80 per cent to 78 per cent of the Sydney rate. A cross-subsidy from country to city is being unwound. This means cheaper premiums for country motorists. The new scheme is just 12 months old, but the early trends are good for motorists and good for people injured in motor accidents.

FREIGHTCORP PRIVATISATION

The Hon. D. J. GAY: My question is to the Treasurer. Was the Country Labor supported decision to privatise FreightCorp in defiance of Australian Labor Party policy, which, through historical precedent, requires matters such as this to be referred to the State conference for discussion? If so, what is the Treasurer's reaction to the comments of the member for Liverpool, Paul Lynch, who wrote to his colleague the Deputy Leader of the Government, John Della Bosca, outlining his concerns about the outcome of the September Caucus meeting, stating, "The contrast in the attitudes of the Federal Party leadership in 1942-43 and the State leadership in 2000 could not be more stark." I state for the information of the Hon. A. B. Kelly and, more particularly, his colleague sitting next to him, the next Minister, the Hon. P. T. Primrose, that that statement was completely accurate.

The Hon. M. R. EGAN: Country Labor, of course, is interested in, and determined to maintain—

[*Interruption*]

The honourable member asked me a question but he is not interested in the answer.

HEROIN OVERDOSE STATISTICS

Reverend the Hon. F. J. NILE: I ask the Special Minister of State, who is responsible for the drug program in this State, a question without notice. Is it a fact that the number of heroin deaths in New South Wales

dramatically declined in 1999-2000 to only 296, according to the most recent report of the Federal Department of Health entitled, "Illicit Drug Reporting System"? Is it a fact that reported deaths from heroin overdose in New South Wales totalled 491 in 1998-99 and 409 in 1997-98, but only 285 in 1996-97? What is the explanation for the dramatic drop in recorded deaths from heroin overdose in New South Wales? Were the 1997-98 and 1998-99 figures deliberately exaggerated to force the Government to adopt the controversial legal heroin shooting gallery proposal? Will the Minister fully investigate the reporting procedures relating to heroin overdose deaths in New South Wales?

The Hon. J. J. DELLA BOSCA: The honourable member has asked an excellent question. I will investigate the way in which the statistics are compiled, because I read with interest, and with a degree of relief, the report in today's edition of the *Sydney Morning Herald* that there has been an apparent dramatic decrease in heroin overdose deaths in New South Wales. That could be, of course, due to a confounding of the data. Perhaps there is some element of the way the data has been collected that causes the figures to be not quite as good as they appear.

Nonetheless, it would seem that the figures may mark the beginning of a trend, or they may be average statistics which need to be investigated. The report states that the number of heroin overdose deaths has dropped from 491 suspected fatalities last year to 296 this year. If these figures are correct—and I am seeking further information on the figures, as I said before—it is a cause for cautious optimism. We seem to be making some headway with this extremely complex and difficult problem. To the families and friends of the 296 people who died of a heroin overdose I can only say that this Government will continue to do everything it can to reduce the number of these tragic and unnecessary deaths.

It is a matter of deep regret to me, and I am sure to many members of this House, if not all members, that in spite of the goodwill and co-operative efforts of the New South Wales Drug Summit, the member for Lane Cove has reverted to using the problem of drug abuse in our State as a means of scoring cheap political points. Perhaps it is the absence of any real policies that would lead her to make such comments. The member for Lane Cove's glib remarks this morning, when asked to comment on these figures, demonstrate a complete lack of compassion or understanding of the nature of the problem. It was suggested by her, in light of these figures, that we do not need the medically supervised injecting trial room.

Does the honourable member also think that we should call a halt to the expansion of statewide treatment services; to the introduction of compulsory treatment services; to a whole range of initiatives directed at programs to get people out of the heroin addiction cycle and into forms of treatment? I remind those who would draw this conclusion that in 1999 there were 677 ambulance call-outs to overdoses in Kings Cross alone. This is just one figure reflecting the serious situation that exists in that area. Without the determined and varied efforts of the Government and the community, these statistics will continue to rise.

The trial of the medically supervised injecting room is one way—I emphasise "one way"—of preventing needless overdoses in the Kings Cross area. The trial is in addition to our stated aims of getting addicts into treatment, improving public amenity for the residents of Kings Cross and preventing the spread of blood-borne diseases. As honourable members may be aware, the Premier announced earlier this week the Heroin Prevention and Management Overdose Strategy, a key recommendation of the Drug Summit. The strategy is accompanied by an allocation of $670,000 to implement the initiatives outlined in the action plan.

These initiatives include: a project by ambulance officers who attend overdose incidents to deliver brief interventions; encouraging those who overdose to seek drug treatment and giving them contact numbers for referral and advice; two pilot recovery rooms to be set up, one in the inner city, the other in south-western Sydney; and overdose prevention workshops for families of heroin drug users to be held in all 17 area health services. There families will learn how to recognise the signs of an overdose, basic first aid and how to encourage the user to seek treatment. Peer education will also be conducted to warn drug users of the dangers of drugs.

I wholeheartedly endorse the Premier's statement that this is a practical plan aimed at reducing overdoses and saving lives, and that it in no way signals tolerance of drug taking. No matter what the statistics, the Government will continue to do all it can to prevent overdose deaths. The Carr Government is making a substantial investment in new programs that tackle the drug problem on all fronts, including enforcement, treatment, prevention and education.

The Hon. Dr B. P. V. Pezzutti: Where is the money?

The Hon. J. J. DELLA BOSCA: The Hon. Dr B. P. V. Pezzutti knows where the money is. It is this approach that will most likely show results. Whilst I am pleased that this morning's report shows a positive effect of some of our hard work, we need evidence of a long-term trend to be satisfied that this is the case. If heroin deaths are declining, that is good news. But every life is worth saving and there will be no let-up in our efforts to save lives.

IBM E-BUSINESS INNOVATION CENTRE

The Hon. JAN BURNSWOODS: My question is directed to the Treasurer, and Minister for State Development. Will the Minister tell us what recent success Sydney has had in securing the Asia-Pacific hubs of major information technology companies?

The Hon. M. R. EGAN: The Hon. Jan Burnswoods always asks good questions.

The Hon. Dr B. P. V. Pezzutti: Now I know you're sick.

The Hon. M. R. EGAN: Are you battle fit?

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

The Hon. M. R. EGAN: You passed?

The Hon. Dr B. P. V. Pezzutti: I did my six kilometres. I did one kilometre more than I needed.

The Hon. M. R. EGAN: That probably explains why you are a bit tetchy this afternoon. If only the Army realised that the goal is to calm you down, not hype you up, it would not have had you undertake any testing this morning. I was actually going to join you, but I decided against it.

The Hon. Dr B. P. V. Pezzutti: Why didn't you?

The Hon. M. R. EGAN: Because I thought you would hold me back, so I went for my own run.

The Hon. D. J. Gay: You are misleading the House.

The Hon. M. R. EGAN: Yes, I did mislead the House; I did not have a run this morning. I will have one tomorrow morning. On Tuesday night IBM opened its new Asia-Pacific e-business innovation centre here in Sydney. The centre will create more than 340 highly skilled positions at the leading edge of global e-business development. The centre, one the largest of 20 IBM centres for e-business innovation, services the Asia-Pacific. In fact, it is one of the three largest centres of its kind in the world.

The new centre will play a vital role in bringing to Sydney and Australia the latest developments in global e-commerce technologies and software; shaping the development of e-business throughout the Asia-Pacific region; significantly adding to our critical mass in developing Sydney and Australia as a major regional information technology hub; and helping to make sure that Australian businesses have every opportunity to be part of the new economy.

The new centre is located at Pyrmont, the heart of Sydney's rapidly emerging dot.com bay IT precinct. Pyrmont ranks as a major digital and e-business gateway to Australia and the Asia-Pacific. Interestingly this new centre opened in what was once a wool store. No doubt during our lifetime it would have been filled to the rafters with bales of wool awaiting shipment to the world, but it now symbolises the new economy and the role that Sydney and Australia play in the role.

The Hon. Dr B. P. V. Pezzutti: I was there 12 years ago, at Ultimo.

The Hon. M. R. EGAN: I am talking about the location of the IBM centre, which is in an old wool store in Pyrmont. It is immediately opposite the entrance to the Sydney Star City Casino, a very convenient location. IBM joins Global Switch as a significant tenant in the new IT precinct. The New South Wales Government acted to secure the IBM centre for Sydney by providing an innovative assistance package targeted at employment and IT skills training. I give credit where it is due: the Commonwealth Government also assisted in this matter. It is also important to acknowledge the significant role of the Federal Government, as well as the State Government, in supporting the training of the next generation of IT professionals, which is vital for the development of new economic enterprises in New South Wales.

The centre is also expected to boost the growth of New South Wales e-commerce enterprises and generate new jobs as local enterprises tap into global commerce. The opening represented yet another win for jobs and investment in New South Wales. I thank IMB and congratulate it on the confidence it has shown in Sydney and Australia. I also congratulate IBM on its role in the recent triumphant Sydney Olympic Games.

FEDERAL ROADS FUNDING

The Hon. D. E. OLDFIELD: My question is to the Minister for Mineral Resources, representing the Minister for Roads. What comments would the Minister have regarding the Federal Government's National Roads Funding Program and the $340 million of that program that will be received by New South Wales? Is the Minister aware that the Australian Local Government Association considers the Federal program to be underfunded by approximately 33 per cent? Would the Minister agree with that calculation and possible extrapolation of that calculation that would suggest that the New South Wales share of the program is underfunded by approximately $167 million?

If the Government agrees with the calculations of the Australian Local Government Association, what consideration will it give to either seeking more funding or topping up the Federal Government's Roads Funding Program to allow the full and proper maintenance of our road network, especially rural roads that have suffered so terribly from neglect?

The Hon. E. M. OBEID: I thank the Hon. D. E. Oldfield for a very sensible question, which I am sure my colleague the Hon. Carl Scully would like to comment on. I will obtain that comment for the honourable member as soon as possible.

HITECH GROUP AUSTRALIA LTD PREFERRED SUPPLIER STATUS

The Hon. D. T. HARWIN: My question is to the Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast. On 31 October the Minister informed the House that he would table any documentation in relation to contracts entered into by agencies under his control with regard to HiTech Group Australia Ltd personnel as soon as practicable. As almost a month has now passed, when will he table such documentation and what is the reason for his delay in so doing?

The Hon. J. J. DELLA BOSCA: There is no reason. The honourable member has asked a good question; I give him that. I will quickly overcome my tardiness and table the documents. However, I point out that all the relevant information was contained in the bundle of letters that I tabled on the day I answered the question. I make that point, but I take his point.

MERCEDES AUSTRALIAN FASHION WEEK

The Hon. H. S. TSANG: My question is to the Treasurer, and Minister for State Development. What impact has the Mercedes Australian Fashion Week had on the New South Wales economy?

The Hon. M. R. EGAN: A recent report into this year's Mercedes Australian Fashion Week—

The Hon. R. S. L. Jones: Will it stay in New South Wales, Treasurer? Victoria wants to poach it.

The Hon. M. R. EGAN: Well, good luck to Victoria. Victoria is a great State, and Melbourne is a great city.

The Hon. R. S. L. Jones: Do you want to lose $100 million?

The Hon. M. R. EGAN: A recent report into this year's Mercedes Australian Fashion Week by the Department of State Development found that the event injected around $100 million into the New South Wales economy. Obviously that is a considerable amount, and it confirms the information provided to the House by way of interjection by the Hon. R. S. L. Jones. The report confirms the Australian Fashion Week's international reputation as one of the top five fashion industry events, along with Paris, Milan, New York and London.

The analysis found that the Mercedes Australian Fashion Week contributed an estimated $38 million to the gross State product and generated media coverage valued at $103 million in the domestic market. More

significantly, it generated $53 million internationally. The event represented a key component in the marketing strategies of designers and exhibitors alike and was responsible for an average of 31 per cent of participants' spring and summer wholesale sales. The Mercedes Australian Fashion Week really gives a boost to our designers who want to export.

The event gives international exposure to promising and prominent fashion designers such as Charlie Brown and Collette Dinnigan, and to labels such as Sydney-based Tea Rose. This year's Fashion Week was the most successful ever, with 124 firms participating in the exhibition and 74 designers participating in the collection shows. The public festival attracted more than 250,000 people to its 65 events; trade visitors increased from 6,000 in 1999 to 14,000 in 2000; and sales generated by survey respondents reached approximately $6.8 million, of which $1.2 million was export sales—and of contestants who had not exported before, almost half recorded their first export orders. The New South Wales Government has provided seed funding to the Mercedes Australian Fashion Week since its inception in 1996.

The Hon. J. M. Samios: How much this year?

The Hon. M. R. EGAN: I do not know, it is not a great deal of money.

The Hon. Patricia Forsythe: Peter Collins initiated that.

The Hon. M. R. EGAN: No, he did not, sorry, it was me. There was not an Australian Fashion Week until I became the Minister for State Development, and the first one was a good year after I became Treasurer in 1997.

The Hon. Dr A. Chesterfield-Evans: Treasurer, and Minister for State Development, and a helper in every portfolio.

The Hon. M. R. EGAN: An all-round good helper. Having recently secured the sponsorship of Mercedes for a further three years—where is the Hon. R. S. L. Jones? He left the House.

The Hon. R. S. L. Jones: I did not.

The Hon. M. R. EGAN: You did. You suggested that the Mercedes Australian Fashion Week was going to Melbourne and I have information that New South Wales has secured the sponsorship of Mercedes for a further three years.

The PRESIDENT: Order! There is too much chatter between members. I ask members, including the Hon. Dr B. P. V. Pezzutti, to be seated and to remain silent.

The Hon. M. R. EGAN: He should sit down, behave himself, do as he is told. We look forward to Fashion Week attracting more designers—

The Hon. Dr B. P. V. Pezzutti: Peter Collins started Fashion Week.

The Hon. M. R. EGAN: The first Mercedes Australian Fashion Week was in 1996. I was the Minister for State Development.

The Hon. Dr B. P. V. Pezzutti: That was the first Mercedes Australian Fashion Week.

The Hon. M. R. EGAN: I did not know the Hon. Dr B. P. V. Pezzutti was still speaking to Peter Collins.

The Hon. Dr B. P. V. Pezzutti: I am.

The Hon. M. R. EGAN: Are you?

The Hon. J. J. Della Bosca: They are mates.

The Hon. M. R. EGAN: They are mates, are they?

The Hon. J. J. Della Bosca: He is a Peter Collins' man. Isn't it obvious?

The Hon. M. R. EGAN: Peter Collins would be the only mate he has left on that side of the House.

The Hon. J. J. Della Bosca: No, there is Charlie Lynn.

The Hon. M. R. EGAN: Charlie Lynn, yes. The Government looks forward to Fashion Week attracting more designers, achieving more sales and creating more jobs in New South Wales. I warn the Hon. R. S. L. Jones not to mislead the House again.

The Hon. H. S. TSANG: I ask a supplementary question. How can I get an invitation to next year's Mercedes Fashion Week?

The Hon. C. J. S. Lynn: Dress up.

The Hon. M. R. EGAN: The Hon. H. S. Tsang is always elegantly dressed and properly attired, which is more than I can say for the misleading Hon. R. S. L. Jones.

The Hon. R. S. L. Jones: Point of order: I did not mislead. I was only concerned that Victoria might poach Fashion Week. I may not be properly attired, but I certainly did not mislead the House.

The PRESIDENT: Order! I cannot rule on the point of order taken by the Hon. R. S. L. Jones as I did not hear it.

The Hon. M. R. EGAN: I assure the Hon. H. S. Tsang that I will arrange an invitation for him for next year.

The Hon. C. J. S. Lynn: Mate's rates.

The Hon. M. R. EGAN: The Hon. C. J. S. Lynn said, "Mates rates." I would not want to display some of the Opposition members to international visitors. Some of them would not get an invitation. Some of them would, but some of them would not. There will certainly be an invitation for the Hon. H. S. Tsang.

The Hon. J. J. Della Bosca: The Hon. J. M. Samios would get an invitation.

The Hon. M. R. EGAN: The next Governor General?

The Hon. J. J. Della Bosca: Yes.

The Hon. M. R. EGAN: He will be there. Doesn't he look the part?

WARRINGAH COUNCIL GENERAL MANAGER SALARY PACKAGE

Ms LEE RHIANNON: I direct my question to the Minister for Mineral Resources, representing the Minister for Local Government. Is the Minister aware that despite Warringah Council's financial crisis, loss of planning powers and allegations of corruption, Liberal Mayor Peter Moxham recently granted the General Manager, Mr Denis Smith, a 5 per cent salary increase, thereby taking his package to $205,682 per annum? In view of the serious mismanagement of Warringah Council, will the Minister send a clear signal to Warringah Council that it should replace its general manager?

The Hon. E. M. OBEID: I am sure that my colleague in the other House the Minister for Local Government will have an appropriate answer for Ms Lee Rhiannon.

POLMARK MARKETING AND CONSULTANCY SERVICES PROMOTIONAL MATERIAL

The Hon. G. S. PEARCE: My question is to the Special Minister of State. Further to your answer yesterday, where you confirmed that the company Polmark does not have direct access to you, as inferred by the use of your photograph on the company's promotional material, and considering the fact that clients of Polmark will have to pay a fee to utilise Polmark's services, do you agree that the company has misrepresented your position, and will you now refer the matter to the police for further investigation?

The Hon. M. R. Egan: Point of order: The Hon. G. S. Pearce is a new boy.

The Hon. J. J. Della Bosca: He went to Paul Keating's school.

The Hon. M. R. Egan: In deference to the De La Salle Brothers I would not have mentioned that.

The Hon. D. J. Gay: What is the point of order?

The Hon. M. R. Egan: The point of order is that the Hon. G. S. Pearce is a slow learner. Yesterday he was here when I took to task the Hon. J. F. Ryan, who asked a question of the Minister in the terms, "does he agree". I took the point of order that under standing orders and pursuant to the President's rulings, opinions cannot be sought during question time. The honourable member should have learnt from that. He began his question today, "do you agree". Ministers do not give opinions during question time. Ministers provide information. As Madam President ruled yesterday, questions seeking an opinion are out of order.

The Hon. G. S. Pearce: To the point of order: The Treasurer may well have given a direction that I should have taken note of. I would like to reword the question and ask: Is it a fact that—

The Hon. M. R. Egan: Further to the point of order: The Hon. G. S. Pearce should ask Madam President whether he can do that. He should seek the call. He should wait until Madame President gives a ruling. If he were in Canberra he would not get a second bite.

The PRESIDENT: Order! As the Leader of the House has reminded us, questions cannot call for an expression of opinion.

The Hon. D. J. Gay: Point of order.

The PRESIDENT: Order! The Deputy Leader of the Opposition will resume his seat. I am ruling on the point of order.

The Hon. D. J. Gay: Madam President, I ask a question: Can you rule on a point of order when members who wish to speak to the point of order have not spoken? Several members were seeking the call.

The PRESIDENT: Order! No member sought the call when I commenced my ruling. The Deputy Leader of the Opposition is canvassing my ruling. He will take his seat.

The Hon. D. J. Gay: I was standing. I move dissent from your ruling.

The PRESIDENT: Order! Because of a problem with amplification in the Chamber I am having enormous difficulty hearing today. I could not hear a word of the point of order raised by the Hon. R. S. L. Jones. I will take a further position on the point of order. However, I was about to rule that because he is a new member the Hon. G. S. Pearce could rephrase his question. Does the Deputy Leader of the Opposition wish to seek the call?

The Hon. D. J. Gay: Point of order: I will read the original question that was put:

> Minister, further to your answer yesterday, where you confirmed that the company Polmark does not have direct access to you, as inferred by the use of your photograph on the company 's promotional material, and considering the fact that clients of Polmark will have to pay a fee to utilise Polmark's services—

The Hon. Jan Burnswoods: Is this a point of order or a supplementary question?

The Hon. D. J. Gay: I am trying to reread the question so that we can understand whether the honourable member was asking for an opinion or for the Minister to do something.

The PRESIDENT: Order! Interjections are disorderly at all times. I ask the Deputy Leader of the Opposition to continue with his point of order and ignore interjections.

The Hon. D. J. Gay: The question continues:

> do you agree that the company has misrepresented your position, and will you now refer the matter to the police for further investigation?

The key to this question is that the Hon. G. S. Pearce asked the Minister whether he would refer the matter to police for further investigation. The Minister should be able to answer that question yes or no. I contend that the question as originally asked should be left in order.

The Hon. M. R. Egan: To the point of order: The key element of the question clearly is summed up in the three words, "do you agree". The honourable member is seeking an opinion from the Minister. Members are not entitled to ask questions that seek an opinion.

The PRESIDENT: Order! As I ruled some time ago, any part of a question that seeks an opinion—in this case the words "do you agree"—is not in order. However, the Hon. G. S. Pearce may rephrase his question and try again.

The Hon. G. S. PEARCE: Thank you for your indulgence. I am sure the Treasurer's headache is causing him to want to beat up on the new kid on the block. Is it a fact that the Minister has misrepresented his position? Will he now refer the matter to the police for further investigation?

The Hon. J. J. DELLA BOSCA: That would have to be the longest bow since the Battle of Hastings. I have said before yesterday that I do not own my photographic image. I have no possession of the claims made by people about me in pamphlets or promotional brochures. I told the House yesterday that on the discovery of the nature of the brochure I wrote to the proprietors asking them to desist from using my image. The fact that honourable members opposite want to persist with this line of questioning simply proves what the Premier and the Leader of the Government have been asserting: they do not have any policies. They should come into this place with questions to ask.

The Hon. G. S. PEARCE: I wish to ask a supplementary question. Yesterday in answer to the question, "Does this position represent your position?" the Ministers said, "No, it does not." If he is now saying that it does not represent his position, and alternatively that it does not misrepresent his position, what is he saying?

The Hon. J. J. DELLA BOSCA: I do not know if we are in Parliament House or a philosophy tutorial. No-one would have briefed the honourable member. I would not have engaged him. I would not have got any legal advice from him. Even the Leader of the Opposition, with his rudimentary knowledge of the criminal law as an officer of the New South Wales Police Service would know that my obligation to report such a matter to the police, if it were a police matter, is no greater than the obligation of the honourable member or anyone else who has knowledge of it. It is a ridiculous question.

ARDLETHAN TIN MINE

The Hon. A. B. KELLY: My question without notice is to the Minister for Mineral Resources. What are the latest developments relating to the proposed tin mine at Ardlethan, in the Riverina?

The Hon. E. M. OBEID: I acknowledge that my colleague is really keen to extract information on regional New South Wales. No doubt Country Labor will make important inroads into regional New South Wales at the next election. Developing new mines and creating much-needed jobs in regional areas is a Carr Government priority. I am very pleased to advise the House that I have just approved yet another new mining lease. This time it is for a new tin mine near Ardlethan, a small town between Wagga Wagga and West Wyalong with fewer than 400 people. The mine will be an enormous bonus for the town, which has high unemployment and limited jobs. The opening of this mine is timely. At about $10,000 per tonne the current price for tin is at a 10-year high, and demand is strong.

The lease has been granted to a company called Telminex, a subsidiary of Marlborough Resources. Last month Coolamon Shire Council approved a development consent for this project. The new, open-cut mine will involve an initial capital investment of more than $4 million. It is anticipated that construction work at the site will begin early in the new year, with mining scheduled to start within six months. When the mine is fully operational it will provide up to 22 full-time jobs. It is expected that Ardlethan will have a productive life of up to seven years, producing approximately 7,000 tonnes of tin. At current prices this would be worth more than $60 million. This new development builds on the area's previous mining history. The old Ardlethan tin mine closed in 1986.

[*Interruption*]

I am glad that the Opposition has one policy: it can correct pronunciation. That is about all the Opposition does in this House. That lot over there should earn its keep by asking significant questions that relate to issues in regional New South Wales. But it is wasting the time of the House on some pamphlet that has a

photograph in it of a number of Ministers. That is all we have heard for the last few days. What a great contribution the Opposition is making to the welfare of the State. What a great contribution it is making for the citizens of this State. Here we are advising the House on very important issues, jobs in regional New South Wales. With the Hon. D. J. Gay's leadership of the National Party in this House it will go backwards, as it is already. He does not make one contribution. He does not care about mineral resources.

The Hon. Dr B. P. V. Pezzutti: Point of order: You have ruled on a number of occasions that Ministers are not here to give opinions. The Minister for Mineral Resources, and Minister for Fisheries is now giving an opinion. I ask you to direct him to desist from doing so.

The PRESIDENT: Order! A member, when putting a question to a Minister, cannot ask for an opinion. On that the standing orders are clear. However, there is nothing in the standing orders to prevent a Minister from giving opinions. In fact, they do it all the time.

The Hon. D. J. Gay: Point of order: The Minister indicated to the House that I had never asked a question on mineral resources. I ask the Minister to withdraw that because quite clearly I have asked more than one question on mineral resources.

The PRESIDENT: Order! The point taken by the Deputy Leader of the Opposition should perhaps more appropriately have been taken under Standing Order 71, which provides that a member may speak on a point on which he or she has been misquoted or misrepresented. However, a different issue arises if the Deputy Leader of the Opposition is seeking to have the Minister withdraw a statement. Was the Deputy Leader of the Opposition seeking to correct the record?

The Hon. D. J. Gay: I certainly was. The Minister was incorrect. It is not the first time he has been incorrect. Last night he did not even understand his legislation, despite the fact that his staff and members of this House tried to explain it to him. Now he comes in here and tries to mislead the House about the fact that I have not asked any questions. The fact is, yes, I have asked a number of questions on mineral resources.

The Hon. E. M. OBEID: To the point of order: In view of what the Deputy Leader of the Opposition has just said, I suggest that during question time tomorrow he inform the House of the last question that he asked about mineral resources. Let him tell us the date and the subject of the question. As for his performance on yesterday's bill, the way he pulled his weight around was absolutely disgraceful. He did not understand the legislation. He should apologise.

This company recently purchased the lease of the former mine. Once the new mine is under way Marlborough will also examine the possibility of reprocessing the large volume of tailings at the old site. It is estimated that the waste from this mine may contain up to $130 million of tin if it can be recovered using new techniques. I look forward to updating the House about developments at this new mine as they come to hand. I congratulate the company on coming to New South Wales and providing jobs for regional New South Wales, which is one of the priorities of this Carr Labor Government.

INTERNATIONAL STUDENTS TRAVEL CONCESSIONS

The Hon. HELEN SHAM-HO: I direct my question to the Minister for Mineral Resources, Representing the Minister for Transport. I refer the Minister to my recent representations on behalf of the National Liaison Committee and the accompanying submission which states that international students make a significant contribution to this State's economy, of in the order of more than $1 billion annually. Is the Minister aware that the majority of other Australian States allow international students concessions on public transport, yet this State does not allow them concessions? Why is it that New South Wales has not introduced travel concessions for these students? Will the Minister take action to address this issue so that New South Wales can attract more international students, given that the Premier recently promoted education exports in China?

The Hon. E. M. OBEID: I will seek an answer to the Hon. Helen Sham-Ho's question from my colleague the Hon. Carl Scully.

GRANTS CHEQUES DISTRIBUTION

The Hon. J. M. SAMIOS: I ask the Treasurer, representing the Premier: Is the Minister aware that the Auditor-General stated in his "Report to Parliament 2000, Volume 5":

> Contrary to accepted practice, the Commission acknowledges that some cheques drawn for the payment of grants were not mailed, but forwarded to the Minister Assisting the Premier on Citizenship for distribution.

Is the Minister aware further that while the cheques were drawn in April 2000, some were not presented for payment until after year end, suggesting delays in their distribution and a lessening in expenditure control procedures? What action does the Treasurer intend to take to ensure that these anomalies are removed and correct procedures are adhered to?

The Hon. M. R. EGAN: As I understand the position, from what the Hon. J. M. Samios has said, I propose to take no action. I have not read that section of the Auditor General's report but, from what the Hon. J. M. Samios said, I do not intend to do anything. It is quite appropriate that Ministers and members should present cheques on behalf of the Government. In the past cheques have been mailed to organisations and they have expressed a preference for them to be presented by a Minister, or someone representing the Minister, at a ceremony. I believe that is entirely appropriate.

The Hon. J. M. Samios: There is a tax factor. These cheques were drawn in April but they were not presented until after year end.

The Hon. M. R. EGAN: What is the problem with that?

The Hon. J. H. Jobling: Sounds like a bit of fudgey account keeping in the bottom drawer.

The Hon. J. M. Samios: Are you saying that they can keep them indefinitely?

The Hon. M. R. EGAN: No. One would expect that when a grant is made it would be passed to an organisation within a reasonable period of time. Very often it does not suit an organisation to have a function or a ceremony on a certain date and it asks for it to be postponed. On other occasions it is not possible for a Minister or a member to make presentations within a particular time frame. I do not see anything wrong with that.

The Hon. J. M. SAMIOS: I ask a supplementary question. Is the Minister saying that the Auditor-General is wrong in his comments?

The Hon. M. R. EGAN: No, I am not saying that he is wrong. I do not know what point the Auditor-General has made but, from the information the Hon. J. M. Samios has conveyed in his question, I do not propose to take any action. I should provide to the House a very interesting piece of information. Today is the wedding anniversary of the Hon. Patricia Forsythe. We wish her a very happy wedding anniversary.

OCCUPATIONAL HEALTH AND SAFETY INDUSTRY TEAMS

The Hon. I. W. WEST: My question without notice is directed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House about the impact of the new industry teams approach in the delivery of occupational health and safety services by the WorkCover Authority?

The Hon. J. J. DELLA BOSCA: The WorkCover Authority's Occupational Health and Safety Division's new industry team structure has proved most successful to date, with better use of resources resulting in a marked improvement in services to industry and the community. WorkCover's core field-based occupational health and safety services are delivered to workplaces by seven industry and two country teams. The teams structure became fully operational in February 2000. This followed an extensive and successful trial with multidisciplinary teams operating in the construction and health and community services industries. A feature of the team's approach has been the identification of industry priority areas to ensure that services and resources are directed to address the most urgent occupational health and safety needs in each specific industry sector.

These priorities have been established through consultation with industry representatives and analysis of WorkCover New South Wales data, including claims, accident notifications and relevant data from the Australian Bureau of Statistics. Already this approach has resulted in significant improvement in service delivery. For example, during the period March to August this year WorkCover made nearly 22,000 workplace visits. This compares with a total of 17,500 for the same period last year. In the same six-month period there has been a 58 per cent increase in the number of complaints actioned and a 47 per cent increase in the number of injury notifications actioned. Almost half of these complaints and 66 per cent of the injury notifications were

identified as being in designated industry priority areas. Similarly, 84 per cent of occupational health and safety matters referred for prosecution during the same period March to August were in designated industry priority areas.

There has been a 33 per cent increase in the number of prohibition, improvement and penalty notices issued, and 5,422 employers were checked for compliance with workers compensation policy requirements. Those employers found not to be in compliance were issued with directions to take action to bring them into compliance or were referred for more detailed investigation. The teams have also undertaken a wide range of industry-specific projects that have resulted in a marked improvement in the occupational health and safety performance of the companies concerned. For example, a company in the food and beverage industry, which employs 65 people, had 70 workers compensation claims during the 12 months from June 1999 to June 2000. Members of WorkCover's manufacturing team met with the company's managing director and senior management to discuss the number of injuries, costs of claims and lack of injury management.

As a result, the company initiated a number of changes to its approach to occupational health and safety management, including proper training for its safety committee, a consultation process to involve all employees in improving occupational health and safety, and a rehabilitation consultant to manage injuries and conduct risk assessments. In the five months since the intervention there have been only four claims for minor injuries, with all employees returning to work. There has also been an increase in the number of injured employees returning to work on injury management programs. This is just one example of how closer interaction between WorkCover's teams and industry is having a positive effect and achieving results for employers and workers alike. Of course, these positive results from improved occupational health and safety services focused in industry priority areas directly impact on reducing the costs of the WorkCover scheme.

FLOOD DAMAGE INSURANCE CLAIMS

The Hon. J. S. TINGLE: My question without notice is directed to the Treasurer, and Minister for State Development. Does the Minister have any comment on the reported refusal by insurance companies to provide compensation for families affected by floods in north-western New South Wales? Is the Minister concerned, as Treasurer and/or as Minister for State Development, that insurance companies are able to offer limited insurance policies that exclude flood damage, especially in areas of the State where floods might be expected to occur? Is the Minister aware of reports that NRMA Insurance is treating claims for cars washed away by flood waters as though they had been damaged in an accident and is charging the excess premium payable on claims on those vehicles? Given the similar refusal by insurance companies after the disastrous Wollongong floods, has the time come to try to require that insurance companies undertake a full spectrum of responsibility for their policyholders?

The Hon. M. R. EGAN: I do not think there is anything governments can do to require insurance companies to offer certain types of insurance. That would almost be a kind of civil conscription.

The Hon. J. S. Tingle: Persuade them?

The Hon. M. R. EGAN: I am quite happy to ask my colleague the Minister for Fair Trading to take up the matter with insurance companies as long as it is understood that there is nothing, at least as I understand it, that governments can do to stipulate what is in a contract between an insurer and a private individual. However, I shall refer the question to the Minister for Fair Trading.

NURSES ASSOCIATION MINISTERIAL CONSULTATION

The Hon. J. H. JOBLING: My question without notice is to the Minister for Industrial Relations. Is the New South Wales Nurses Association highly critical of the Minister's lack of consultation with unions in the wake of his policy to abolish the Workers Compensation Advisory Council and the Occupational Health and Safety Council? Further, is the association concerned that the WorkCover Authority is not making an effort to consult with stakeholders? Has the Minister agreed to make time to see the New South Wales Labor Council Secretary, Michael Costa, who has sought an urgent meeting with him about these and other issues raised by the Nurses Association? When is the Minister going to agree to a meeting?

The Hon. M. R. Egan: I am going to have lunch or dinner with him soon.

The Hon. J. J. DELLA BOSCA: I might join you. I make no apologies for the fact that almost any time that Michael Costa asks me to organise a meeting I accede to his request.

The Hon. M. R. Egan: He is not a bad bloke, actually.

The Hon. J. J. DELLA BOSCA: He is very good company. Yesterday I spoke to him twice on the telephone about a number of matters.

The Hon. M. R. Egan: I spoke to him yesterday, too.

The Hon. J. J. DELLA BOSCA: Did he talk to you about the nurses association?

The Hon. M. R. Egan: No, I saw him—

The Hon. J. H. Jobling: He is not achieving much, is he?

The Hon. J. J. DELLA BOSCA: He achieves a hell of a lot. In my two telephone conversations with him yesterday he did not raise concerns about the nurses association. He raised the matter, which we discussed at some length, about the consultative process and issues that have previously been reported in this Parliament. He was satisfied with the account of events that I gave him. We agreed to have further discussions about outstanding issues that the Labor Council is seeking to represent to the Government in relation to WorkCover and industrial relations matters. But I cannot recollect his making a specific reference to the Nurses Association.

The Hon. M. R. Egan: He wants to be Treasurer.

The Hon. J. J. DELLA BOSCA: I suppose he can be Treasurer in 2016.

The Hon. M. R. Egan: Did he ask you to convey his regards to me?

The Hon. J. J. DELLA BOSCA: No, he did not.

The Hon. M. R. Egan: I will note that!

The Hon. J. J. DELLA BOSCA: It was a hurried conversation. The first woman president of the Labor Council of New South Wales since its inception, Sandra Mouat, is the secretary of the Nurses Federation of New South Wales. She is also someone for whom I would follow up an issue raised with me on any occasion. This would apply to anyone else from the Nurses Federation. I am not sure to what the Hon. J. H. Jobling is specifically referring, but I am sure that all the issues will be effectively cleared up when we have the opportunity to talk them through.

WATER MANAGEMENT LEGISLATION

The Hon. JANELLE SAFFIN: I direct my question to the Special Minister of State, representing the Minister for Agriculture, and Minister for Land and Water Conservation. Will the Minister advise the House of any information he has about the impact of the Water Management Bill, which was successfully passed through this House last night, on the viability of regional and rural centres in New South Wales?

The Hon. D. J. Gay: There is not much viability for Country Labor.

The Hon. J. J. DELLA BOSCA: Quite the contrary. I congratulate honourable members who participated in the debate on the Water Management Bill. It was a great co-operative effort. Indeed, I heard the Minister talking today about the work of the Parliamentary Secretary, the Hon. I. M. Macdonald. The Minister was most pleased with the efforts of this House and the work of the Parliamentary Secretary. Today I received a letter from the Mayor of Cabonne Council. The Deputy Leader of the Opposition no doubt will recall that the mayor was present in the gallery during the debate—it may have been the Deputy Leader of the Opposition or the Hon. Jennifer Gardiner who pointed to his presence in the gallery. With the indulgence of the House, I will read the letter so that honourable members can feel proud of their efforts. The letter is addressed to "The Hon. Tony Kelly MLC, Chair of Committees, Chair Country Labor, Parliament House". "Dear Sir" is crossed out and "Tony" is written. The letter reads:

RE: WATER MANAGEMENT BILL 2000

Further to Cabonne Council's visitation—

I love that very polite language—

> to Parliament House on 24 and 25 November 2000, I wish to acknowledge the final passing of the above named Bill in both houses today with a great deal of pleasure.
>
> Without your personal assistance and the assistance of your office, the Minister's office, economic development would have been a non-event in country NSW.
>
> It is gratifying to see Country Labor members like yourself backing the bush and listening to our concerns. The assistance and co-operation you gave to me and my staff last week to achieve the final outcomes is acknowledged and appreciated.
>
> Future efforts for a better regional NSW will be required with consultation and we know that we can count on Country Labor.
>
> Yours faithfully,
>
> J. Farr
>
> MAYOR

I think that that is a very fitting end to question time. The Leader of the Government has asked me to ask any members who have further questions to place them on notice.

POLMARK MARKETING AND CONSULTANCY SERVICES PROMOTIONAL MATERIAL

The Hon. J. J. DELLA BOSCA: Yesterday the Hon. J. H. Jobling asked me a question in relation to Polmark—one of the many questions that the Opposition asked me in relation to that matter. I inform the House that on 3 March I met with representatives from the Irrigators Council, whom I understand also to have been clients of Polmark at the time.

Questions without notice concluded.

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL

RACING AND TOTALIZATOR LEGISLATION AMENDMENT BILL

CRIMES LEGISLATION FURTHER AMENDMENT BILL

SUPERANNUATION LEGISLATION AMENDMENT BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. J. J. Della Bosca agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second reading of the bills stand as orders of the day for a later hour of the sitting on the next sitting day.

Bills read a first time.

BILL RETURNED

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

Mining and Petroleum Legislation Amendment Bill

PARLIAMENTARY ETHICS ADVISER

The PRESIDENT: Order! I report the receipt of a message from the Legislative Assembly concerning the reappointment of Mr Ian Dickson as the Parliamentary Ethics Adviser:

> MADAM PRESIDENT
>
> The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution—
>
> That:
>
> (1) This House directs the Speaker to join with the President to make arrangements for the appointment of Mr Ian Dickson as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 December 2000;

(2) The function of the Parliamentary Ethics Adviser shall be to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest);

(3) The Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines adopted by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise);

(4) The Parliamentary Ethics Adviser's role does not include the giving of legal advice;

(5) The Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based;

(6) The Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in that role and the advice given, but that the Parliamentary Ethics Adviser may make advice public if the member who requested the advice gives permission for it to be made public;

(7) This House shall only call for the production of records of the Parliamentary Ethics Adviser if the member to which the records relate has sought to rely on the advice of the Parliamentary Ethics Adviser or has given permission for the records to be produced to the house;

(8) The Parliamentary Ethics Adviser is to meet with the Standing Ethics Committee of each House annually;

(9) The Parliamentary Ethics Adviser shall be required to report to the Parliament prior to the end of his annual term on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given; and

(10) The Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.

The Legislative Assembly requests that the Legislative Council pass a similar resolution.

Legislative Assembly
30 November 2000

JOHN MURRAY
SPEAKER

Consideration of message deferred.

MARINE PARKS AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.09 p.m.], in reply: In response to comments of Reverend the Hon. F. J. Nile concerning the employment of Aboriginal Australians as marine park rangers, a number of marine park rangers are officers of New South Wales Fisheries. My department has been participating in indigenous employment schemes and a number of indigenous people are employed as New South Wales Fisheries officers. The Government is mindful of the need to include Aboriginal Australians in the management of marine parks and this will remain a priority for the Government.

With respect to historical shipwrecks, I assure Reverend the Hon. F. J. Nile that shipwrecks that have historical or cultural significance will be protected wherever possible. This provision is aimed more at modern wrecks that are a risk to the environment. The cost of removing these modern wrecks would normally be the responsibility of those who own the sunken ships. In response to another question asked by Reverend the Hon. F. J. Nile regarding naval facilities, I inform him that the majority of these facilities are in Commonwealth waters, which are not included in the marine park. Those facilities that are included, such as wharfs, will be catered for in the zoning plan for the marine park. In view of time constraints, I will conclude by commending the bill to the House.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 25

Mr Breen	Mr Johnson	Ms Saffin
Ms Burnswoods	Mr R. S. L. Jones	Mrs Sham-Ho
Dr Chesterfield-Evans	Mr Kelly	Mr Tingle
Mr Cohen	Mr Macdonald	Mr West
Mr Corbett	Mrs Nile	Dr Wong
Mr Della Bosca	Revd Nile	
Mr Dyer	Mr Obeid	*Tellers,*
Mr Egan	Mr Oldfield	Mr Hatzistergos
Ms Fazio	Ms Rhiannon	Mr Primrose

Noes, 12

Mr Colless	Mr M. I. Jones	
Mrs Forsythe	Mr Lynn	
Mr Gallacher	Dr Pezzutti	*Tellers,*
Mr Gay	Mr Ryan	Mr Jobling
Mr Harwin	Mr Samios	Mr Pearce

Pairs

Ms Tebbutt	Miss Gardiner
Mr Tsang	Mr Moppett

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. R. S. L. JONES [5.18 p.m.], by leave: I move my amendments Nos 1 to 20 on sheet C-050G in globo:

No. 1 Page 3, schedule 1 [1]. Insert after line 8:

owner has the same meaning as in the *Local Government Act 1993*, and includes a native title holder.

No. 2 Page 3, schedule 1 [4], line 28. Omit "and the occupier".

No. 3 Page 4, schedule 1 [5]. Insert after line 9:

Insert after ", but may only vary a marine park to remove an area if the relevant Ministers certify in writing that the area is no longer required to be part of the marine park for the purpose of attaining the objects of this Act" after "marine park" in section 9 (1).

[6] Section 9 (3)

No. 4 Page 4, schedule 1 [6], line 17. Omit "and occupiers".

No. 5 Page 4, schedule 1 [6], line 18. Omit "or occupier".

No. 6 Page 4, schedule 1 [6], line 23. Omit "or occupier".

No. 7 Page 5, schedule 1. Insert after line 1:

Insert "or such further period as the relevant Ministers allow" after "notice" in section 16 (5) (a).

[9] Section 16 (5)

No. 8 Page 5, schedule 1 [8], line 4. Omit "or comments".

No. 9 Page 8, schedule 1 [12], lines 17-29. Omit all words on those lines. Insert instead:

(1) The notification of a marine park closure is to be published:

(a) in the Gazette, and

(b) in a newspaper circulating, or by radio or television broadcast, in the area adjacent to the marine park to which the closure applies, and

(c) by causing a copy of the notification to be exhibited in a prominent place or places adjacent to the marine park to which the closure applies.

(2) However, if the relevant Ministers consider that the marine park closure is required urgently, they may publish the notification in accordance with subsection (1) (b) or (c) so long as they publish the notification in the Gazette as soon as practicable.

No. 10 Page 8, schedule 1 [12], line 31. Insert "first" before "publication".

No. 11 Page 9, schedule 1 [12], line 2. Insert ", but may be remade (with or without modification) by a further notification in accordance with this Division" after "notification".

No. 12 Page 9, schedule 1 [12], line 25. Omit "animal or plant". Insert instead "animal, plant, rock, sand or other thing".

No. 13 Page 9, schedule 1 [12], line 34. Omit "animal or plant". Insert instead "animal, plant, rock, sand or other thing".

No. 14 Page 10, schedule 1 [12]. Insert after line 28:

(6) Except in the case of an emergency, the Authority must not give a direction for the removal of any unused property, or remove or authorise the removal of any unused property, that the Authority is of the opinion is likely to have significant cultural or ecological value unless the Authority:

(a) has made an assessment of that cultural or ecological value, and

(b) has forwarded a copy of that assessment to the relevant advisory committee at least 4 weeks before giving the direction or removing or authorising the removal of the unused property.

No. 15 Page 10, schedule 1 [13]. Insert after line 29:

Insert "or such further period as the relevant Ministers allow" after "subsection (4)" in section 25 (6) (a).

[14] Section 25 (6)

No. 16 Page 11, schedule 1. Insert after line 2:

[14] Section 25 (8)

Insert after section 25 (7):

(8) The relevant Ministers are to ensure that an operational plan for a marine park is adopted as soon as practicable and, in any event, within 12 months after the making of the first regulation that sets out a zoning plan for the marine park (as referred to in section 16). However, the operational plan is not invalid merely because it was adopted after that 12-month period.

No. 17 Page 11, schedule 1. Insert after line 2:

[14] Sections 26A-26C

Insert after section 26:

26A Annual review of operational plan for marine park

(1) The advisory committee for a marine park may review the operational plan for the marine park every 12 months to determine whether or not the plan is effective and is being satisfactorily implemented.

(2) The advisory committee must forward a report on the outcome of the review to the relevant Ministers, the Authority and the Advisory Council as soon as practicable after its completion.

(3) The report is to include any recommendations of the advisory committee as to how the operational plan could be made more effective or could be better implemented.

26B Review of operational plan for marine park

(1) The Authority is to commence to conduct a review of the operational plan for each marine park before the expiration of the period of 5 years after the adoption of the operational plan.

(2) If the Authority considers that significant changes have been made to the zoning plan for a marine park (as referred to in section 16), the Authority is to commence to conduct a review of the operational plan for the marine park as soon as practicable after the making of the regulation containing those changes.

(3) The Authority is to cause public notice to be given of a proposed review under this section.

(4) The notice is:

(a) to invite submissions to be made within the period specified in the notice (being a period of not less than 3 months after the date of the notice), and

(b) to specify the address to which such submissions are to be forwarded.

(5) In conducting the review, the Authority is to consider any submissions made within the period specified for that purpose in the notice or such further period as the Authority allows.

(6) The Authority must forward a report on the outcome of the review to the relevant Ministers, the Advisory Council and the relevant advisory committee within 3 months after the expiration of the period allowed under this section for the making of submissions in respect of the review.

26C Preparation of new operational plan for marine park following review

(1) On the completion of a review under section 26B of an operational plan for a marine park, the Authority is to cause a new operational plan to be prepared for the marine park.

(2) The provisions of this Part (section 23 excepted) apply to an operational plan required to be prepared under this section in the same way as those provisions apply to an operational plan required to be prepared under section 23.

(3) However, an operational plan for a marine park required to be prepared under this section must be referred to the Advisory Council and the advisory committee for the marine park within 3 months after the report is forwarded as referred to in section 26B (5).

(4) An operational plan for a marine park required to be prepared under this section is not invalid merely because the relevant report is forwarded after the 3-month period referred to in section 26B (5) or the operational plan is referred to the Advisory Council or the advisory committee for the marine park after the 3-month period referred to in subsection (3).

(5) On the adoption of an operational plan for a marine park required to be prepared under this section the previous operational plan for the marine park is revoked.

No. 18 Page 11, schedule 1. Insert after line 6:

[15] Section 32 Establishment of Marine Parks Advisory Council

Omit "at least one being an expert in marine conservation" from section 32 (2) (b). Insert instead "one being an expert in marine conservation and one being nominated by a peak group or body generally recognised for its interest in conservation, as provided for in the regulations".

[16] Section 32 (3)

Omit "subsection (2) (a)". Insert instead "the position referred to in subsection (2) (a) and the position for which a person is required to be nominated in accordance with subsection (2) (b)".

No. 19 Page 11, schedule 1 [18], line 30. Insert "and whether any particular use of the marine park is not ecologically sustainable" after "marine park".

No. 20 Page 15, schedule 1 [23], line 5. Omit "and occupier".

Amendment No. 1 ensures that native titleholders are included as owners. This then requires native titleholders' permission to be sought—I refer to new section 6—prior to the declaration of a marine park over their land above mean high water. Amendments Nos 2, 4, 5, 6 and 20 ensure that only the owners and not the occupiers of land can prevent the establishment of a marine park. This right should only be given to the legal owner of the land. "Occupant" is a broad definition and may include people such as itinerant residents, illegal occupants, lessees and sublessees. In relation to amendment No. 3, although any variation to a marine park is required to be gazetted and will therefore be subject to disallowance by the Parliament, at present the relevant Ministers may vary a marine park to effectively remove all areas from the marine park except for, say, one hectare—I refer to new section 9. This amendment, however, ensures that part of a marine park can only be revoked if the area is not required for the purposes for which the marine park was declared.

Amendments Nos 7 and 15 show that submissions by the general public can be considered in the same way as submissions made by the holders of existing interests, in particular to ensure that submissions are

considered when the Minister chooses to extend the period of public consultation. Amendment No. 8 removes the reference to comments made by holders of existing interests. Instead only submissions made by holders of existing interests are referred to, consistent with provisions relating to the consideration of submissions from the general public. Comments can be taken to mean what is said at public or private meetings, on the phone or in the media. It would be unrealistic to expect all comments to be recorded, let alone be considered.

Amendment No. 9 requires public notification of a marine park closure in the *Government Gazette*, in a newspaper, or by radio or television broadcast, and by the placement of a sign adjacent to the marine park in all cases except urgent situations. In urgent situations, notification will still be required in the newspaper, or by radio or television broadcast, and by placement of a sign adjacent to the marine park. Amendments Nos 10 and 11 clarify that a marine park closure may be reviewed after its expiry. In some situations marine park closures may need to remain in place for periods longer than five years, the maximum period that an order can remain in force.

Amendments Nos 12 and 13 ensure that offence provisions apply to the full range of activities that a marine park closure regulates. This is done by broadening the definition of items that can be taken from any animal or plant, to be any animal or plant, rock, sand or other thing. "Other thing" is defined. Amendment No. 14 ensures that, except in the case of emergency, before unused property is removed, an assessment of the ecological and cultural values of the unused property is prepared and forwarded to the relevant advisory committee four weeks before removal takes place. This allows significant ecological and/or cultural values to be assessed, and gives the opportunity for the advisory committee to raise its concerns if significant ecological and/or cultural values may be destroyed by the removal.

Unused property, such as old shipwrecks, may provide an important marine habitat or be of immense cultural value, and the impacts of removal should be assessed and considered. Amendment No. 16 places a time limit on the preparation of the first operational plan within 12 months of the making of the first regulation that sets out a zoning plan for a marine park. Presently, the operation plan must be prepared as soon as practicable. In the case of national parks, under the National Parks and Wildlife Act plans of management must also be prepared as soon as practicable. However, many national parks are still without a plan even though 26 years have passed in some cases since this provision first applied. With a clear definition for the preparation of the plan, this will place a high priority on its immediate preparation.

Amendment No. 17 establishes a yearly process to review the carrying out of an operation plan and a public consultation and review process to seek comments on the effectiveness of an operational plan at its expiry after five years, and requires a new operational plan to be prepared after a public consultation process. The yearly review process provides a mechanism to evaluate whether the operational plan is being carried out effectively and satisfactorily. The review is conducted by the relevant advisory committee and reported to the Minister for the Environment and the Minister for Fisheries. The public consultation process to review the effectiveness of an operational plan at its expiry provides a formal process to ensure that the public is involved in the preparation of a new operational plan before it is exhibited.

The nature of the original plan and the performance in its implementation can be publicly scrutinised before the Marine Park Authority commences preparation of the new plan. The results of the public consultation and review are made available to the relevant advisory committee, the advisory council and the relevant Ministers. It is presently common practice when preparing most operational plans of this nature to informally conduct public consultation. This amendment ensures that it takes place in all cases. Requiring the preparation of a new plan every five years will ensure that the plan remains current and relevant and that the public is given a regular chance to review it. At present there is no mechanism to require a regular review, except under instruction from the relevant Ministers.

Amendment No. 18 ensures that of two members of the Marine Parks Advisory Council that represent the interests of marine conservation, one must be a person who is an expert in marine conservation and one must be appointed on the nomination of a peak group or body generally recognised for its interest in conservation. This amendment also provides for that nomination to be dealt with by regulation. While I and the peak groups of this State would have preferred the legislation to state that those two members must be nominated by the Nature Conservation Council of New South Wales and the National Parks Association, I understand that the Minister will give an assurance that a regulation will be gazetted that provides for the peak group or body nomination to be put forward by the Nature Conservation Council.

I thank and commend the Minister for that assurance. The Nature Conservation Council is, after all, an umbrella group of about 110 New South Wales environmental groups, including the National Parks Association,

and will follow a democratic process to nominate the person that has the support of the key organisations involved in marine conservation. It is also important to ensure that the environment group representatives are selected by the environment movement in line with the appointment of members from a range of other advisory councils and committees, including the National Parks Advisory Committee, the Biological Diversity Advisory Council, the Water Advisory Council, the Native Vegetation Advisory Council, and the Bush Fire Co-ordinating Committee.

Amendment No. 19 rewords one of the functions of the advisory committees relating to ecologically sustainable use. At present the wording "ecologically sustainable use of the marine park" implies that the advisory committee may encourage or promote the use of a marine park. In fact, an advisory committee should also give advice on a broad range of issues regarding the use of the marine park from the perspective of ecological sustainability. The amendment inserts the words "and whether any particular use of the marine park is not ecologically sustainable" and ensures that this section contains the correct emphasis.

Action on marine parks by the New South Wales Government has been somewhat slow. The Marine Parks Act was proclaimed in August 1997, establishing a Marine Parks Authority. Jervis Bay and Solitary Islands marine parks were declared in 1998, and Lord Howe Marine Park in 1999. There is still no zoning or operational plan in place for these parks, despite exhaustive public consultation having already been undertaken on many issues. We are seeking from the Government an accelerated timetable for the completion of bioregional assessments; the establishment of a system of marine parks for each bioregion, including significant sanctuary zones; and for each new marine park the rapid completion of zoning and operational plans incorporating public consultation steps.

Manning Shelf bioregional assessment started in January 2000 and is now near completion. This could be ready for public exhibition in early March 2001, in conjunction with the proposed marine parks. A final decision on marine parks for the bioregion could be made by September 2001, after which operational and zoning plans can be prepared, publicly exhibited and adopted within a year of the creation of the marine park. A further program of accelerated bioregional assessments and marine park declarations for the remaining bioregions is proposed. While bioregional assessments are under way, where good evidence exists marine parks could be created before each assessment is completed to move towards meeting the target of full protection of at least 20 per cent of New South Wales waters and sanctuary zones within marine parks.

The Government needs to establish a major marine park for each of the State's five bioregions within the next two years. Finally, implementation of this program of marine conservation, assessment and protection requires the commitment of adequate resources to ensure that a thorough assessment process is undertaken with sufficient public consultation. The Government must provide leadership on the need to protect marine resources, not only to protect this State's significant marine biodiversity but also to maintain a viable fishing industry. I commend the amendments to the House.

The Hon. R. H. COLLESS [5.28 p.m.]: The Coalition opposes the amendments on the ground that it also opposes the bill. I want to point to one problem that I consider to be serious, which relates to the omission of the words "and the occupier" from the bill. The bill provides that a proclamation must not be made in respect of any land area above mean high water mark, whether or not Crown lands, without the consent of the owner or occupier. The removal of the words "and the occupier" from new section 6 (3) (b) will mean that in the case of a property that is leased—whether it be a private lease or a Crown lease—there is no obligation to contact the person who holds the lease. This whole process needs to be inclusive rather than exclusive. If we cannot have proper community consultation, we should consult with more people rather than fewer people—in other words, use an inclusive process rather than excluding people from the process. I have some concerns about that.

The Hon. D. T. HARWIN [5.30 p.m.]: I support the comments of the Hon. R. H. Colless. Amendment No. 9 contains a worthwhile improvement to the bill, which clearly will pass through this Chamber given the outcome of the vote on the amendment to new section 20E, which relates to marine park closures. The Government's bill allowed for a marine park closure to take place with no more than a simple statement in the *Government Gazette* that it was to be closed. That is hardly an adequate notification to the large number of multiple-users of all marine parks. The amendment provides that notification of a marine park closure must also be published in a newspaper, or broadcast on radio or television in the area adjacent to the marine park to which the closure applies. That is a most welcome improvement.

The Hon. R. S. L. JONES [5.31 p.m.]: Of course, the owner of the land would still be able to prevent the establishment. I have no doubt that the lessees would be consulted.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.32 p.m.]: The Government supports the amendments, which I will address in groups. The Government supports proposed amendments Nos 1, 2, 4, 5, 6 and 20. The definition of "owner" is a sensible one and precludes the need for reference to "occupier" elsewhere in the Act. The inclusion of native title holders within the definition of "owner" simply reflects the provisions of the Native Title Act, which is not affected by the bill. The word "occupier" is no longer necessary when "owner" has the same meaning as it has in the Local Government Act 1993. Long-term lessees of Crown land are included within the definition.

The Government supports amendment No. 3. Most sensible people would recognise that there may occasionally be legitimate reasons for varying the boundaries of a marine park. For example, a minor mistake made in the wording of the boundary description may need to be rectified. The current Act allows for the Governor to make minor changes of this nature by means of proclamation. This amendment qualifies the provision, such that the area of the park, cannot be reduced if the reduction would affect the values of the marine park or the purpose for which it was declared. The qualification is sensible.

The Government supports amendments Nos 7, 8 and 15. These amendments sensibly allow for the Ministers to extend deadlines for submissions or to accommodate important submissions, when it is reasonable to do so, that may not be able to be made within the originally nominated period. The Government supports amendments Nos 9, 10 and 11. The proposed changes will assist the public to better understand the rules that apply within a marine park by ensuring that any rule changes are well publicised. At the same time, the arrangements provide sufficient flexibility to allow marine parks Ministers a quick response to an emerging problem. Appropriate provision is made for the renewal of closures.

The Government supports amendments Nos 12 and 13. These amendments clarify the intent of the original provision and allow marine park closures to be applied not only to any animal or plant, but also to any rock, sand or other object. Effectively, it extends the protection that can be provided by marine park closures to the habitats of animals and plants. It recognises that not only plants and animals but also other objects such as rocks and colonised debris may be of value to a marine park. However, no protection is provided to rocks, sand or other things unless the marine park closures specifically provide for it.

The Government supports amendment No. 14. While there is a genuine need to empower the authority to remove wrecked vessels and abandoned property from a marine park, there may be circumstances in which a wreck or unused property may be a valuable inclusion within the marine park. Where the unused property has acknowledged cultural or ecological value, this amendment ensures that there be a proper assessment of those values and that there be an opportunity for the local advisory committee to be consulted with respect to the proposed removal. However, importantly, the provision also allows for the immediate removal of such items in an emergency.

It is conceivable that circumstances may arise in which the presence of a wreck or abandoned property may pose a threat to the environment, public health or safety in the marine park; for example, a wrecked vessel may spill oil or other contaminants. In those circumstances the authority needs to be able to respond quickly, and that is provided for in the amendment.

The Government supports amendments Nos 16 and 17. These amendments set time frames for the development of operational plans for marine parks and link their development to the development of zoning plans. They provide for operational plans to be reviewed every year, if necessary, but at least every five years. This, and the reporting arrangements provided for in the amendment, should address any concerns in the community, particularly within the conservation community, about the regular review of such plans and ensure that they are always well targeted. The linkage between operational plans and zoning plans is also important as zoning plans are the primary management tool in the Act.

It is essential that each marine park has a complete zoning plan. For that reason the Government intends to always develop zoning plans as quickly as practicable and as quickly as the need for timely and effective consultation with stakeholders and the community permits. The Government supports amendment No. 18. The current legislation specifies that there are to be two marine conservation representatives, one of whom will be an expert in marine conservation. This amendment has a similar effect but provides for the second of the two marine conservation representatives to be a nominee of a peak group or conservation body. The amendment provides for that peak body to be specified in the regulations.

The Government recognises the Nature Conservation Council of New South Wales as the peak conservation body in the State and intends to specify in the regulations that the Nature Conservation Council is

the body from which it will accept nominations for appointment to the Marine Parks Advisory Council, as the peak body representative. The Government supports amendment No. 19. The bill currently identifies the role of the advisory committee as providing advice on ecologically sustainable use of a marine park. The amendment does not alter that focus but enables the advisory committees to also focus on specific types of use and to advise on whether or not such uses are ecologically sustainable.

Amendments agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

LOCAL GOVERNMENT AMENDMENT BILL

Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.40 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

In introducing this bill I want to affirm the Government's ongoing commitment to ensuring a workable and responsible legislative framework for the administration of local government in this State. The House will recall that the Minister for Local Government tabled a report into the review of the Local Government Act, prepared under section 747, in June last year. A number of the amendments contained in this package are a result of that review. Practical experiences also continue to demonstrate the need for further amendments to maintain the momentum of improvement in the legislation. Schedule 1 to the bill contains some important amendments relating to local government elections. It is usual to review the local government election procedures following the four-yearly ordinary elections. Importantly, the views of the State Electoral Commissioner, who conducts these elections, are sought. The review following the last ordinary election, held in September 1999, was particularly timely because of a number of amendments to the election procedures for the Legislative Council made by the Parliamentary Electorates and Elections Amendment Act 1999.

Local government election procedures closely follow those for the upper House, with which I am sure members are familiar. This is because of the common nature of the voting system—that is, electors voting to fill multiple vacancies. This bill contains a number of amendments to maintain the parity of local council election procedures with the changes made to the procedures for the legislative council late last year. It will also address some of the difficulties which arose at the 1999 local government elections. One amendment returns the control to voters over how their preferences are allocated between groups when they choose to use above the line voting. Another provides stricter requirements for a body to register as a local government political party.

This bill strikes an appropriate balance between competing interests. As much as possible there is a reconciliation between the risk of voters casting informal votes and the need to give the fullest expression to their preferences in a manner consistent with the voting system. In regard to groups of candidates and group voting, the amendments seek to ensure that small groups will share in the benefits of above the line voting and at the same time provide voting procedures which should minimise any voter confusion and the incidence of informal votes. The amendments also seek to maintain broad consistency between local government and the Legislative Council in above the line and below the line voting procedures.

The amendments relating to voting procedures will not have an adverse impact on rural communities. Voters will continue to have the choice of voting for individual candidates below the line or for groups of candidates above the line. Electors voting above the line can number one or more group voting squares to indicate their preference for one group or to allocate their preferences between the various groups. This will replace the ability of a group to decide how preferences are allocated between itself and other groups, this being one of the major factors which resulted in the "tablecloth" voting sheets for the Legislative Council and for a number of councils in the elections last year.

This proposal allows the voter, and I stress the voter, to determine preferences by showing one or more preferences for groups or parties in the squares above the line. This gives control of the allocation of preferences between groups or parties to the voter, instead of the group or party. Alternatively, the voter may allocate his or her preferences by numbering the candidates below the line. Whether voting above or below the line, the voter chooses where preferences are allocated. This proposal will reflect voters' intentions more accurately than the current system. It is also reflective of the intent of the changes to the voting system in the Legislative Council.

Candidates, groups and parties will still be able to give out "how to vote" cards recommending how voters should allocate their preferences on the ballot papers. However, it will be up to the voters to decide whether to follow any such recommendation when voting above the line or below the line. A group of candidates will be able to request that a group voting square for their group be shown above the line on ballot papers. The request is to be made to the returning officer before noon on nomination day instead of by the fourth day after nomination day. This is consistent with the Legislative Council and will expedite the printing of ballot papers and the issue of postal votes.

In an undivided area, that is, where there are no wards, a request for a group voting square may be made if the number of candidates in the group equals at least half the number of vacancies. The minimum number of members in a group will be determined in each council area by the number of vacancies. This will ensure that voting is effective for each electorate. If above the line groups were allowed with too few members and a voter only indicated one preference then the preferences would quickly exhaust and possibly render the vote ineffective.

In rural and other areas with small populations and undivided electorates it may be difficult for groups to be formed with a sufficient number of candidates to have above the line voting squares. However, under the existing system this has not caused disadvantage to rural voters. In the local council elections in September 1999, of the 82 undivided electorates where elections were held, 40 council areas did not have above the line voting. In addition, of the elections in 69 council areas with wards, 25 of these also did not have above the line voting. A large proportion of the undivided council electorates which did not have any groups above the line could be classed as rural. In the last local council elections above the line voting in undivided areas tended to arise in larger regional or urban councils. This means that the proposed amendments should have little effect on rural communities. Where above the line voting occurs it will ensure that the allocation of preferences is made by voters rather than through backroom deals.

If an area has wards, a request for a group voting square will be able to be made only if the number of candidates in the group equals at least the number of vacancies in the ward. This recognises that areas with wards usually have only three or four vacancies to be filled in a ward. It will ensure that where a voter, in voting above the line, indicates only one preference the vote will at least equal the number of vacancies contested and that the use of additional preferences will be made at the discretion of the voter not the groups.

A group voting square for above the line voting can be printed on the ballot papers only if more than one group has requested a square. This treats all areas consistently and ensures that a voter who marks two squares will have voted for at least the number of vacancies whether the electorate is divided or not. The formality of votes, where repeated or missed preferences are shown in the group voting squares, has also been addressed. Formality in these circumstances will be the same as applies at Legislative Council elections and will try to give expression to the voters' intentions, if possible. In addition, fewer preferences will be able to be shown than there are vacancies to be filled. This will avoid ballot papers being informal in undivided electorates just because they show only one preference number in a group voting square and the number of candidates in that group is less than the number of vacancies.

Further, ballot papers will not be informal just because they contain the name of a candidate whom a court has declared incapable of being elected. This provision also applies at Legislative Council elections. The other major electoral change is the introduction of more stringent requirements for registration as a local government political party. Certain benefits flow from registration and there is therefore a need for tighter registration requirements. These are based on those applying to parties participating in State elections. As recently as Friday 6 October, the Electoral Commissioner published a notice in the press advising of an application by a sitting councillor to register six parties. It might be presumed that the motive for such an application is to benefit from the ability registered parties have under the current legislation to distribute their preferences between themselves in a manner which increases the prospects of success of one or more of those parties. By this means, a candidate with a very small primary vote may be declared elected as a result of cross-preferencing arrangements between parties.

Further, although some parties may be formed over short-term local issues, many parties, such as residents and ratepayers associations, are concerned with long-term local issues. It is considered equitable that the benefits of long-term party registration should be enjoyed by such groups, with their significant community support, but not by "fly-by-night" groups. These amendments achieve a balance in these issues. The basic requirement will be that a local government political party must have at least 100 members to be registered, with no overlapping membership permitted. A party with a member who is a member of a council will no longer be able to be registered if it does not have at least 100 members. This is effectively the same as applies for the Legislative Council except for a reduction in the requisite number of members for registration in consideration of the smaller size of local councils. The number of members is still large enough to ensure that the party represents valid community interests.

A local government party must be registered by the Electoral Commissioner for at least one year before an election in order to be able to propose candidates for nomination for that election, to have the party's name shown on the ballot papers and to be able to hand out the party's "how to vote" cards on election day. This will ensure that only bona fide organisations with some history in reflecting a community of views can contest elections under a party name and reduce the incidence of opportunistic or spurious parties. The new party registration requirements will be phased in gradually. Existing parties will continue to be registered under the current requirements so that they may continue to contest any elections before the next ordinary council elections in September 2003. New parties will also be able to register under the current requirements to contest the same elections.

However, both existing and new parties will have to meet the new registration requirements, including the need to have at least 100 non–overlapping members, for the next ordinary council elections in September 2003 and beyond. A local government political party must send to the Electoral Commissioner an annual return and any other information required to show continued eligibility for registration. However, in recognition of both their size and the need to ensure that there are no impediments to democratic representation, a party will not have to pay a registration fee as is required for parties for the Legislative Council elections.

Although parties have a significant role in local government elections, I would emphasise that an important role is still played by individual candidates and groups of candidates without party affiliation. The current amendments in no way lessen the importance of such individuals and groups or their ability to contest elections of local councils and, as experience in previous

elections has shown, will not impact significantly on rural communities. Another amendment in schedule 1 provides that if more than five candidates nominate as a group and pay their nomination deposits at the same time, the deposit for the whole group is capped at five times the deposit for one candidate. The current nomination deposit is half that for Legislative Assembly candidates. The amendment will result in no group paying more than $625 for the whole group. This is similar to the capping of deposits for candidates at Legislative Council elections.

I should also point out that the extensive savings and transitional provisions will ensure maximum opportunity for existing and new parties to be able to comply with the new requirements for registration so that they will be able to contest the next round of general council elections scheduled for 13 September 2003 under the new arrangements. Concerns have recently been raised about the extent of the powers of the Administrative Decisions Tribunal when it finds that there has been an irregularity in the conduct of a council election. A person who claims that there has been an irregularity in a council election, for example, in the count of ballot papers, may lodge an appeal with the Administrative Decisions Tribunal.

Under the current legislation the tribunal may order the dismissal of a councillor from civic office but, unlike the courts of disputed returns in the case of State and Federal elections, the tribunal has no discretionary power to declare another candidate elected. It follows that if the tribunal orders the dismissal of a councillor, and except in the limited circumstances where the dismissal occurs in the last nine months of the particular council's term, a by-election must be held. This imposes a significant cost burden on the residents and ratepayers of the relevant local government area.

These legitimate concerns require proper consideration by this Parliament. However, this is not as simple a matter as it appears. It should be noted that the courts of disputed returns for State and Federal elections are the Supreme Court and the High Court respectively. Without diminishing the professionalism and capacity of the tribunal, and while at first glance it seems logical to extend to the tribunal the power of "substitution" conferred on the courts of disputed returns, a closer examination of the issue may lead to a different conclusion. Allowing the tribunal to declare another candidate elected may not, because of the differences between local council elections and those for State and Federal Parliaments, provide a fair or just result.

For example, in State or Federal elections the removal of one candidate following an appeal may result in the next candidate in the same party being elected. However, local council elections are often contested by independent candidates without political party or group membership. Removal of a candidate for an irregularity and declaration of another candidate may not be the most appropriate result and may in fact be inconsistent with the wishes of the electorate. A by-election in some circumstances may well be a fairer means of addressing the matter. By way of illustration, a councillor dismissed from civic office by the tribunal several months ago was re-elected by an absolute majority at the subsequent by-election. In this particular case, had the tribunal had the power to appoint another candidate to that office and had the tribunal in fact exercised that power, it would seem that the electors' wishes may not have been realised.

I am concerned about the costs incurred by councils and their communities when such incidents arise, seldom though they may be. However, I am also concerned that appropriate safeguards are in place to ensure that the appeal process is not abused. If the tribunal is given the power to appoint an alternative candidate, I am concerned that relevant criteria are in place to guide the decision so that the democratic expression of the community is given effect. The next major round of local council elections is not due until September 2003. The minister does not consider it prudent to deal with this matter with undue haste. The Minister, therefore, proposes that he will examine this and report back to this House during the next session on an appropriate course of action.

I thank the Deputy Leader of the Opposition for raising this issue. Another example of something the Premier raised recently which I think is worth reiterating is that we as a Government are more than prepared to take on constructive suggestions from the Opposition. Returning to the bill, schedule 2 contains amendments relating to the pecuniary interest provisions in the Act. Local government decision-making is unique in its impact on local communities. In contrast to this Parliament, councils not only determine broad policy directions but also have a role in determining regulatory matters such as development applications. Because of the proximity of decision-makers to their community it is essential that accountability be ensured. For this reason the regulation of local government pecuniary interests established in 1993 remains crucial.

Ongoing review of the pecuniary interest provisions of the Act has identified a number of areas where amendments are considered necessary to ensure accountability is maintained at the local level. The Act at present requires a councillor with a pecuniary interest in a matter with which the council is concerned and who is present at a meeting of the council at which the matter is being considered, to disclose the interest as soon as practicable, to refrain from considering or discussing the matter and to refrain from voting on the matter.

One amendment will clarify that it is not only the existence of an interest that must be disclosed but also the nature of that interest. It is considered that this will not unduly impinge upon a person’s private affairs, given that much detail is already required to have been disclosed in the annual written return of interests already required to be completed under the Act. This extended requirement will also apply to a person who, at the request or with the consent of the council, gives advice on any matter at the meeting and to a designated person with an interest in a council matter with which he or she is dealing.

A second amendment will require a councillor who has declared a pecuniary interest in a particular agenda item to actually leave the Chamber, including the public gallery, while the matter is being dealt with. This will clearly avoid any perception of influence that a councillor may have by still being in the Chamber, for example, through body movements, expression or mere presence. As many councils already require this as part of their meeting procedures it is appropriate that it apply to all councils. A further important amendment will address a gap in the legislation by making it clear, that when submitting a written return of interests, a contravention of the disclosure provisions in the Act occurs not only when a pecuniary interest is not disclosed in the return but also when the interest disclosed therein is false or misleading in a material particular. Such a disclosure, if made in circumstances where the person knew or ought reasonably to have known that the disclosure was false or misleading, may also be the subject of a complaint that may be determined by the Local Government Pecuniary Interest Tribunal.

The tribunal was established under the Act in 1993 as an independent administrative tribunal with powers to discipline, suspend or disqualify councillors who breach the pecuniary interest requirements. Formerly, councils themselves had to decide whether to

prosecute their own councillors in the local court for any such breaches. The tribunal has contributed to the more efficient, less costly determination of matters, increased accountability of public officials, and to the increased awareness of pecuniary interest issues in councils, councillors and the public. It has also prevented the use of tribunal processes in vexatious or politically motivated proceedings.

Under the Act, unless the tribunal decides, in effect, not to proceed further on a complaint, the only method by which it may dispose of a complaint the subject of a report from the Director-General is to conduct a hearing. Moreover, the hearing must be held in public unless the tribunal, having regard to public interest matters, decides otherwise. The present provisions with respect to hearings reflect a legislative policy that proceedings by the tribunal on complaints of contraventions of the pecuniary interest provisions of the Act should generally be the subject of a public hearing. This promotes public awareness of the operation of the system for dealing with such complaints and ensures that the proceedings will be open to public scrutiny.

The Hon. K. J. Holland, QC, a former member of the tribunal, had commented, however, that his experience in dealing with some complaints had revealed a case for some exceptions to be made to this general rule without jeopardising public interest considerations. Mr Holland envisaged that the tribunal would have a discretion to dispense with a hearing in circumstances in which the relevant facts are sufficiently established in the Director-General's report and are admitted or not disputed by the parties, the parties consent, and public interest considerations do not otherwise require. An example is where a breach has been admitted and the only question remaining is that of penalty. The Minister sees considerable merit in the proposal and amendments to effect this and they are contained in this schedule. This does not compromise the rights of a party appearing before the tribunal.

The requirement that the tribunal publish full reasons in its written statement of decision will remain, irrespective of whether or not a hearing is held. A decision by the tribunal to determine proceedings into a complaint without a hearing will be subject to appeal to the Supreme Court. This will maintain public scrutiny and accountability of the process. As I mentioned earlier, the pecuniary interest tribunal has power to discipline, suspend or disqualify a councillor who breaches the pecuniary interest disclosure requirements. By contrast, the tribunal's powers with regard to council employees who commit such a breach are limited to recommending that the employer council take specified disciplinary action against the employee or recommending dismissal of the employee. An amendment in schedule 2 to the bill will allow the tribunal to also directly counsel or reprimand the employee. This will not affect an employee’s position as such and it will be up to the council to take any further disciplinary action through the appropriate contractual and industrial channels.

It is a matter of practice that the tribunal publishes most of its decisions. This is usually achieved by publishing the decisions on the Department of Local Government’s Internet homepage. It is considered that the publication of decisions promotes an increased awareness of pecuniary interest issues and serves a valuable educative purpose. Minor amendments contained in schedule 2 will formalise this practice, so as to remove any doubt in relation to whether such decisions may be published by the department. The amendments will allow both the tribunal and the director-general of the department to publish decisions of the tribunal. The tribunal will retain the discretion it currently has to prohibit, in a particular case, the publishing of the name and address of any witness, the complainant, and the person the subject of the complaint, as well as the subject matter of the complaint and any specified evidence. The director-general's discretion to publish will be subject to any limitation set by the tribunal.

The bill also makes a cognate amendment to the Defamation Act 1974. I will return to this matter when I discuss the amendments contained in schedule 4. The remaining amendments in schedule 2 are more minor and do not involve substantive changes. The schedule also makes a number of consequential amendments. Schedule 3 contains a number of miscellaneous amendments. I will mention these in the order in which they appear in the schedule.

Item [1] inserts a new provision which requires councils, when exercising their functions, to consider any guidelines prepared by the director-general. This can be important in harmonising local government decisions with State government policy, for example, in environmental management. The guidelines are to be made available to councils on request and, on payment of such fee, if any, as the director-general may determine, to any interested person. Items [2] to [7] relate to community land. Community land is public land owned or controlled by the council and which has been so classified under the Local Government Act. Land classified as community land is protected from sale or long-term lease and the responsible council must take particular steps to manage the land including, in particular, developing a plan of management in consultation with the community. Land such as bushland, escarpment, foreshore, parks or sportsgrounds, or land that has historical or Aboriginal significance is commonly designated as "community land".

Significant amendments strengthening the community land provisions of the act were made some 18 months ago by the Local Government (Community Land Management) Amendment Act 1998. The amendments proposed in this bill seek to refine, rather than alter to any notable degree, the obligations of councils as they relate to community land management. Under the Act, all public land must be classified as "community" or "operational" land. If a council proposes to acquire land for operational purposes, such as a depot, the Act currently requires the land to be classified as "operational" on or before its acquisition. Otherwise the land is taken to have been classified as "community land". At the same time, council must give public notice of a proposed resolution to classify land and allow at least 28 days during which submissions may be made.

Often this means commencing a process of classification some months before any acquisition and possibly delaying the purchase. Item [2] will facilitate a smoother purchasing process, by allowing councils to classify land as "operational" within three months following its acquisition. Land not classified at the end of this three-month period will be taken to have been classified as "community land". While the land remains unclassified it may not be used for any purpose other than that for which it was being used immediately before its acquisition and the council may not dispose of any interest in the land. The amendment will remove the disadvantages that councils presently face in acquiring land through negotiation or auction where prior public knowledge of the council's interest can adversely affect the price from the council's point of view.

Item [3] omits the exemption from the need to advertise a proposed classification of land that currently applies to land acquired at public auction. This is a direct consequence of the amendment made by item [2]. One of the amendments made by the 1998 amendment Act requires councils to advertise draft plans of management, until the plan can be adopted without amendment. This

means that even the most trivial of amendments requires further exhibition. Advice from councils indicates that the diminishing public response to successive notifications does not justify the associated costs. Item [4] will allow a council to adopt an amended draft plan, without public exhibition, if it is of the opinion that the amendments are not substantial. Item [6] removes the need for a public hearing if land is merely being recategorised from one sub-category of "natural area" to another. Item [5] makes a consequential amendment.

I have received a number of complaints that advertisements notifying of the exhibition of draft plans of management or proposed leases of community land do not clearly identify the land involved. For example, a council might describe the land by lot and deposited plan number only. Technical descriptions are often meaningless to the general community and it might be argued that the public notice requirements can be frustrated in this way. Item [7] will remedy this concern by requiring a council, in any public notice it gives with respect to a parcel of community land, to describe the land by reference to its common description—such as its address, or the name by which it is generally known—whether or not the notice also describes the land by reference to a more formal legal description.

Items [8] and [9] relate to tendering. Tendering requirements for councils continue to be closely scrutinised by the community, business and State agencies such as my own department and the Ombudsman. Notwithstanding the high standard set by the current provisions, a number of amendments aimed at generally tightening the requirements and clarifying issues that have been of some debate are contained in this schedule. I should at this point restate quite clearly this Government's position on tendering. This Government does not support compulsory competitive tendering for local government. The amendments in this bill do not change the situation as it exists now in relation to the discretion allowed councils with respect to contracting out. That is, a council may choose not to contract out any of its functions at all.

However, if a council is thinking about contracting out any of its functions, and the value of the proposed contract is likely to be more than $100,000, then a proper tendering process must be used in relation to that decision. This does not prevent council from still deciding, at the end of a tendering process, to conduct work or provide services in-house. However, it does mean that when council is contemplating entering a contract worth over $100,000 it must follow the proper processes before entering such a contract. This is to ensure that the council gets the best deal for its community. And of course it is often a matter of good practice to also use a tendering process for contracts worth less than the $100,000 threshold.

Experience over the past few years has shown that a number of matters need to be clarified in relation to what types of contracts these tendering provisions apply to. Therefore item [8] restates the requirement to tender contracts to include three additional matters. First, the subcontracting by a council of the doing of work, the performance of a service or the provision of facilities will be subject to tender. This is intended to cover the situation where a council submits a winning tender to do these things for another council, person or body, and then subcontracts part or all thereof. The second matter relates to services provided to the council. This encompasses the provision of legal services, computing services and other "consultancy type" services. This is consistent with State Government requirements. Banking, borrowing and investment services are not considered appropriate for a tendering process and are specifically excluded.

Third, goods provided to a council by way of either "operational" or "finance" leasing arrangements are to be included. The distinction between the two types of leasing arrangements is a technical one, based on where the risks and benefits of ownership fall. This amendment was recommended by the Ombudsman in her report into Hornsby council in 1998 concerning procedures surrounding the council's proposed bio-remediation facility. The amendment makes it clear that a contract for the provision of goods or materials is covered, regardless of the type of financing arrangement used. Item [9] makes it clear that a council is not prevented from tendering for any work, service or facility for which it has invited tenders. Some councils are using "market testing" and similar techniques to ensure that their services are provided in the most effective way.

This amendment will remove any concern about councils being able to consider and accept "in-house" tenders. Items [10] and [11] make minor amendments by consolidating provisions regulating the installation and use of amusement devices. Item [34] makes a consequential amendment. Councils are able to issue orders to address various environmental, public health, safety and convenience issues. In particular, an order may be given to require a person to bring a structure into compliance with legislative standards. However, a gap exists in the current legislation whereby a council cannot issue an order if the standards were set under the repealed Local Government Act 1919. Item [12] will rectify this. Items [13] to [15] relate to the requirement under the Act for councils to adopt a policy concerning the payment of expenses and the provision of facilities to councillors in relation to discharging the functions of civic office.

In a recent decision, the Pecuniary Interest Tribunal indicated that a council could pay expenses and provide facilities outside the council's adopted policy. This weakens the purpose of the policy and reduces the reliance that the community may place on it. Another area of concern involves the use of these policies, by a very few councils I would stress, to allow the payment of expenses that cannot reasonably be seen as arising from the actual "discharge" of civic functions, as required by the Act. Contentious issues include the payment of partner expenses when accompanying a councillor on official business, such as to a conference; payment of employee expenses where a councillor employs a person to carry on a business while the councillor is on civic business; rights to use accumulated frequent flyer points where council pays for the flights; and payment of various legal expenses incurred by councillors, particularly as plaintiffs pursuing private legal claims.

The Act is not sufficiently clear in its dealing with these kinds of expenses and councils have been able to continue paying contentious expenses despite concerns expressed by my administration. Item [13] will clarify that councillors can be paid expenses and provided with facilities only if in accordance with the council's adopted policy. This item also creates a regulation making power to allow refinement of expenses and facilities that may or may not fairly relate to "discharging the functions of civic office". Item [14] requires that any substantial amendments to the policy must be publicly notified and item [15] provides for amendments to be discussed, considered and adopted in open council meeting, similarly to the making of the policy itself.

Item [16] makes a minor clarifying amendment relating to the appointment of staff. Item [17] extends the time within which the general manager must report to council on the implementation of council's management plan from six weeks to two months after the end of each quarter. This brings management reporting and financial reporting into line, so that the two issues may properly be considered as part of the whole planning, accountability and reporting process. Item [18] excludes all annual waste

management charges from the calculation of a council's general income for rate pegging purposes. Item [19] will clarify that the Minister may attach conditions to special variations to rate pegging limits. Items [20] to [28] of the schedule make a number of amendments relating to offences in public places.

Item [20] extends an existing offence so as to create an offence of removing rocks or soil from a public place. Items [21], [22], [23], [26] and [27] increase the maximum penalties that may be imposed with regard to various offences. The penalty increases are to bring the act into line with other legislation governing land used by the public, such as Crown land and national parks. Item [24] makes a clarifying amendment. At present, a council can erect a notice in a public place regulating the "use" of a vehicle. This amendment makes it clear that a council can also regulate the taking of a vehicle into the place or the driving or parking of a vehicle in that place. Item [25] limits this power to public places that are not "roads" or "road related areas" within the meaning of the Road Transport (General) Act 1999. Item [28] extends the "owner onus" provisions in section 651 of the Act to offences arising from the parking of a vehicle in a public place other than a "road" or "road related area".

Item [29] makes an important amendment aimed at improving accountability. This amendment will have the effect of expanding the offence in section 664 (2) of the act which prohibits the use of "insider information" gained through exercising functions under the Act. At present it is an offence to use for personal advantage information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land. However, there is no reason for the information to be limited to land values. The offence should apply to the use for personal advantage of any information gained in these circumstances. Item [30] makes it clear that the offence is directed at the gaining of a "financial" advantage.

Item [31] inserts a note which links the "power of entry" provisions in part 2 of chapter 8 of the Act to councils' power to give effect to the terms of an order when the person to whom the order relates has failed to do so. This is for clarification only and does not amend the provisions themselves. Items [32] and [33] contain provisions of a savings and transitional nature. Schedule 4 to the bill amends two other Acts. The first amendment, as briefly referred to earlier when I was discussing the amendments contained in schedule 2, is to the Defamation Act 1974. Currently, the Pecuniary Interest Tribunal has available to it a defence of absolute privilege for a publication to or by the tribunal if the publication is made for the purpose of the execution or administration of the Local Government Act. This amendment extends that defence to the publication of an official report of a decision of the tribunal or of the reasons for the decision, whether by the tribunal, the department or by the director-general.

Secondly, minor amendments are made to the uncommenced Occupational Health and Safety Act 2000 as a consequence of the proposed repeal by that act of the Construction Safety Act 1912.The amendments in schedules 2, 3 and 4 do not impact on rural communities. In conclusion, all of the amendments in this bill are aimed at improving the effectiveness of provisions upon which local councils depend. The climate within which local government operates is constantly changing and it is to be expected that the legislative base will also change. I commend the bill to the House.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [5.40 p.m.]: I speak to the Local Government Amendment Bill on behalf of the Coalition. At the outset I indicate, as we did in the other place, that the Coalition supports most of the main points of this bill, although we have reservations about parts of it. We will propose some major amendments in Committee, including the abolition of above-the-line voting at local government elections. I will refer to this later in my speech. I place on record my appreciation to the staff of the Minister for Local Government for providing me with a briefing on this bill. I had to seek a briefing twice. My first request was refused, but the second time they acquiesced. I thank the Minister's staff for that briefing and am grateful to the Minister for giving his consent to the briefing.

I have been contacted by several councillors and community members who have expressed a degree of surprise and concern that virtually no community consultation had taken place. I would have thought that the first place the Minister and the department would look for suggestions and feedback would be to the local communities that have been affected by these changes. Obviously I think differently from the way the Minister in the other place thinks. Frankly, his antics in the other place last week and this week shows that the difference is considerable. This major bill, which amends the Local Government Act 1993, has taken some 10 months to prepare.

Schedule 1 contains important amendments that will change the processes of local government elections. The Government, by introducing this bill, seeks to maintain parity between local government voting procedures and the system in place for the Legislative Council. The parity comes about through the common nature of the voting systems, that is, electors voting to fill multiple vacancies at any one poll. One amendment will return the control to voters over the allocation of preferences between groups when they choose to vote above the line. This is an important amendment because it will return to voters the ability to make their own preferences. Honourable members will recall the fracas that occurred in the 1999 State election for this place. Some Government members are nodding sagely. I suspect that those who are not may have been the beneficiaries of the farce. I am sure honourable members will agree that getting rid of that anomaly from any election system would be a good move. The Coalition applauds that amendment.

The other important part of schedule 1 relates to the way in which parties are registered for local government elections. As I indicated earlier, the Coalition is concerned about some areas of this bill. I seek a guarantee from the Minister that the changes will in no way have an adverse impact on rural and regional communities. I also ask the Government to table its rural and regional impact statement, which was part of the

Australian Labor Party's election promise. If such a document does not exist, the valid question is, why not That matter needs to be addressed because, after all, the Minister for Local Government is also the Minister for Regional Development. At the very least he should have prepared a rural and regional impact statement, as he promised in his lay-back-in-the-chair television advertisements to country communities.

The Shires Association of New South Wales has expressed concerns about parts of the bill as they relate to regional areas. Specifically, the association is concerned about amendments that require a group in an undivided council area—an area not utilising the ward system—to consist of at least half the number of vacancies. For example, if a council holds an election to fill 10 vacancies, a group would have to have at least five, if not more, members to be registered above the line on the ballot paper. The amendments require a minimum of two groups which, when combined, could contain at least the number of candidates required to fill the vacancies. I note that the Minister in his second reading speech in another place claimed that these amendments would:

> … strike an appropriate balance between competing interests. As much as possible there is a reconciliation between the risk of voters casting informal votes and the need to give the fullest expression to their preferences in a manner consistent with the voting system.

I am concerned that the appropriate balance will not be reached in some cases. The amendments proposed by the Government will alter the way we vote at council elections. Electors voting above the line can number one or more group voting squares to indicate their preferences for one group or to allocate their preferences between various groups. This amendment returns to the voter the allocation of preferences. Groups will no longer be able to decide how preferences are allocated between themselves or other groups. Effectively, this proposal gives back control to the voters over the distribution of their preferences. I spoke earlier about Coalition amendments to this part of the bill. I will expand on that later.

The other major change in schedule 1 relates to the registration of political parties and is, once again, based on the format adopted for the Legislative Council. The Government has indicated that the changes in this part of the schedule will create a more responsible system of party representation. The Minister, in his second reading speech in the other place, cited the example of a sitting councillor who recently applied to register six separate parties. We are all aware of that example. It would not be difficult for honourable members to determine the purpose of multiple party registrations if they remember what eventuated at the 1999 election for this place. By registering multiple parties, the councillor may have been able to benefit from the provisions of the current legislation by distributing preferences between all those parties. In effect, that could mean that a candidate with a very small primary vote could be elected, as has occurred in this Chamber. The Coalition supports the amendments that relate to party registration. Under the changes, parties will have to have a minimum of 100 members who are not members of any other party.

That will present a problem for Country Labor, which, as we all know, shares membership with the New South Wales division of the Australian Labor Party. One wonders whether they have been hoist on their own petard by this amendment. A party with a member who is a member of a council will no longer be able to be registered if that party does not have at least 100 members. Parties that intend running candidates in local government elections will have to be registered for at least 12 months prior to proposing nomination for an election, having the name of the party printed on the ballot papers, and being able to hand out how-to-vote cards on polling day. The Minister has stated, and I support the view, that these changes will allow for genuine community representation. They will cut out, as he described, fly-by-night spurious opportunists.

I would like to pose one question to the Government for clarification: Can the Government guarantee that Country Labor will be subject to the same rules as everyone else? The Minister is a proponent of this Sussex Street public relations exercise. I wonder whether he has considered the effect of this amendment on his faction of the Australian Labor Party. The next ordinary council elections are not due until September 2003. I am pleased that the Minister has seen fit to seek to introduce these amendments over a period of time, which is quite proper. The new registration requirements will be imposed gradually as the election approaches. By that stage, all parties will have 100 non-overlapping members, and they will have been registered for a minimum of 12 months.

Earlier I said that I was pleased the Minister had introduced a sensible framework for the introduction of the bill. Other legislation that has come from his office, in particular the office of his predecessor, appeared to have been rushed, and the effects have been shown to be less than ideal. I refer specifically to the Companion Animals Act, which required almost 200 amendments in this and the other place to make it vaguely workable. The boundary changes and amalgamations legislation came to this House complete with its compulsory component, which I exposed to this Chamber. When I exposed it the Minister claimed, "Oh! It was drafting error." A drafting error indeed!

The Hon. E. M. Obeid: He didn't say "Oh!" did he?

The Hon. D. J. GAY: I think he did, when it was exposed. It was a clenching of his teeth and a high-pitched yelp to that indicated that we had found the secret ingredient in his bill, the section for compulsory amalgamations. But it has not stopped his vigour for pursuing that ideal; he is doing it in many other ways. I have been distracted. I will turn to the bill at hand.

Further measures in schedule 1 require local government political parties to supply an annual return to the Electoral Commissioner to show why they should continue to be registered. The Government has shown its philanthropic side in the latter part of schedule 1 by not requiring local government parties to pay a registration fee, as is required of parties wanting to nominate candidates for the Legislative Council elections. Schedule 2 to the bill changes the pecuniary interest provisions of the Local Government Act.

The major change is that councillors will have to declare not only a pecuniary interest in a matter before a council but the exact nature of that interest. When I first saw this provision I was really concerned about it, as the Minister's advisers would know. But when they explained to me exactly what it was about I had to applaud their decision. On the surface it appeared to be unnecessary and inappropriate, but on careful consideration their actions were quite proper.

Pecuniary interest is an important aspect in local government, probably more so than the pecuniary interest provisions in place for members of Parliament. Local councils determine not only broad policy directions, as we do, but also regulatory issues, such as building and development applications. We do not act at that level, which could affect millions of dollars in a direct one-to-one application. It is for this reason that accountability in local government is paramount. It is important here, but in local government it becomes paramount.

The effect of the amendment supported by the Coalition is that once a councillor declares that he or she has an interest in a matter the councillor will also have to detail the exact nature of the interest. It is not enough to say, "I have an interest." Councillors will have to detail what that interest is. I raised privacy concerns, as I indicated with the Minister's staff. The immediate reaction is to say, "Do we really have to go that far? It's a matter of privacy." I have been assured that there will be no breach of privacy because what is required to be disclosed will already be a matter of public record in the written return that each councillor provides under the current requirements of the Act.

Many councillors are not voting because of a pecuniary interest. Some of them are using it as an excuse to avoid voting on controversial issues. The Minister's staff, quite rightly, pointed out that these provisions will remove that loophole. As I indicated earlier, I applaud the department and the Minister for taking that step. It is innovative, but it is a step in the right direction.

The Hon. E. M. Obeid: I'm worried about you.

The Hon. D. J. GAY: The Minister may be worried about me because I supported his legislation last night and put in a lot of time trying to improve it. At the end of the evening the Minister said that my amendments were a great improvement, as they always are. It just took me a little time to convince him.

The Hon. A. B. Kelly: He said all that, did he?

The Hon. D. J. GAY: He would have, if he could have. A second amendment will require a councillor who has declared an interest and the nature of that interest to leave the chamber and the public gallery for the duration of the debate or consideration of that item. Although many councils already adopt this procedure, I agree with the Minister's view that it is appropriate for it to apply to all councils.

Other amendments in the schedule relate to the power of the Local Government Pecuniary Interest Tribunal to deal with false or misleading statements made by councillors with respect to their annual written return. Contravention of the disclosure provisions of the Act occurs when an interest is not declared in a return, but also occurs when the declared interest contains false or misleading material. If such a disclosure is made, and if the person making the disclosure knew or ought reasonably to have known that the material was false or misleading, the tribunal will be able to determine a complaint on that basis.

Although much of the legislation is complimentary to us, I think this one is a bit ahead of us. If we introduced something like that I am sure the Minister would be the first to support it. A further amendment in schedule 2 will allow the tribunal to directly reprimand or counsel an employee of the council, whereas the

current provisions say that the tribunal is limited to recommending the dismissal of the employee. This is a commonsense amendment. An employee could be given another chance for what may have been a relatively minor offence. Other minor amendments in schedule 2 will formalise the publication of Pecuniary Interest Tribunal decisions so that there will be no doubt as to whether the department may publish such decisions. Schedule 4 to the bill will make a cognate amendment to the Defamation Act 1974 to cover the department. The department publishes the decisions of the tribunal on its Internet site, and it is only appropriate that the department is covered under the Defamation Act. It is interesting to note that the section on the department's Internet site for the Minister's press releases has been removed. Does he not want the councils and the web-surfing public to know what he is up to, or in some cases is not up to? Frankly, that was the only way the Opposition could find his press releases, because this Minister never puts his press releases in the Parliament House mail boxes. He has removed our ability to find out what he is up to.

Schedule 3 to the bill is a mixed bag of amendments. It would be fair to say that it is a repair kit schedule to fix problems that have emerged with the Act since it's inception in 1993. One amendment inserts provisions requiring councils to consider any guidelines issued by the director-general when exercising their functions. I am a little puzzled by this amendment, as I would have thought this should have been the case anyway. Items [2] to [7] of schedule 4 relate to community land. When the Minister announced that this bill would contain provisions related to community land, I immediately thought back to the 1998 debate about the Local Government Amendment (Community Land Management) Bill that the former Minister for Local Government, the Hon. Ernie Page, presented to Parliament.

Honourable members who were in this place for that debate will remember the debacle that that bill became. It was ill conceived, badly planned and ultimately flawed legislation that the Opposition strongly opposed. The bill became law, and since then the Government has been tinkering around the edges of the community land provisions of the Local Government Act in an effort to right its previous wrongs. At last count this will be the third attempt to fix the Page-Plummer bill.

The Hon. R. S. L. Jones: It's evolution.

The Hon. D. J. GAY: Yes, it is evolution. We are trying to cram a thousand years into a few. It is a millennium moving closer. The second attempt came during the debate earlier this year over the Local Government Amendment (Filming) Bill. Under the Act all public land must be classified as community or operational land. If a council seeks to buy land for operational purposes, such as a depot or workshop, that land must be classified as operational prior to it's purchase; otherwise the land is taken to be community land. Council must also give adequate notice of a proposal to reclassify land and allow 28 days during which submissions can be made. This can be time-consuming and in some cases may lead to delays in making the purchase. Item [2] of the schedule will therefore allow a purchase to proceed and the "operational" classification to go ahead within three months of the purchase.

Land not classified as operational within that three-month period will be taken to be community land. The former Minister can be thanked for creating the current system. No wonder people are confused! Thankfully, it is under some form of review and as we inch towards fixing it the clarity appears and the confusion is removed. Item [3] makes a commonsense amendment—I keep saying good things about this bill, which does not always happen—to omit exemption from the requirement to advertise a council resolution about a proposed acquisition of land, an exemption that currently applies to land acquired at public auction. One of the more absurd parts of the 1998 amendment Act requires councils to advertise draft plans of management until those plans can be adopted without amendment. The end result of that amendment is that even trivial amendments to a community land management plan require public exhibition until the law of diminished returns kicks in, the public submissions run dry, and no further amendments are planned. The Minister for Urban Affairs and Planning is in the gallery and I am sure even he is more confused.

That is a costly and time-consuming exercise; it is indicative of the stupidity of the original amending bill. Item [4] of this schedule will allow a council to adopt an amended plan without exhibition if the council is of the opinion that the amendments are not substantial. Hear! Hear! Item [6] removes the need for a public hearing if land is merely being recategorised from one subcategory of natural area to another. Once again, Hear! Hear! Item [7] requires a council to describe land which is the subject of a proposal to be described by its common name—that is, by a street number or property name rather than by a deposited plan number or parish address. This is a good move as it removes any confusion the public may have had by taking away this archaic technical terminology.

The amendments relating to community land management are to be supported. As I said earlier, they represent the third attempt by the Government in as many years to change community land provisions in the Act. As one of our welcomed and outstanding new members is about to deliver his inaugural speech, I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted.

Ultimately, I believe that there will be a need for a full scale review of community land provisions, but for the time being these amendments will go some way to addressing longstanding problems for councils. The Local Government and Shires Associations also support these provisions of the bill. Items [8] and [9] of schedule 3 relate to tendering. It was interesting to see the Minister outline the Government's policy for tendering in Local Government during his second reading speech in the other place.

While he gave an unequivocal guarantee that the Government does not support Compulsory Competitive Tendering—CCT—for councils, his colleague the Minister for Roads has been less certain. Members may recall that within days of announcing the abandonment of the antiregional CCT policy last year, the Minister fronted up and refused to rule it out of other parts of his portfolio, which may well have included functions carried out by councils. In this case, I will give the Minister for Local Government the benefit of the doubt.

Item [8] restates a standing requirement to tender contracts to include additional items. Firstly, the subcontracting by a council of the doing of work, the performance of a service or the provision of facilities will be subject to tender. Secondly, services provided to the council, including legal services, computer services and consultancies will have to go to tender, in a similar fashion to the way State Government policy operates. Therein lies another question for the Government: Will local councils be able to establish lists of preferred tenderers in the same way that government departments do?

Thirdly, goods provided to a council by way of operational or finance leasing arrangements are included. The amendment makes it clear that a contract for the provision of goods or materials is covered, regardless of the type of financing arrangement used. Item [9] clarifies that councils are not excluded from tendering for any work or service for which it has invited tenders, meaning that councils will be able to submit and accept in house tenders.

Items [13] to [15] of schedule 3 are of interest; they propose changes to the requirement under the Act for councils to adopt a policy concerning the payment of expenses and provisions of facilities to councillors in relation to their civic office positions. These amendments will clarify this policy in terms of when and how expenses can be paid, requires that any substantial amendment to the policy be publicly notified, and provides for any amendments to be discussed considered and adopted in an open meeting. These are welcome amendments.

I receive allegations and claims about misuse of council resources and allowances on a regular basis, and it is my hope that these amendments will remove the ambiguity that currently exists in the Act in this regard. Item [16] clarifies the appointment of staff, item 17 extends the general manager's reporting time on the implementation of the council's plan of management from 6 weeks to two months after the end of each quarter, item 18 excludes annual waste management charges from the calculation of general income for rate pegging, and item 19 will clarify that the Minister may attach conditions to special variations to rate pegging limits.

Items [20] to [28] make amendments relating to offences in public places. The Coalition has carefully examined these changes, and we do not have a problem with them. They simply reflect community expectation. There are other minor amendments to schedule 3 which clarify different parts of the Act. There are no problems with these amendments from a Coalition point of view. As I mentioned earlier, the Coalition will be seeking to move some amendments to this bill, particularly in relation to schedule 1.

It has long been the view of many country councils that above the line voting is not required for local government. Indeed, I support that view, and it is a view that has been presented to me by the Shires Association of New South Wales. The President of the Shires Association, Councillor Chris Vardon, wrote to me last week to outline the association's view on this issue, and I would like to place that on the record. I quote:

> It has been a longstanding view of the Shires Association that above the line voting and presence of political parties have significantly eroded the quality of candidates to local government. The introduction of party politics into local government is inappropriate to grassroots community government, and the current Bill is an excellent opportunity to remove the undesirable elements of above the line voting and party politics.

That is not an unreasonable position to work from, nor is it an argument outside the realms of possibility. Political parties would not be banned from standing candidates for Local Government—they would just have to stand as individual candidates on the ballot paper rather than as a group above the line. This amendment would return a level playing field to local government.

I was interested to hear the comments of the Minister in another place in his speech in reply. He claims that the Opposition has no understanding of the amendments contained in this bill. He also demonstrated clearly that he has a problem with interpretation. The Minister claims that I seek to remove political parties from local government. That is not true. My media release clearly states that these amendments proposed by the Opposition are not aimed at removing political parties from councils. The press reports—I cite the *Daily Telegraph*, the *Manly Daily* and the *Inner Western Courier* as examples—all reported my comment that, and I quote:

> It is not about ridding the system of political parties altogether, because endorsed candidates would still be able to be listed on the ballot paper as individual candidates

I wonder what part of that statement indicates that we want to rid local government of political parties? If the Minister or his staff want another copy of that release, then they are welcome to it! I have never stated that this amendment would remove political

parties from Local Government, so I am left to wonder where the Minister gets that idea from. The Minister also stated in his reply that the Parliament went to great lengths last year to consider amendments to the Parliamentary Electorates and Elections Act in the wake of the 1999 State election.

As the Minister pointed out, this was to address particular concerns raised about the 1999 State election. In a similar way, the Coalition now puts forward our amendment to address particular concerns about local government elections. Contrary to the Minister's claims, I have given careful consideration to the bill and the effect of my amendment. The Minister accuses the Coalition of being selective in advice on this amendment—the same could be said of the advice that he appears to have taken.

A further amendment that I will move will seek to bring the provisions for postal ballots in local government elections in line with the postal ballot rules for State elections. The Minister has made much of the fact that this bill brings local government elections into line with State provisions, so I hope the Government will support this particular point. In summary, the Coalition welcomes the majority of this bill. Much of it is commonsense, and in that regard is the best piece of legislation to come from the office of the Minister for Local Government in several years.

The changes to elections and pecuniary interest will bring local government into line with the Legislative Council, which is appropriate considering the similarities in voting procedures. The schedule 3 amendments—the repair kit—go a long way to addressing many outstanding issues, although I repeat my earlier call for a full review of community land provisions.

The Hon. I. W. WEST [6.06 p.m.] (Inaugural speech): Madam President, I support the Local Government Amendment Bill. As this is my inaugural speech in this House, I thank honourable members for their indulgence. I wish to also thank the officers and staff of the Parliament, who have offered me their able assistance and made me feel welcome. It is greatly appreciated. I congratulate the Hon. Greg Pearce on his entry to this place on the same day as myself and I wish the honourable member well in his work ahead. I also congratulate my colleague the Hon. Amanda Fazio on an excellent inaugural speech.

I would like to acknowledge Andy Manson, whom I have replaced in this House. I have known Andy for many years. He is a working-class man of honesty and integrity. He conducted himself with humour and without pretension, and he acted without want or need of the limelight. I wish Andy and Jackie well. I trust that the rest of the Manson clan will be very pleased to have Andy back.

Madam President, I will be doing my best to earn the respect of all honourable members even though the work and nature of this place means that we will have many occasions to enter into robust debate with diametrically opposing points of view. I hope to maintain a sense of humour. Most importantly I shall be striving to earn the approval of the broader community—especially the disenfranchised, those not able to fully help themselves and those who feel let down by the system.

Madam President, I believe that most of the things I am about to say are self-evident and I assume that they have been said many times before in this Chamber. I do not pretend them to be original thoughts. I say them because I believe in the community; I believe in acting collectively. I believe we measure the success of our democracy, the civilisation of our society, by how we provide for our disadvantaged, the vulnerable, the sick, the young and the elderly.

The community vests its trust, hopes and frustrations in institutions such as this place. People rely on social infrastructure and environment to survive: services and facilities like roads, schools, hospitals, public transport, and community services. The people of New South Wales expect institutions like the Parliament, the judiciary, the media, unions and the Australian Labor Party to protect, uphold and improve our democratic structures and values which have served to build up these services and facilities.

Our social infrastructure allows democracy, however fragile and however immature, to exist and mature, and in doing so allows people to be productive and inventive. Without even these simple things, we would quickly end up with the law of the jungle and survival of the fittest. As it is a long time since I was the fittest I am not too keen on that structure.

Madam President, millions of ordinary workers perform extraordinary tasks each and every day around New South Wales. They build, operate and maintain the State's infrastructure, the physical things upon which our society is based and upon which individuals are able to flourish. Many of them belong to employee organisations. Workers have always faced great political opposition in organising. Let us look at a couple of historic cases, firstly the Tolpuddle Martyrs, also known as the Dorchester labourers. They were six men from the village of Tolpuddle, England, who were transported to Australia in 1834, having been convicted of administering unlawful oaths. In 1833 agricultural labourers received seven shillings a week, a sum which they wished raised to 10 shillings. Instead, a reduction of their wages was threatened.

In November 1833 the Friendly Society of Agricultural Labourers was formed. Each member took an oath of fealty to the society. The combination laws were repealed in 1824, so the union's formation was not

illegal. A local magistrate and landowner, James Frampton, became alarmed at the movement and sought assistance from Viscount Melbourne, who drew his attention to the Unlawful Oaths Act 1797, which was introduced to stop mutiny in the naval war with France, and which had not yet been repealed. The Tolpuddle Martyrs were arrested and placed in gaol. The judge condemned them for their "wicked plans". In their defence their leader said this:

> We were uniting to preserve ourselves, our wives and our children from utter degradation and starvation. We have injured no man's reputation, character, person or property.

The jury found them guilty and they were sentenced to seven years transportation to Australia. Another infamous event was the tragic Triangle Shirtwaist Company fire in the Ansch building, New York, which happened in 1911. One hundred and forty six people died: 133 women and 13 men suffocated, burned or jumped to their deaths. Just one year before the fire, shirt waist makers had demanded safer working conditions but were blocked by the Triangle company's management, which resisted collective bargaining. The disaster led to the creation of health and safety legislation, factory fire codes and child labour laws, and helped shape future labour laws in many countries of the world. These past events illustrate the issues and problems faced by workers who seek a better workplace and conditions.

Statistics gathered by the International Confederation of Trade Unions indicate that more than 1.1 million workers die each year at work, nearly 3,300 a day, due to inadequate occupational health and safety measures. Approximately 12,000 workplace accidents claim the lives of children. Here in New South Wales unions, government and responsible employers are working to prevent deaths, injury, disease and illness in the workplace. But our efforts must be redoubled. According to the WorkCover statistical bulletin 1998-1999, 163 people went to work and did not come home in that financial year. Deaths in New South Wales over the last 12 years totalled over 2,500.

But these figures understate the number of deaths. They exclude fatalities of self-employed people, those whose funeral expenses were not paid, those who had no dependants, those who were Commonwealth employees, and those other than coalminers who died of dust diseases. Deaths which occur years later from degenerative diseases also are not included. Although the numbers are declining, all deaths in the workplace are unacceptable. Injuries, illness and disease are also a source of great concern. Last year, over 41,000 injuries were reported, and of those just under 8,000 employees were permanently disabled. And last year over 9,000 cases of industrial disease were reported. We know that these things are preventable.

It is important to recognise that right now, around the world, and especially in undeveloped countries the abuse of workers rights, or human rights, continues, and that is why it is so important for employee organisations to be fostered and promoted in order that we may have a truly decent and humane society.

One of the most affronting situations to a decent and humane society is the existence and use of child labour in many countries. Children between five and 16 years of age are working in clothing and garment making, woodworking, footwear production, metal industries, agriculture, mining, fishing, prostitution, and general street life. Their access to education is stopped, their social and psychological development are destroyed. They perform the work of adults for little or no wages. My work for the last 24 years as an official of the now Liquor, Hospitality and Miscellaneous Workers Union [LHMWU] has taught me much and given me perspective on the daily struggles faced by workers here and elsewhere to feed, clothe, shelter and educate themselves and their families.

To me, there is no finer feeling than to have in some small way helped somebody to help themselves through the union collective to find dignity, respect and some semblance of equality. The LHMWU has a diverse membership covering industries such as cleaning, manufacturing, home care and child care, hospitality workers and pathology workers, and workers with disabilities. A large number are women from non-English speaking backgrounds working part-time hours cleaning schools and hospitals, tending to the education of pre-schoolers and looking after the frail and aged. These employees are among the most vulnerable workers in an industrial sense, performing important work for $10 to $15 an hour. They have little bargaining power and rely on an industrial relations system to protect them and give them a feeling of equality in the bargaining process.

They rely on a union to negotiate an industry award and an Industrial Court in which they can be represented to enforce action against breaches of their award and to air grievances including occupational health and safety issues, vilification, bullying, discrimination and unfair dismissal, to name just a few. These people have many skills which traditionally have not been recognised, and their ability to bargain for a decent wage and standard of living has been greatly enhanced by the LHMWU. The membership reflects contemporary Australian society, and I believe as such has an extremely bright future.

I take this opportunity to congratulate Annie Owens as the first female New South Wales branch secretary of the union. The union is in good hands with Annie, Susan McGrath, Mark Boyd and Sonia Minutillo at the helm.

I am acutely aware from my years as a union official that you need more than high principles and ideals; you have to be prepared to do the hard yards. I also know that the democratic process grinds slowly and more often than not you do not get the outcome you want. My union helped me to gain an understanding of the Westminster system of government and the Constitution. The Constitution lays down the principles of responsible government and representative democracy, the rule of law and the independence of the judiciary. With the High Court's protection, judges could act with neutrality and courage. An implied constitutional freedom of expression was found by the High Court to exist. And our political system supports that, even though many improvements still need to be made. We have the right and obligation to vote. People around the world have died and are dying for the right to vote.

Just one example is the former apartheid system in South Africa, where more than 90 per cent of the entire population lived under a system in which they were not entitled to vote. I am proud of the Australian trade union movement and my union, in particular, for the many years of financial and moral support for Nelson Mandela and the African National Congress. We have the right to agitate. The majority decision of the High Court of Australia in *Neal v The Queen* in 1982 is a very good case in point. Mr Neal was the chairman of the Yarrabah Council in northern Queensland. He was convicted by a stipendiary magistrate at Cairns on a charge of unlawful assault and was sentenced to imprisonment for two months with hard labour. He appealed to the Queensland Court of Criminal Appeal on the grounds that the sentence was manifestly excessive. During the course of the argument that court determined that it had the power to increase the sentence and did increase the sentence to imprisonment with hard labour for six months. The offence was spitting and the magistrate found that no actual violence had occurred. His comments give a greater understanding of the issue. The magistrate stated:

> I blame your type for this growing hatred of black against white … as a magistrate I visit four to five communities, and I can say unequivocally that the majority of genuine Aboriginals do not condone this behaviour and are not desirous in any shape or form of having changes made. They live a happy life, and it is only the likes of yourself who push this attitude of the hatred of the white community, that upset the harmonious running of these communities.

On appeal to the High Court of Australia the matter was put somewhat right by Justice Murphy, who said:

> That Mr Neal was an "agitator" or stirrer in the magistrate's view obviously contributed to the severe penalty. If he is an agitator, he is in good company. Many of the great religious and political figures of history have been agitators, and human progress owes much to the efforts of these and the many who are unknown.. As Oscar Wilde aptly pointed out in The Soul of Man Under Socialism, "agitators are a set of interfering, meddling people, who come down to some perfectly contented class of the community and sow the seeds of discontent amongst them". That is the reason why agitators are so absolutely necessary. Without them, in our incomplete state, there would be no advance towards civilisation. Mr Neal is entitled to be an agitator.

The right to protest and the right to organise are upheld by our social, legal and political systems. For democracy to truly flourish each person must be enabled, empowered and encouraged to contribute. And so I believe that to not belong to your appropriate association is to not exercise a basic democratic freedom, and to benefit without contributing is to walk away from your obligations and responsibilities. So I come to the issue of free choice and freedom of choice. I shall quickly illustrate my point with a story of an innocent 23-year-old Indonesian woman who was killed in 1994. Marsinah worked at the Surabaya watch factory which was jointly owned by Indonesian and Swiss interests. Her daily wage was $1.20 plus a meal allowance of just under 40¢. Five hundred factory workers had gone on strike to demand that their meal allowance be built into their regular wage. They called for the SPSI, the only legal body, run by the country's regime, to be replaced by an independent union.

Within hours summonses were sent to the workers to report to the local military headquarters. There they were subject to prolonged threats and intimidation before they were forced to sign an apology and a resignation from the company. The company embarked on a campaign of terror and Marsinah's body was found on a roadside—she had been savagely beaten, stabbed and raped. The bargaining capacity of workers is a measure of the level of dignity accorded them as humans and the level of civilisation reached by a society. To deliberately pursue an agenda of creating an industrial environment in which collective bargaining by workers is sidelined or can be avoided under the guise of individual freedom is, I believe, at best ill informed and at worst deceitful and insulting. Countries that do not have significant and free trade union movements are generally lesser democracies or worse. The greatest leaps forward for this population and others throughout our modern history have occurred simultaneously with the organisation of labour.

Throughout history dictatorial regimes have attempted to crush and control workers' movements to maintain control. At the same time, unions have given voice to the aspirations of ordinary people and have

agitated to change unjust laws and made living and working conditions more bearable for the whole community. Unions bring balance to a world increasingly prone to the power and influence of multinational companies, which appear to be in a race to the bottom in relation to working standards and conditions. The Smith Family's report entitled "Financial Disadvantage in Australia—1999 (The Unlucky Australians)" provides an insight into the desperate situation faced by some of the have-nots. The report shows that in Australia today having a job is no longer a guarantee that people and their families will no longer live in poverty. The Smith Family estimates that 1.7 million adults and 732,000 children live in poverty. The poverty line for that analysis was set at an income for a family of four—comprising two adults and two children—being $406 or less per week.

Economists can talk about the bottom line, but really people are the bottom line. We have moved from the Dark Ages, from the jungle where life itself was measured by survival, and without eternal vigilance we will surely, bit by bit, lose the little democracy that we have. Use it or lose it, as the saying goes. I do not pretend that union members and their leaders have always been completely right. Just as juries convict innocent people, governments make bad laws and the media fails to absolutely explain all the issues, so, too, do employee organisations make mistakes. But just as juries, governments and the media are important elements in a democracy, so are employee organisations. Around the world the struggle for what we take for granted goes on and we are morally obliged to improve our game here and to help others elsewhere. In some small way I aspire to contribute from here and to see the people of New South Wales get the opportunities to fully participate in building our society to its fullest social, economic and political potential.

I am extremely grateful to the many comrades, mentors, friends and colleagues who have helped, supported and encouraged me. I would like to pay tribute to some of the people who have been instrumental in shaping my life. I trust that I can in some way repay the generosity and support given me and the faith that has been placed in me. I pay tribute to Tom O'Brien and his family for introducing me to the ALP in the late 1960s and the Miscellaneous Workers Union shortly thereafter. Although Tom and Dorie O'Brien have passed away, their legacy lives on through family, friends and those with whom they came in contact, in particular, their son, Tasmanian Senator Kerry O'Brien. I thank Peggy Errey, a lifetime trade union activist on the South Coast, a cleaner at the University of Wollongong, who held numerous State and Federal honorary positions in the union and highlighted for me the rich complexity of collective humanity. Her patience, passion and commitment, as well as her selfless, tireless work helping union members and their families far beyond what many ill-informed would see as union activity, made her a much-loved institution.

To the many hundreds of staff, friends, members and comrades at the now LHMU over almost a quarter of a century—half my lifetime—I have very fond memories, experiences and friendships. I wish to mention in particular Chris Raper, Jeff Roser and Elizabeth Bishop, who for many years were executive officers of the New South Wales Branch with me. The camaraderie developed will be enduring. Chris Raper, Secretary of the New South Wales branch from 1977 to 1999, is I believe one of the most effective labour leaders this State has produced. He earned respect from all sides of the industrial landscape through his intellect, presence, honesty and integrity.

As honourable members know, the Australian Labor Party has come from the organised labour movement. It is Australia's oldest political party, having been formed after the great maritime strike in 1890, when workers sought to effect social change through diversifying their industrial base to include political representation. The ALP has a rich history and has achieved many great things, and I am very mindful of the responsibility and obligation I enter into by coming here. I want to express my gratitude for the great privilege and honour I have been given. I want also to acknowledge and thank the members of the Administrative Committee of the New South Wales ALP, of which I am still a member, for the many letters and phone calls of congratulations. To all officers and affiliates of the New South Wales Labor Council, where I served as delegate and executive member, I thank you for all your assistance and comradely good humour, and I look forward to continuing such associations.

To my mother, Rita, and my father, Bill, and my two brothers, Alan and Robert, who have given me the lessons and advice, values and support, I thank you. My parents' love and sacrifices gave sustenance to a close-knit family where I and my two brothers had opportunities to make choices in life, and every encouragement to pursue whichever choices we made. From the age of 14 my father was a forest worker, cutting sleepers with a hand-held axe for the railway lines. He later joined the Australian Navy to fight fascism in World War II on HMAS *Shropshire* and HMAS *Lithgow*, and he served in Darwin, Borneo, Singapore and Tokyo Bay. After the war, dad worked as a painter and decorator.

My mother instilled in me her Christian values. Although I do not share her belief in that sense, I have the utmost respect for those like mum who do not preach about it but actually attempt to put into practice their

ideals in their daily lives. The family lived in the western suburbs of Sydney at Bass Hill. The three boys were educated locally at Bass High School. My eldest brother, Alan, served his country in Vietnam. Although I supported agitation against conscription and the war, I have the utmost respect for the sacrifices made by the young men and women who obeyed the demands of their country's Government at that troubled time. My elder brother, Robert, completed his law degree as an articled clerk and has gone on to practise in Chester Hill. I have great admiration for this feat as I also tried, but failed to last the distance. Finally, I thank my wife, Gail, for putting up with me and for picking up the pieces when things have not gone as one might hope. I am still convinced that I got the best half of the deal. I thank honourable members for their indulgence and I am sure that there will be unanimous support for the Local Government Amendment Bill.

[*The President left the chair at 6.34 p.m. The House resumed at 8.15 p.m.*]

The Hon. JAN BURNSWOODS [8.15 p.m.]: I am very pleased tonight to support the Local Government Amendment Bill, which will introduce to local government most of the major reforms that have been introduced for elections for the Legislative Council. So in the local government elections in 2003 there will not be a rerun of the distortions of the electoral system and the deliberate attempts to confuse the electorate that occurred in 1999. I am particular pleased that the bill will reinstate the ability of voters to allocate their preferences, replacing the ability of groups to decide how preferences are allocated between themselves and other groups, one of the major factors which resulted in the tablecloth ballot paper for the Legislative Council and a number of local government councils last year.

I will not go into detail about the bill because there has already been a lot of discussion in the Lower House and many members will speak on the bill in this Chamber. I will refer to specific areas of concern to me. Living as I do in Ryde, last year I saw a great deal of the activities by Mr Glenn Druery. He was responsible for the bogus, if not fraudulent, registration of a large number of parties for the 1999 State election. Living in Hunters Hill, he tried to repeat the performance by registering a large number of bogus parties for the Hunters Hill council election.

Because I live in Ryde I know people living in Hunters Hill, and the same local papers circulate in the area. Bodgie parties were registered and scandalous tricks were used. There were petitions in shopping centres and false names and addresses were used to claim the necessary number of members. There were various schemes to allocate preferences. Misleading names were deliberately chosen so that voters would think that a certain party was, for instance, an environmental party when the candidates represented something completely different. Fortunately, simply by publicising what was going on and galvanising many decent people on all sides of politics, the machinations of Glenn Drury were defeated at the local government election.

I regret that we had not previously passed amendments to deal with the things that have gone on in relation to the elections for Canada Bay Council to be held this Saturday. Canada Bay Council is a new council formed by the amalgamation of Drummoyne and Concord councils. Because it is one of the relatively few, if not the only, city amalgamations to come out of the various processes of discussion and so on that have occurred, the proposed reforms in this bill will not apply to it, just as they will not apply to some of the amalgamated country councils. I was shocked to discover that all the tricks that we are familiar with have been going on in Canada Bay. I shall place on record a few of the details because they demonstrate the need for reform.

I refer, for example, to a person called Michael Cantali, who is currently a councillor on Concord Council. I believe he is the president; he is certainly a member of the Concord branch of the Liberal party and he was the Liberal candidate for the State seat of Drummoyne in 1991. Michael Cantali is a group C Canada Bay independent, and he is running on the platform "No place for the major political parties on local councils". Michael Cantali has registered sex bogus parties. Those parties are called The Canada Bay Independents, the Youth Alliance Party, the Democracy Party, the De-Amalgamate Party, the Don't Amalgamate My Municipality Party and the Get Rid of Words Party. Cantali is responsible for putting out material that suggests that voters exchange preferences and vote for those parties. Not all of them, but a mix of them, basically appear in propaganda that essentially runs the line that voters should vote for a selection of anti-amalgamation candidates.

Another person associated with this great mix of material—and I have copies of how-to-vote cards, advertisements and so on—is Carmel Del Duca, who is registered as Independent Group M. She is a member of the Cabarita branch of the Liberal Party. She not only stood for Liberal party preselection for the Federal seat of Lowe in 1996 but also stood for Liberal party preselection just a few weeks ago for the Canada Bay council elections but failed to gain one of the top five positions. I will return to that matter later.

A third person, who is running as Independent group N, is Megan Lavender, who is also a member of the Cabarita branch of the Liberal Party. Megan used to work for Jackie Kelly, a minister in the Howard

Government. She is closely associated with Andrew Ho, of Strathfield council, a Liberal, of course. Her father, who is number two candidate on her independent ticket, is a member of the Strathfield branch of the Liberal party, as is her mother, who is the authoriser of their advertisements. Of course, there is no mention of the Liberal party in those advertisements.

Some may say that members of the Liberal party can run as Independents. That is obviously true, except for two factors that are important in the Concord-Drummoyne area. The first is that these people are portraying themselves quite falsely as not being associated with political parties. Secondly, Drummoyne in particular has been unusual in New South Wales in that since the 1960s candidates for that council have always run on Liberal party tickets as official Liberal Party candidates and with all of their material carrying the Liberal Party logo.

What appears to have happened this time is that the current councillors who won the Liberal Party preselection ballot were from the more pleasant, moderate, left, wet—whatever one likes to call it—wing of the Liberal Party. As I understand it, the Liberal Party head office decided that they were not the right people, and their endorsement was taken away from them. Those people then withdrew, have not nominated for election, and have been replaced by the collection of people I have mentioned—strongly supported, I might point out, by Alan Jones—who are now running on all of these bodgie tickets.

One of the people whose name appears as authorising and printing a large amount of this material is one James Darby, who gave his address as 16 Stamford Ave, Cabarita. Some people might remember James Darby's father, Douglas Darby. James Darby has a brother who works at 2UE—which no doubt has been handy for the propaganda campaign. As I said, James Darby gives his address as 16 Stamford Ave, Cabarita. However, I have evidence from numerous people in the area that he in fact resides in Barker Street, Strathfield. We have here what looks like a fraudulent electoral enrolment at an address in Cabarita by this man whose name appears as the authoriser on some of this how-to-vote material and other material I have here.

We are not here to debate the Canada Bay Council election, but I place those matters on the record because I hope the Canada Bay election on Saturday 3 December will be the last election in which we will see the kinds of rorts that have been perpetrated by the Glen Drurys of the world and these various unsavoury Liberal party members; I hope this election will be the last conducted under the rules that have unfortunately lent themselves to these rorts. Obviously I hope that decent candidates will comprehensively defeat the people I have been speaking about, and their allies, and will be elected.

I wish the Labor team luck. Josephine Maxwell is a friend of the Hon. I. W. West, who made his inaugural speech tonight. I know he will wish her the best. I conclude by saying what a delight it is for me to speak on this bill immediately following that fantastic speech from the Hon. I. W. West, who gave us a great deal of food for thought and spoke movingly about the principles which motivated him and so many of us in the Labor movement.

The Hon. H. S. TSANG [8.30 p.m.]: I am pleased to support the Local Government Amendment Bill, which amends the Local Government Act 1993. During my time as Deputy-Mayor of Sydney I experienced at first hand the way that the Act had reformed local government and the way that councils are run. Councillors no longer can act like aldermen; they must act like directors of public companies and have a strong interest in the growth of their councils. Councils now have a responsibility to be environmentally sensible and financially responsible. However, the Local Government Act 1993, as good as it is, still needs reform, particularly the election process, councillors' understanding of pecuniary interest and the understanding of staff and councillors of land use responsibilities. The bill clarifies those matters.

The Government has demonstrated its commitment to continuous improvement and reform in local government and to ensuring the appropriate framework for the third sphere of government. The bill contains a number of amendments, including some important amendments related to local government elections. Following the amendments made in the Parliamentary Electorates and Elections Amendment Act 1999 to election procedures for the Legislative Council, the bill makes similar changes for local government elections. Local government election procedures closely follow those of the Legislative Council because of similarities in the nature of the voting system, that is, electors voting to fill multiple vacancies. The bill also addresses issues that arose at the 1999 local government elections, particularly voter control over allocation of preferences when voting above the line. I remember in the 1991 and 1995 local government elections people wanted to vote for the Labor Party or the Liberal Party but some just wanted to vote for me. However, the preferential system confused the voters. The amendments in the bill will solve the problem. Essentially, the voting system is now more simple, clearer, fairer and will allow voters to express their wishes.

As recently demonstrated in the United States presidential elections, the intentions of voters should not be rendered informal for technical reasons. Honourable members would be well aware that voting in both State and Federal upper Houses is made complex by the number of vacancies that are contested. In recent years great efforts have been made to simplify the process of elections in Australia to the point where voters may express their intentions by placing only one number on an otherwise lengthy and sometimes complex ballot paper. Voting in local government elections should, as far as is practicable, be consistent with the procedures used for State and Federal elections. Similarities in voting procedures should reduce voter confusion. Casting a vote should not require a university degree in mathematics and politics.

The bill strikes an appropriate balance between the demand for simplicity and the need for voters to be able to express their preferences. As much as possible there is a reconciliation between the risk of voters casting informal votes and the need to give the fullest expression to their preferences in a manner consistent with the voting system. The amendments seek to maintain broad consistency between local government and the Legislative Council in above-the-line and below-the-line voting procedures. Voters will continue to have the choice of voting for groups of candidates above the line or for individual candidates, including those in groups or parties, below the line. In the simplest form of vote, electors voting above of the line can number one or more group voting squares to indicate their preference for one group or to allocate their preferences between the various groups. The preferences are determined by the voter. Parties and groups will decide only how preferences are allocated within the group or party.

Under the present legislation preferences are determined by the groups or parties through registered voting tickets. That is one of the major factors that resulted in the tablecloth voting sheets for the Legislative Council and for a number of councils in the elections last year. The amendments in the bill will stop the clandestine manipulation of preferences. It may be difficult for groups to be formed with a sufficient number of candidates to have above-the-line voting squares in rural and other areas with small populations and undivided electorates. Under the existing system that has not caused disadvantage to rural voters. In his second reading speech the Minister said:

> … in the local council elections in September 1999, of the 82 undivided electorates where elections were held, 40 council areas did not have above the line voting. In addition, of the elections in 69 council areas with wards, 25 of these also did not have above the line voting … A large proportion of the undivided council electorates which did not have any groups above the line could be classed as rural. In the last local council elections above the line voting in undivided areas tended to arise in larger regional or urban councils.

The introduction of more stringent requirements for registration as a local government political party also has my support. Benefits flow from registration and, therefore, there is a need for tighter registration requirements. The amendments are based on those applying to parties participating in State elections. Parties may be formed over short-term local issues, but many parties, such as residents and ratepayers associations, are concerned with long-term local issues. The benefit of party registration should only be enjoyed by those parties which clearly show continuity and substantial, continued support. Registration should be enjoyed by such groups with their significant community support, but not by fly-by-night groups.

A local government party should be registered by the Electoral Commissioner for at least one year before an election to be able to propose candidates for nomination for that election, to have the party's name shown on the ballot papers and to be able to hand out the party's how-to-vote cards on election day. That will ensure that only bona fide organisations with some history in reflecting a community of views can contest elections under a party name and reduce the incidence of opportunistic or spurious parties. The bill also makes positive changes to requirements over pecuniary interests and proceedings before the Local Government Pecuniary Interest Tribunal.

Changes are clearly directed towards improving accountability and maintaining the fairness of processes dealing with pecuniary interest matters. The provision which requires councils to consider any guidelines prepared by the director-general is also a positive move. This can be important in harmonising local government decisions with State Government policy, for example in environmental management. Consistency between State and local government policies is important in achieving cost-effective outcomes for the benefit of the community. The use of guidelines recognises the autonomy of the local government while also ensuring that, in making decisions, councils have given proper consideration to the issues and understand the goals and objectives of the Government.

Changes are also being made to the provisions governing the management of community land. These are being made in response to concerns of local councils that have been found in implementation of the changes to the legislation which commenced in January 1999. The changes do not diminish the obligation of councils to

properly manage and protect community land. On the suggestion of the Minister for Mineral Resources, and Minister for Fisheries, I seek leave to incorporate the rest of my speech in *Hansard.*

Leave granted.

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Community land is public land owned or controlled by the council, classified under the Local Government Act and protected from sale or long-term lease. Councils must take particular steps to manage community land including, in particular, developing a plan of management in consultation with the community. Land such as bushland, escarpment, foreshore, parks or sportsgrounds, or land that has historical or Aboriginal significance is commonly designated as "community land".

I also support a change to classification processes to improve acquisition processes for public land which at the same time ensures that councils do not suffer disadvantage when in the market to acquire land. I am also pleased to see appropriate checks and balances in place which will protect land acquired under the proposed new arrangements. One particularly positive amendment in the bill allows a council to adopt an amended draft plan, without public exhibition, if it is of the opinion that the amendments are not substantial. The cost of public exhibition is carried by the community. There must come a point where the cycle of public exhibition, consultation and amendment of draft plans of management becomes an exercise in futility and only incurs costs and time delay without redeeming benefits. The bill provides a circuit breaker without compromising the protection of community land.

The process of consultation over community land will also be enhanced by another proposed amendment. Advertisements notifying of the exhibition of draft plans of management or proposed leases of community land must clearly identify the land involved in terms more easily understood by the community. The use of a common description, for example, the name of the reserve in addition to the formal lot and deposited plan number, in advertisements will increase public awareness of matters affecting community land in their local area and thereby increase accountability.

Tendering requirements for councils are always a matter of great interest to the community, business and State agencies such the Ombudsman and the Independent Commission Against Corruption. The amendments proposed in respect of tendering should make the process clearer, and ensure accountability by removing some uncertainties that appear to have been subject to debate. I am pleased to note the Minister's unequivocal statement that the Government does not support compulsory competitive tendering. I am satisfied that the amendments clearly leave the discretion on contracting out with councils.

I note that the bill contains a number of other amendments. Although each is minor, I am pleased to note that they are ensuring consistency between the Local Government Act and other legislation or closing loopholes. I am pleased to offer my support to the bill.

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The Hon. Dr A. CHESTERFIELD-EVANS [8.41 p.m.]: On behalf of the Australian Democrats, I indicate support for the bill, which is certainly a step towards simplifying local government elections and bringing them more into line with reforms and changes that were evident in the Legislative Council elections. It must be said that ballots in the local council elections, characterised by the flow of preferences and confusion about below-the-line voting, have become a problem in a number of council areas. I believe that this trend will become worse if legislation of the type that is before the House is not implemented.

The bill deals with three major matters: elections, pecuniary interests and miscellaneous amendments. Groups voting above the line, whereby voters actually choose the preferences, is a great step forward because voters decide to whom their preferences will be distributed. The farcical situation in the Legislative Council when bogus parties were created to feed back votes through preference deals that were negotiated beforehand and when candidates whom hardly anyone knew stood for election and obtained extremely low numbers of primary voteshas to be prevented from recurring. Voters, when faced with a welter of candidates, are not position to get to know the candidates or what voting in favour of a particular candidate means. In the end, a council is constituted by elected officials that were not the choice of the voters.

The Greens' system in which groups exist and votes are cast for groups above the line seems to be a sensible compromise which could be applied to local council elections. Under that scheme, parties that are registered in New South Wales for election to the Legislative Council are registered also to stand in local government elections. If a party wants to set itself up for the purpose of a local government election, it must lodge 100 signatures from people in the relevant local government area. That is a reasonably onerous provision, but it will at least sort out groups that have a genuine basis of support as opposed to only a handful of supporters. The Greens wanted to reduce the number of signatures to 75. That is acceptable because 75 is still a reasonable number of signatories and the reduction in the number may also result in a reduction in the time it takes to collect the signatures.

I foreshadow that the Australian Democrats will move two amendments. The first amendment stipulates that at the time of nomination, all candidates must provide a list of party affiliations for the previous

three years which should be published in the electoral office, the local paper and on the Internet. The second amendment will provide that party affiliations must be placed on the ballot paper. The Australian Democrats believe that acceptance of those amendments will assist greatly in providing clarity for voters about the people for whom they are voting. If some parties organise a number of other small parties to stand for election simply to direct preferences, their party affiliations will be known to the voters. While there may be an official ticket for one of the major parties, the other so-called Independents who intend to direct preferences to the major party will be seen by the voters to do so. I make the point that not only major parties are involved in that type of practice. Other groups, such as developers, have tried to present themselves as community independents but they really did not deserve that tag.

During the two most recent Legislative Council elections, there was a large number of parties involved. Although some people regarded that as a wonderful expression of democracy, others regarded it as a cynical exercise in the arrangement of preferences. The legislation to address that issue has been passed by this Parliament. It is now the task of the legislation currently before the House to address a similar problem that exists in local government elections. When the Minister announced the bill, he expressed concern at a press release that in Gosford, local voters had to grapple with a one-metre wide ballot paper, which was absurd. But it is not quite so absurd if information is available to the public which enables people to ascertain what a candidate stands for. Obviously, party affiliations and memberships say something about the philosophies of candidates—although, if one were to examine the consistency of voting behaviour of major parties compared with their rhetoric, that may prove to be an unreasonable assumption.

I reiterate my intention to move an amendment at the Committee stage. I note that the amendment proposed by the Deputy Leader of the Opposition attempts to remove above-the-line voting in response to a request by the Shires Association, which is of the opinion that the introduction of party politics into local government produces inferior candidates. While it may be true that party machines run some hacks in elections, it is also true that old parties run hacks anyway and do not want to admit their party affiliation. Honourable members have to deal with reality as we find it rather than as we would like to be. In Hunters Hill where I live, a number of candidates stood for election as the independents but they are all members of the Liberal Party and, of course, their preferences flow accordingly. Those practices can lead to uninformed voting by electors. Slur leaflets from parties of all political colours begin to flow because there is a lack of accurate information from the State Electoral Office and the rumours, innuendos and claims are difficult to refute.

Reverend the Hon. F. J. Nile: Does it also show whether a person has resigned and has rejected the policies of that party? Does it show that? A candidate could be an ex-Liberal or anything.

The Hon. Dr A. CHESTERFIELD-EVANS: It is true that some independents will have to declare their party interests, and I believe that is worthwhile. Many honourable members will know my predecessor, the Hon. Lis Kirkby, who is an independent councillor on Temora Municipal Council. She will have to declare her membership of the Australian Democrats. However, after 18 years as a member of this House, it is difficult to believe that someone would not know that she is a member of the Australian Democrats. Of course, when one is declaring oneself to be a member of the Australian Democrats, one does not have to worry because it is always something to be proud of.

However, independents and sham parties exist in larger councils in circumstances where the candidates are not known to the electors. People who are elected as independents use their council votes to help their party to win more votes in the State and Federal elections. I will not discuss my amendments in detail at this stage except to say that they are intended to clarify the political party a candidate belongs to.

The Hon. Dr P. WONG [8.50 p.m.]: I support this amending bill which attempts to address some glaring issues in relation to local government elections and other miscellaneous local government issues. The bill encompasses many significant changes and I intend to cover the key ones so far as the Unity party is concerned. Unity is about a fairer society so that we give everyone an even chance in life. This applies to council elections, too.

[*Interruption*]

I hope that every political party cares for social justice and a fairer society. I welcome the Government's bill because it reduces the likelihood of the unfair practice of "front" parties whose sole purpose is to direct preferences to other parties. This bill will ensure that a "group" really is a group, because it will need to have 100 members registered.

The Hon. Dr B. P. V. Pezzutti: One hundred!

The Hon. Dr P. WONG: One hundred members is nothing.

The Hon. Dr B. P. V. Pezzutti: It is nothing!

The Hon. Dr P. WONG: That is right. Will we move an amendment to make it 1,000? To my mind this is a sensible amendment, because it will give voters the assurance that when they vote for a group, no matter how attractive or unattractive the name may be, that group is credible and has at least some basic community support. In my opinion it will certainly deter parties from registering "front" parties, and will make the process fairer. The Unity party also believes in empowering each and every individual. I believe this bill will give voters more power with regard to the direction of their preferences.

The Hon. D. J. Gay: Provided it is true.

The Hon. Dr P. WONG: Thank you. Under this bill voters can number the squares above the line. That means the voter can choose to exhaust his or her vote by numbering just one square above the line and so give the vote to that party only, without any flow of preferences to other parties. Or, if the voter wishes, he or she can number more squares, determining the flow of preferences by order of the numbers. Surely it is a good thing that the voter can direct the flow of preferences and know where his or her preferences are going.

This bill deserves the support of the House because, ultimately, it seeks to make local government perform better. I support the bill because it will make the local government election process both fairer and transparent. I commend the Minister for introducing the bill and, in particular, Mr Craig Munnings from the Minister's office, who has been most helpful in clearing up some of my office's initial concerns.

The Hon. A. B. KELLY [8.52 p.m.]: I commend the bill to the House and I seek to have the balance of my speech incorporated in *Hansard*.

Leave not granted.

As honourable members have heard from previous speakers, the bill contains very important reforms. Local government is the third tier of government, that closest to the people. There are 173 councils across New South Wales and they are responsible for important services to the community. I believe the changes in the bill will strengthen accountability in local government, particularly in areas of pecuniary interest. I understand that many stakeholders have made submissions to the review of the Act, such as the Local Government and Shires Associations, the Institute of Municipal Management—an excellent union, of which I was formerly a member—and the Municipal Employees Union, of which I remain a member.

Among other things, the changes will require a councillor to declare the exact nature of the pecuniary interest, rather than simply declare that he or she has a pecuniary interest. It will also require a councillor to exit the council chamber and the public gallery when a particular matter is being debated. This will remove any perception that a councillor may be seen to have been present in the chamber as the matter is being discussed. The bill will also improve the operation of the Pecuniary Interest Tribunal. Under the proposed changes the tribunal will be able to use its discretion without a hearing. This will only be used in cases where there are no material facts in dispute and where the parties agree to proceed without a hearing.

Another area we are looking at are the provisions relating to community land. The proposed amendment will remove the disadvantages that councils presently face in acquiring land through negotiation or auction where prior public knowledge of council's interest could adversely the affect the price, from council's point of view. I want to highlight this point. Some years ago my council decided to purchase a 1910 steam engine, which was the very first item of plant that Wellington Council ever owned. It was coming up for auction and there was concern that it would be purchased by someone from Great Britain and taken out of the country.

Council wanted to bid for the steam engine at auction, but by the time council agreed on a price that it was prepared to pay, it would have become public information and anyone who was bidding against the council would have known about it. We were able to do it in a committee stage and keep the amount secret. Council was lucky enough to purchase the engine and it is now the focal point in any parade—the very first item that council owned in 1910. It has been fully restored and council purchased it for approximately $87,000. Today it is probably worth somewhere between $250,000 and $300,000. This particular amendment relates to community land and the example I have used is appropriate in relation to council purchasing land at auction.

Council would be at a serious disadvantage compared with any other person or group in the community when purchasing land or anything else at auction, because the maximum price it would be prepared to pay would be available to the public. This is an excellent amendment. As this House heard, the recent State and local government elections demonstrated the real need for reform of the electoral system. The State Government did that with reforms to the election procedure for this House last year. The proposed changes are aimed at giving a true impression of voters preferences, as opposed to backroom deals. As I said earlier, the changes will go a long way towards bringing accountability to local government. The Minister should be commended for his efforts in improving local government for the benefit of ratepayers. I commend the bill to the House.

The Hon. I. COHEN [8.56 p.m.]: The Local Government Amendment Bill deals with a number of issues, including local government elections, pecuniary interest issues, community land, tendering requirements for councils and the director-general's guidelines. The Greens have concerns regarding aspects of the community land amendments. Section 42 of the Act is to be omitted and a new section 42 substituted. This section deals with the requirements for councils to re-exhibit draft plans of management for community land. This section has a long and controversial history. Before the original community land amendments were introduced in 1998, section 40(2) stated:

> If the council decides to amend the draft plan it may publicly exhibit the amended draft plan, or if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft plan without public exhibition as a plan of management for the community land concerned.

The issue of substantial amendment was considered by Justice Stein in the Land and Environment Court in *Seaton v Mosman Council* in 1996. That case concerned the Balmoral Bathers Pavilion. Mosman Council twice amended the draft plan, on 18 July 1995 and 29 August 1995, but did not re-exhibit after the 29 August amendment. It simply adopted the plan of management.

Seaton argued that the amendments were substantial and that therefore the draft plan of management should have been re-exhibited. His Honour Justice Stein disagreed. He held that the amendments were not substantial and that therefore re-exhibition need not take place. This aspect of the case was upheld in the Court of Appeal later in 1996. That was finally overturned in the 1998 community land amendments to the Local Government Act. New section 42 provides:

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

The Greens agree with that position. Council should publicly exhibit any amendments made to plans of management. This provides an opportunity for the community to participate in the process and to write submissions if necessary. New section 42 takes us back to the Balmoral Bathers Pavilion situation where, if council is "of the opinion that the amendments are not substantial it may adopt the amended draft plan without public exhibition."

In the view of the Greens, it is unwise for councils to decide whether or not an amendment is substantial. If the community believes that an amendment is substantial and the council does not, the only way to obtain recourse is to bring the matter before the courts. That can be costly and there is no guarantee that the parties will win. The community should automatically be given the right to make submissions if there are any amendments at all to draft plans of management. It is not too onerous a requirement for councils to allow that to happen. These amendments will simply reduce community consultation and participation. The Greens will support an amendment which seeks to address this issue.

The bill also amends those provisions that deal with local council election procedures. These amendments are consistent with amendments made last year to Legislative Council procedures. One amendment will return to the control of voters how their preferences are allocated between groups when they choose to use above-the-line voting. Electors voting above the line can number one or more group voting squares to indicate their preference for one group, or allocate their preferences between various groups. That is something which the Greens strongly supported at the State level when legislation was debated in this House. Of great concern to the Greens was the tablecloth-size ballot paper. The rorting of the system by some parties took power away from the voter.

Time and again after the 1999 election we heard that many people in the community did not realise that, when they were voting for a particular party, the wool was being pulled over their eyes. That was a significant attack on democracy. The Greens believe that this legislation is a serious attempt by the Government

to remedy this situation. I have some sympathy for the amendments to be moved in Committee by the Deputy Leader of the Opposition, to remove above-the-line voting. I can see the appropriateness of those amendments. In local council elections we generally have fewer parties and a more localised relationship between the population and those who are to be elected. There is a compelling argument that that is in keeping with the form of voting at State and Federal elections.

In the past we have had inappropriate parties and we have also had people who belong to political parties running as Independents. The Greens have had a significant number of discussions on issues such as identifying those who are running as Independents and whether that is an appropriate move. We should encourage wherever possible the proper identification of people running in local council elections. The Greens advocate a clear indication of party membership by those who are running for election. The Greens are strongly in support of proper identification. People must have an opportunity at a Federal, State and local level to vote for any party. The Greens list the representatives that they have running in elections on every ballot paper.

The Hon. D. J. Gay: It is just another political party.

The Hon. I. COHEN: It may well be that the Greens are just another political party, but we wear that label proudly. We present ourselves to the community as just another political party. We present ourselves honestly to the community as Greens rather than saying that we are Independents. That is divisive in country communities. People either love us or hate us, but they respect the fact that we stand up and say that we are Greens. We cop a bit of flak in local areas, but we run as Greens in local government elections.

The Hon. Dr B. P. V. Pezzutti: You get a bit sanctimonious sometimes.

The Hon. I. COHEN: The Hon. Dr B. P. V. Pezzutti, who just referred to me as sanctimonious, can also be sanctimonious at times. I am sure that the honourable member, who comes from the country, appreciates the shenanigans on his side of the political fence. It is just another political party which in certain circumstances decides not to identify itself. It will still be possible to give out how-to-vote cards recommending how voters should allocate their preferences on ballot papers. Voters will be able to decide whether they want to follow the how-to-vote cards—a simple requirement which will do away with all the back room dealings we have seen over time. I see a wry smirk on the face of the Deputy Leader of the Opposition. Backroom deals at the electoral office or outside council chambers are very hit and miss affairs.

The Hon. D. J. Gay: You have to be fair seeing you just verballed me. When you saw a wry smile on my face I was thinking that there are certain members of the Greens with whom you may not be happy, but they wear the title Green.

The Hon. I. COHEN: In every party there are differences of opinion.

The Hon. D. J. Gay: That is one of the reasons why the National Party does not want to run in local government.

The Hon. I. COHEN: If people belong to a political party and they adhere to party political lines—whether they be Greens, National, Labor or whatever—it would be appropriate for those people to communicate to the voting population in their area that a certain person who belongs to a political party is active in that party. Therefore, what you see is what you get. That is all part of the transparency process.

The Hon. D. J. Gay: Their adherence to the community in that situation should be above board.

The Hon. I. COHEN: The Deputy Leader of the Opposition made a valid point. I appreciate his comments. I have some sympathy with the right of people in country areas to be able to make that choice if they are to run in council elections. This ballot design and the reforms that are being undertaken by the Labor Government are an attempt in good faith to resolve previous seriously undemocratic issues.

The Hon. D. J. Gay: I agree.

The Hon. I. COHEN: It appears as though there will be similar seriously undemocratic issues at the soon to be held Canada Bay election. It is a shame that that election could not have been postponed until—

[*Interruption*]

Is the Deputy Leader of the Opposition aware whether or not that is the case? I am not aware of the way in which Labor preferences are going. I say to the Hon. Dr B. P. V. Pezzutti that, under the new procedure being mooted by the Government in this legislation, the decision will go back to the voter—an extremely positive and appropriate thing. Of course those running for election can still put out how-to-vote cards and voters can pick up those cards, read them or put them in the bin. That is a decision for voters to make.

The Hon. Dr B. P. V. Pezzutti: Surely they can recycle the cards.

The Hon. I. COHEN: Indeed. Another amendment to this legislation will provide stricter requirements for a body to register as a local government political party. For instance, a local government party will be required to have at least 100 members to be eligible for registration and will no longer be eligible to be registered merely because it is represented on council by one of its members—an effective and timely move. Two or more parties will not be able to rely on the same arty membership to qualify or continue to qualify for registration.

Amendments have been put forward by the Greens and I understand that the Government will not accept them, and that is a shame. This legislation moves a significant way towards putting the decision of who is to be our elected representatives back into the hands of the voters, whether they vote above the line or below the line in whole-of-council elections. In an undivided area a request for a group voting square may be made if the number of candidates in the group equals at least half the number of vacancies, so that those who are not members of political parties registered within the time frame that is laid down by the legislation still have an opportunity to group. The system has holes in it and there could be ways of taking advantage of it, which is not the advantage of getting a direct electoral following but to play the system. And we have seen that done at an outrageous level in recent times. The legislation, with all its faults, will improve local government elections which had been plagued by all sorts of misdirected zeal by people contesting them over time. Through this legislation we will see improvements and the Greens are happy for that.

The Hon. HELEN SHAM-HO [9.11 p.m.]: I take this opportunity to congratulate the Hon. I. W. West on his inaugural speech, which showed him to be a very compassionate and decent person. I welcome him to this Chamber; I am sure that we can work very well together. I support the Local Government Amendment Bill, which seeks to introduce a number of amendments to the Local Government Act 1993, as well as make consequential amendments to the Defamation Act 1974 and the Occupational Health and Safety Act 2000. Many of the amendments contained within the bill are the result of a review of the Local Government Act 1993, which was tabled in the lower House in June last year. Other amendments are the result of a review by the State Electoral Commissioner of last year's election and the Parliamentary Electorates and Elections Amendment Act 1999.

As we all know, local councils are responsible for many essential services. These include roads and public works, urban and environmental planning, land management and development, community services, public health and recreation. Aside from that, local councils have a crucial role to play within the Australian political system. Local government is the level of government closest to the people. As such, it provides an opportunity for communities to become involved in the activities and decisions of government. Public participation is encouraged at council meetings and committees, and open forums are organised on a regular basis to give constituents a chance to voice their opinions on particular local issues.

The Hon. Dr B. P. V. Pezzutti: If someone is elected to council for a particular party on a particular platform, do you think they will stick to it?

The Hon. HELEN SHAM-HO: I am not up to that yet. Another important way in which the public can participate in the political process is through elections. Schedule 1 to the bill proposes changes to local government elections, which I am happy to say enhance public participation in the political process. In particular, I am pleased that new section 308A allows voters to determine how their preferences are to be allocated between groups or parties when they elect to use above-the-line voting. This is consistent with the voting procedures for the Legislative Council. By keeping the two electoral processes the same the amendment ensures that voter confusion and informal voting are kept to a minimum. More importantly, the amendment will ensure that voters' intentions are reflected more accurately. I am sure that honourable members will agree that in any democratic society it is essential to reflect the will of the people.

I turn now to new section 320, which seeks to amend the procedure for the registration of political parties. If the bill is passed, a single councillor will no longer be able to register a party, and parties must be

registered for at least a year before an election. This measure will ensure that only bona fide organisations with some sort of history in reflecting the views of the community can contest elections under a party name. I support that change. It will reduce the incidence of illegitimate or so-called front parties that are formed purely as a way to contest positions on local councils. That is exactly what happened during last year's State Government election, which saw the proliferation of numerous minor and sectional parties. In that one election voters had the widest choice of parties in electoral history, with more than 33 parties fielding candidates.

Although I am no longer a member of a political party, I am not opposed to the party system. Political parties can be vital to the advancement of long-term local and social issues. They can also provide a way into office for many candidates, such as me. We all know that people do not necessarily join political parties because they are committed to the ideological and philosophical basis of the party. Many join political parties for many other reasons. I am pleased that the bill will not limit the role played by local Independents, community lobby groups and minor parties in local council elections. Australian voters have consistently demonstrated that they see a significant role for Independent members of Parliament. That being so, we must make every effort to not reduce the ability of individual candidates and groups of candidates without party affiliations from contesting elections of local councils. Any proposal that reduces the choice of the people in this way is inherently antidemocratic.

Another positive aspect of the bill concerns the regulation of councillors. I disclose at this point that my husband, Robert Ho, is a councillor with Sydney City Council. However, I do not feel that that has influenced my opinion of this bill. The bill will encourage greater accountability of councillors by requiring those who have a pecuniary interest in a matter to disclose that interest and its nature. Honourable members are familiar with this process, having just completed pecuniary interest disclosures. The bill will also require councillors who have a pecuniary interest in a particular matter to leave a meeting when that matter is being considered by the council. I think it goes without saying that the disclosure of pecuniary interests by those in positions of governmental power is essential if we are to ensure the integrity of our political system.

It is true that councillors often regard their positions as a springboard into mainstream politics. In fact, many councillors in New South Wales became members of this Parliament. For example, the Hon. H. S. Tsang, the Hon. R. H. Colless and the Hon. J. H. Jobling were councillors who became members of Parliament. Being a councillor also seems to be a very important way for Chinese-Australians to become involved in politics, because it is easier to be elected in a council election. For example, councils in the city of Sydney, Ryde, Ashfield, Hurstville, Kogarah, Parramatta, Randwick, Auburn, Strathfield, Fairfield and Baulkham Hills all contain councillors of Asian descent. Auburn Council was the first council to have a mayor of Asian descent, Le Lam.

Regardless of their political aspirations, councillors have a very important job to perform within local communities. They are required to represent the needs and interests of residents and ratepayers, provide leadership and guidance to the community and encourage communication between the council and its people. It is also worth noting that many councillors have day jobs—they should all have day jobs—and they do not receive a salary for much of their community-based work with the council. They certainly could not live on their payments from council. I am pleased that the bill requires councils to pay councillors' expenses and provide facilities for them. It is important that councillors have those provisions if they are to work efficiently. In conclusion, I am pleased to support the Local Government Amendment Bill. The bill will be conducive to the consistency, accountability and integrity of our political system. I commend the bill to the House.

Ms LEE RHIANNON [9.20 p.m.]: I support the comments of my colleague, the Hon. I. Cohen, who set out the Greens' position on this legislation. We support the legislation, but will move a number of amendments which will help to strengthen it. The Greens have taken up this issue of electoral reform very strongly. Prior to and during the 1999 election we highlighted the problem of so-called front parties. We had already put forward the proposal of optional preferential above-the-line voting as a means to give the decision on preferences back to the voter and therefore get rid of all those backroom deals prior to the March 1999 election. We were very pleased that that was adopted. We acknowledge that the upper House voting reforms were not perfect but they have gone a long way towards getting rid of that famous giant tablecloth-size ballot paper. They have also gone a long way towards cutting out the rorts and deterring those who seek to exploit the system for their own personal gain. I received a copy of a letter from Councillor Peter Woods to the Minister dated 20 November. In relation to electoral changes, he said:

> The Local Government Association supports the proposed amendments to the Local Government Amendment Bill 2000 because it will abolish the automatic preferencing from above-the-line voting.
>
> It is abundantly clear to our Association that the problem has not been above-the-line voting, rather it has been the ability to automatically preferences candidates by lodging "voting tickets".

> We are pleased that this issue is being resolved. The proposed amendments will clearly allow the voter to allocate their preference rather than have them decided by what is perceived as back room deals.

The Hon. D. J. Gay: Who sent this letter?

Ms LEE RHIANNON: Mr Peter Woods—not Harry. There is no mistake. The Greens note that the Local Government Association of New South Wales opposes the proposed Opposition amendment to abolish above-the-line voting. The Greens believe the abolition of above-the-line voting will lead to confusion and increased informal voting, and will introduce a lack of consistency. We believe that it is important to ensure that we have maximum success when a voter goes to the ballot box. We need that consistency between the various levels of government. The Greens were disappointed that the issue of two councillors per ward was not addressed in the bill. It needs to be tidied up considerably in the electoral process. The Government has consistently expressed concern about the number of candidates for election, but it failed to express concern when the only candidates for election were the incumbents.

The Botany council election was an extraordinary set-up. The *Sydney Morning Herald* of 2 June carried the famous headline "Wake up, roll out of bed, get re-elected". The Mayor of Botany presented himself as a universal character, trying to explain away the fact that there was no contest in that local government area. In Botany nobody stood against the incumbents, in sharp contrast to Leichhardt local council area which had a record 108 candidates and South Sydney which had 55 candidates. It is extraordinary that Botany has two councillors per ward and the incumbents know that they will be re-elected. The majority of people most likely to contest the election also realise that it is a waste of time and money. Therefore, only a couple of people contest the election.

The Hon. Dr B. P. V. Pezzutti: Why do both Greens have to speak on every bill?

Ms LEE RHIANNON: We don't speak on everything. If you were in the Chamber more often, you would notice. I will explain the problems associated with the two councillors per ward system and why the Government should move to abolish it. Section 285 of the Act states:

> The voting system in a contested election of a councillor or councillors is to be:
>
> (a) optional preferential, if the number of councillors to be elected is 1 or 2, or
>
> (b) proportional, if the number of councillors to be elected is 3 or more.

We need to understand the difference and then we will realise why the two councillors per ward system needs to be tied up. The optional preferential ballot papers used to elect the first candidate on a ticket may be used again to elect the second candidate. Under a proportional voting system only the surplus votes are distributed. Preferential voting rewards tickets with a large vote and artificially reinforces this advantage with the recounting of unrejected ballot papers to determine the second candidates to be elected. Under a proportional system if the number of first preferences obtained by the candidates is equal to the quota, all the ballot papers on which first preferences are recorded for that candidate are set aside as finally dealt with. If the number of first preference votes exceeds quota then the surplus is transferred. It is clear that the two councillors per ward system is dramatically different fromthe more democratic and representative proportional voting system. The Greens urge the Government to urgently address this matter. Overall, we welcome the bill. We recognise that there is a need to make councils more representative and a need for legislative reform in regard to local government elections, and we look forward to that occurring.

The Hon. R. S. L. JONES [9.27 p.m.]: This bill contains numerous amendments to the Local Government Act 1993 relating to elections; pecuniary interests; guidelines; the purchase, classification and reclassification of community land; contract tendering; councillors fees and expenses; and the driving and parking of vehicles in public places. While all of those issues are of great consequence and importance, I would like to focus on the provisions relating to the purchase, classification and reclassification of community land as most other members have covered other issues contained within the legislation. Schedule 3 (2) to this bill changes the current provision in the Local Government Act which require that land acquired by council is automatically classified as community land unless council decides prior to acquisition that the land be classified as operational. Under this section a number of councils are now resolving that most of the land they acquire be classified as operational to make future disposal easier even though it may have important environmental values.

The amendments proposed by this bill would give councils three months after acquisition to classify the land as either community or operational, thus increasing the convenience of the process for councils. If no action

has been taken to classify the land after three months it is taken to have been classified community land. This does nothing to solve the problem of councils overriding community or environmental values by resolving to classify newly acquired land as operational, thus avoiding the need to conduct a reclassification process in the future. It may in fact make it easier. The requirement that all land acquired by councils be automatically acquired as community land should therefore be retained or at the very least, councils should be required to conduct an identical process to that needed to reclassify currently held community land before resolving to classify newly acquired land as operational. If no such process has been undertaken within three months of acquisitions the land is taken to have been classified as community land.

The change to schedule 3 (3) to the Act requires that public notice be given of a resolution to classify land to be acquired by council passed at a meeting that was closed to the public or where council has resolved not to make public its proposal to acquire the land. At present no notice need be given if the decision was made in a closed meeting or if council resolved not to publicise its acquisition. These changes, which will make it harder for councils to resolve by stealth that newly acquired land be classified as operational, should therefore be supported and commended. The change to schedule 3 (4), removes the present requirement that each time a council amends a draft plan of management the amendments must be publicly exhibited until such time that it is satisfied the draft plan may be adopted without further amendment. Councils will instead not be required to publicly exhibit the amended draft plan if it is satisfied that the amendments are not substantial. This is a matter of interpretation and is open to abuse. In fact, the current provision was inserted to avoid exposing councils to expensive legal action. For this reason the change should not be supported.

The changes to items [5] and [6] of schedule 3 remove the need to hold a public meeting if land is recategorised from one category under section 36 (5). This simply involves recategorising from one type of natural area to another, that is, from bushland to escarpment or watercourse to wetland. The change to item [7] of schedule 3 requires that any public notice given by a council with respect to a parcel of community land describes the land by reference to its common description, such as the address or commonly known name. At present only the lot number need be given. This change will make it easier for the public to identify the parcels of land in question and should therefore be supported.

This bill also provides us with an opportunity to amend the Local Government Act to deal with several other problems with the current legislation, relating to plans of management, restrictions on the use of land and public hearings. At present section 36 (1) of the Act requires councils to prepare a draft plan of management for community land. However, no time is specified by which those plans must be completed. This situation could be resolved by inserting a provision in the Act requiring a draft plan of management to be prepared within six months of land being classified as community land and within six months of the provision coming into effect for community land not yet the subject of a plan of management.

Currently the Act places restrictions on the purposes for which community land may be subject of an estate. For example, section 46 (1) permits licences, leases and other estates to be granted only if they fall within certain prescribed categories. Section 46 (2) permits licences, leases and other estates to be granted only if they are for a purpose consistent with the core objectives of the land. Section 47B places further restrictions on the purposes for which leases, licences or other estates may be granted over natural areas. There are, however, no provisions to constrain the actual use of the land. A council could carry out an activity itself which could not be the subject of a lease, licence or other estate to another person. This situation could be resolved by amending the Act to state that an area of community land cannot be used for a purpose for which a lease, licence or other estate could not be granted over that land, and that a building cannot be erected on community land that could not be authorised by a lease, licence or other estate over that land.

Section 47G prescribes that public hearings into reclassifications or recategorisations must be conducted by a person independent of council and that the report of that person must be made available for inspection. There are no other requirements for the conduct of a public hearing. This situation could be resolved by ensuring that public hearings are advertised and all those wishing to participate are given equal opportunity to do so. Therefore I will move amendments in Committee designed to address these concerns. I urge all honourable members to support them.

The Hon. J. S. TINGLE [9.32 p.m.]: I do not want to speak at length; we have heard enough about this bill tonight. I support the bill, as it is a good attempt at cleaning up some of the things that are wrong in local government. The bill is also far overdue. We sometimes forget that local government is an extremely important wing of government for the community in which we live. We tend to regard it as a poor cousin. Of course, it is not because, in many ways, it is much closer to people than we are in this place. An interesting point

about this bill and its approach to the way local government elections are run is that, finally, we are admitting the presence of those awful political elements, which for so long we have been trying to pretend do not exist in local government.

Local government and its electoral system have been in a mess for many, many years. During my 46 years of active journalism I reported on many local councils, from Sydney City Council sideways. Some of the things that have gone at councils, particularly in elections, would make your hair stand on end. One of the most notable characteristics of local government over the past 40 to 50 years that I have reported on it has been the total apathy of the constituency. The average ratepayer has a total lack of interest in what is going on in his local council. The situation has changed a bit lately, but it certainly has not changed in regard to elections. If I stopped the first 10 people I saw in any suburban local government area of Sydney, or anywhere in the State, and asked them who their local representative is and the ward they live in, if they have a ward system, they could not tell me because they are not interested, they do not want to know and they do not think local government is effective.

When voting in local government elections was not compulsory, the average turnout was 30 per cent, which I believe shows just how little interest the average Fred shows in his council activities. That apathy has allowed councils everywhere to be taken over by political interests, real estate developers and interests working for small vested sections of the community who make the council their tool. The electoral Act that is now in place governing the Legislative Council is a slight adaptation of a bill I had in the pipeline for two years before the 1999 election. When I was drafting the bill I was asked whether I wanted to include local government and make the same changes to local government that the bill would make to the election of members to this place. I said I did not because I believed that local government was totally different fromthe Legislative Council. I considered that the numbers and the proportions that were required by the electoral bill, which is now the Act we work under, was not appropriate to local government areas.

This bill will make local government cleaner, more democratic and, as the Hon. Lee Rhiannon said, more representative. I do not intend to speak to the proposed amendments or the details of the bill, as previous speakers have done. However, I would like to make the point that an amendment that has been foreshadowed by the Hon. Dr A. Chesterfield-Evans has me absolutely hornswoggled. I do not know how the Australian Democrats can foreshadow an amendment which would require people to reveal their political connections over the previous three years, not only because it reeks of McCarthyism but because it does not matter whether three years ago a candidate was a member of the Liberal Party, the Australian Labor Party, Pauline Hanson's One Nation or the Communist Party.

What is important is what the candidate represents at the present moment. People should not be asked about and have used against them matters they may reveal about their personal life. I will not support that amendment. This bill is still not perfect; it is an amendment to a bill that is seven years old. This Chamber could be debating similar bills for many years to come, because it will take a long time to get it right. However, this bill has got it more right than previous legislation. For heaven's sake, let us get on with it.

Reverend the Hon. F. J. NILE [9.36 p.m.]: The Christian Democratic Party is pleased to support the Local Government Amendment Bill. As honourable members know, it is normal procedure for the State Electoral Commissioner to undertake a review of the electoral process following each four-yearly election. The last election was held in September 1999. Concurrent with those discussions was the review of the Legislative Council procedures. This is the second bill as part of the reform process. I hope that the Legislative Council legislation, which has been passed, will be successful at the next election in eliminating the tablecloth ballot paper. Some honourable members believe that there are people who will try to get around the procedures and we will still finish up with many parties and groups nominating for the Legislative Council.

Many of the improvements in the Legislative Council bill have been followed through in this local government bill. We support the bill because we believe that, importantly, it simplifies procedure and blocks parties from manipulating preferences and allocating preferences to other parties. It is also important to have some similarity between the procedures of the State Legislative Council election and the local government election. This applies to an amendment proposed by the Opposition. I know that people are confused by the differences between the Federal and State elections. We could help reduce that confusion by having a parallel situation between the Legislative Council and local government elections. That is why I am reluctant to see a dramatic change to the local government ballot papers. The procedure in this legislation closely follows the new Legislative Council election procedure.

Under this bill a group of candidates can request a group voting square to be shown above the line on the ballot papers. A group voting square automatically allocates preferences to the candidates in the group only.

That means they go down the column but they do not go to any other group or party that is standing for election. A proposed amendment which we will not support, as previous speakers have said they will not support, is to identify party membership within the previous three years. Often people have resigned from parties in protest over party policies. It would be misleading to say that a former Liberal or Labor member is now a de facto Liberal or Labor candidate. That could be so, but there is no way to know for certain why the person is no longer a member of that party.

One matter that concerns me was raised in the debates on upper House reform. I would be far more interested if, somehow, each party and candidate could be required to publish a document outlining their policies. That would enable voters to know what those parties and candidates stand for. There was a lot of confusion: some parties that stand on one issue, such as the environment, might have very strong policies perhaps supporting legalised brothels. I know that in some country areas in which Green candidates were elected, voters were quite shocked to find that they had voted in people who had other policies that were contrary to the mainstream in the community. Those policies were not announced at the time of the election, as were a number of other policies not related to green issues. I would be interested in the Government developing that approach in the future.

Another aspect of this legislation is registration of a party. We support retention of the provision that the party have 100 members. This is in respect of parties that are not registered at a State level. Most parties are registered at the State level and therefore are automatically registered for local government elections. They will have at least 750 members and are therefore covered. The bill's provision relates to local, perhaps single-issue parties that stand on that issue in a particular area. Those parties will have to have at least 100 members, with overlapping membership not permitted. That is not unreasonable. I am aware of an amendment to reduce the membership to 75. I would think the number of 100 should be increased rather than decreased to ensure that the group has some local support. If a party cannot get 100 people behind it, how is it a viable political group in a council election? The provision for a 100 membership is not extraordinary or extreme. We support the other aspects of the legislation, which should be passed in its current form.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [9.42 p.m.], in reply: I am pleased that the general thrust of the amendments proposed in this bill have been accepted by the members of this House. As stated in my second reading speech to this bill, the Government has shown its ongoing commitment to ensuring a workable and responsible legislative framework for the administration of local government in this State. Voters were rightly outraged with the tablecloth-size ballot papers for the Legislative Council elections because it indicated unprecedented opportunism and cynicism by some candidates. The electorate was treated with disdain.

The changes made to the election procedures for this House late last year demonstrated that we are all committed to the maintenance of fair democratic processes for elections. In particular, group voting tickets allowing manipulation of preferences and weaknesses found in requirements governing registration of political parties were identified as the sources of the problem in the last elections. Changes were made to ensure that political parties genuinely reflect a community of interest. Overlapping party membership has been disallowed for the purposes of party registration. Group voting tickets have been eliminated outside groups and parties so that preferences are now allocated by voters.

The amended election provisions for this House maintain the benefits of the former arrangements, that is, simplicity of voting for electors who chose to number only one square by voting above the line, and at the same time retain for voters the discretion of where they will place their preferences. The same problems were found in the local council elections in September last year. Because local council elections are based on the provisions governing elections for this House this was not a major surprise, although it was disappointing that the cynicism of some candidates was undiminished.

As this House will recall, the amendments to the elections provisions for this House were not automatically extended to local councils. That was because both the Government and Parliament recognised that some of the circumstances of local councils are different: in particular, the number of vacant positions to be contested in elections can vary widely between councils; for the purposes of elections councils may be undivided electorates or they may be divided into wards; and the number of members of political parties for local council elections would need to be fewer than for the State elections. However, in most other respects there is no reason to have principles governing councils different from those applying to this House. Members would note by careful examination of the provisions in this bill that this is what is proposed.

Group voting tickets will no longer be used. Preferences between groups and candidates will be given at the discretion of voters, not parties or groups. The minimum size for political parties in local council areas is

100. This is proposed as a reasonable minimum number to reflect sufficient non-overlapping members of a party. Similar to political parties at a State level, a political party will need to be registered for a sufficient period before an election to ensure that it is a reflection of an enduring community of views. Candidates with common short-term views will be able to form groups. The benefit of being a registered party is the inclusion of a party name on the ballot paper.

The minimum number of candidates required to be eligible for an above-the-line voting square in a local council election will be determined by local circumstances. That is, an electorate with a smaller number of vacancies will have a smaller minimum number. In this House the minimum number for a group is 15. It is appropriate to allow flexibility for local councils. It should be noted that the amendments do not require an eligible group or party to have an above-the-line square. As applies now, the choice remains with parties or groups to seek an above-the-line square. These arrangements will suit the circumstances of all councils, both urban and rural. As was stated in the second reading speech, many local councils at the last election did not have above-the-line voting squares.

It is difficult to understand the arguments of the Opposition when it tries to remove above-the-line voting. Presumably if it works for Mulwaree then it should work for all electorates. I have news for the Opposition: some council areas are different from Mulwaree. Some local councils have a number of councils competing for vacancies. At present the voting procedures are essentially the same for the Senate, the Legislative Council and local councils. In each of these elections candidates are contesting multiple vacancies. Preferential voting is the fairest and most democratic means of electing candidates in this situation. The similarity of election procedures for these three levels of government is appropriate. Voters actually like above-the-line voting. When there are more candidates than there are vacancies it allows a simplified voting process for expressing preferences.

Removal of above-the-line voting would result in voter confusion and increase the risk that voters will cast informal votes. Surely this is not in the best interest of democracy. Adopting a different method for local councils cannot be justified to suit the philosophical whims of the National Party. Above-the-line voting works, it is democratic and there is no justification for abolishing it for local councils. Contrary to the assertions of the Opposition, removing above-the-line voting will not remove politics or political parties from elections. Above-the-line voting offers a simplified voting system for the convenience of voters. It is also transparent because the names of the parties are shown. Above-the-line voting is democratic. The amendments proposed in the bill follow those made for election procedures for this House. They remove the potential for abuse of process as appeared to occur in the last elections.

The Government does not support the amendments proposed by the Opposition nor other amendments proposed to the election provisions by other members. The amendments proposed by this bill are substantively the same as were made to the procedures for this House last year, subject to the differences to meet the needs of local government. These differences have already been spelt out several times. This House debated those changes at great length at that time. It is inappropriate that there be made to the bill further changes which introduce unnecessary inconsistencies.

Other members of this House have also indicated their intention to move amendments to this bill or have expressed concern over particular issues. The Government has carefully considered the issues raised and is unwilling to accept them as proposed. However, the Government does not understand the concerns raised. Most of these are over the issue of community land. Through this bill the Government is proposing to make changes to the legislation in the light of the experience of councils in the period since the community land amendments commenced in January 19999.

The Hon. R. S. L. Jones raised concerns about the possible ambiguity of the wording in part of the bill. The Minister has examined this matter, and the Government proposes to accept the amendments of the honourable member to make the intention of the bill completely clear. The Minister has also indicated that he will request his department to issue a circular to provide guidance to councils in conducting public inquiries under the terms of section 47G of the Act. The Hon. Dr A. Chesterfield-Evans has foreshadowed amendments to the electoral procedures. These changes would result in significant inconsistencies between local council election procedures and those for the Legislative Council and the Senate. They would also potentially add costs to the conduct of elections by placing a heavy burden on the Electoral Commissioner.

Another interesting question that arose from the amendments was: If an elected candidate does not disclose previous membership of a political party, does that provide a ground for an appeal to the Administrative

Decisions Tribunal for removal of the candidate? The potential for an explosion in appeals over election results will cause serious disruption to local council governance. I am pleased to note that the other issues in the bill have the support of the House. They are aimed at ensuring transparency and accountability of councils and their processes, while at the same time improving the efficiency of the operation. The Deputy Leader of the Opposition sought specific assurances in regard to rural impact. Assurances on rural impact were highlighted in the second reading speech of the Minister in the other place. For the information of the Deputy Leader of the Opposition, who has no experience in Cabinet, rural impact statements are part of the Cabinet process for bills, and they are Cabinet documents. That answers the questions raised by the Deputy Leader of the Opposition.

The Hon. D. J. Gay: But you didn't say whether there was one.

The Hon. E. M. OBEID: What did I not say?

The Hon. D. J. Gay: You just said that they were part of the Cabinet documents, but you didn't actually state that there was one and that there had been a full process.

The Hon. E. M. OBEID: They are required as part of the Cabinet documents, that is what I said.

The Hon. D. J. Gay: Is there one?

The Hon. E. M. OBEID: The honourable member should listen. Rural impact statements are part of the Cabinet process for bills, and they are Cabinet documents. Does that make it quite clear?

The Hon. D. J. Gay: Was there one?

The Hon. E. M. OBEID: That is the answer you have.

The Hon. D. J. Gay: Yes or no, was there one?

The Hon. E. M. OBEID: That is the answer you have.

The Hon. J. H. Jobling: Why won't you answer the question?

The Hon. E. M. OBEID: Why don't you make some animal noises? That is what they do in the Legislative Assembly, or have you not graduated that far? I thank honourable members for their support, and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

Clause 2

The Hon. D. J. GAY (Deputy Leader of the Opposition) [9.53 p.m.], by leave: I move National Party amendments Nos 1, 2, 3, 4, 6 and 7 in globo:

No. 1 Page 2, clause 2, line 6. Omit "subsections (2) and (3)". Insert instead "subsection (2)".

No. 2 Page 2, clause 2, lines 7 and 8. Omit all words on those lines. Insert instead:

(2) schedule 1 commences on 1 June 2002.

No. 3 Pages 3-5, schedule 1 [2]-[4], line 14 on page 3 to line 30 on page 5. Omit all words on those lines. Insert instead:

[2] Section 308A Grouping of candidates

Omit section 308A (3)-(5).

[3] Sections 308B and 308C

Omit the sections. Insert instead:

308B Form of ballot-papers

In printing the ballot-papers:

(a) for an election in which there are no groups, the names of the candidates are to be printed in one column (starting at the top) in the order determined by the regulations, and

(b) for an election in which there is only one group, the names of candidates included in that group are to be printed in a group before the names of candidates, if any, not included in that group, and

(c) for an election in which there are two or more groups, the names of candidates included in the groups are to be printed in groups across the ballot-paper (starting from the left side) in the order determined by the regulations, before the names of candidates, if any, not included in any such group, and

(d) the order, within a group, in which the names of candidates in that group are to be printed on the ballot-paper is the order specified in the claim made by them under section 308A, and

(e) the names of candidates, if any, not included in any group are to be printed as a group, without any identification, on the ballot-paper in the order determined by the regulations.

308C No group voting

For every election, including an election in which there are one or more groups, voters must record votes by marking separate voting squares for candidates.

No. 4 Page 6, schedule 1 [5], line 2. Omit all words on that line. Insert instead: Omit ", group voting tickets".

No. 6 Page 6, schedule 1 [8], line 21. Insert "and" before "group".

No. 7 Page 6, schedule 1 [8] and [9], lines 22-28. Omit all words on those lines.

It has long been the view of many country councils that above-the-line-voting is not required for local government. We support that view. As indicated earlier, it is also the view of the Shires Association of New South Wales. I was enlightened during the contribution from Ms Lee Rhiannon to learn that she had received a letter from the President of the Local Government Association, Peter Woods, indicating that the Local Government Association was against my amendments.

Reverend the Hon. F. J. Nile: We all got a letter.

The Hon. D. J. GAY: Reverend the Hon. F. J. Nile indicates that they all got one.

The Hon. E. M. Obeid: Did you want Ms Lee Rhiannon to be the only one to get one?

The Hon. D. J. GAY: The Minister interrupts at a stage when he should not interrupt.

The Hon. E. M. Obeid: Why don't you get on with it?

The Hon. D. J. GAY: I will get on with it if the Minister stops making inane interjections. The President of the Local Government Association sent letters to people, which I am reading now for the first time. It is very disappointing that the President of the Local Government Association deemed not to send letters to the Opposition or the shadow Minister for local government. He writes, "I write … I am aware … It is unfortunate … The Local Government Association supports the bill … It is abundantly clear we … If I can be of any assistance." It is my understanding that although the shires associations passed motions at their conferences against above-the-line voting—I could be wrong but I challenge anyone to prove me wrong—the Local Government Association did not pass any motions that support what the President of the Local Government Association has said. It is very definitely the personal view of the President of the Local—

The Hon. R. S. L. Jones: You can't say that.

The Hon. D. J. GAY: I am saying that it is my understanding.

The Hon. R. S. L. Jones: That is your understanding.

The Hon. D. J. GAY: And I cannot prove it.

The Hon. R. S. L. Jones: You can't prove that.

The Hon. D. J. GAY: I just said that.

The Hon. R. S. L. Jones: You have to be careful about that.

The Hon. D. J. GAY: I was quite open about what I said.

The Hon. R. S. L. Jones: You are making an allegation that he is making a personal—

The Hon. D. J. GAY: I am making the allegation that this is most probably a personal point of view.

The Hon. R. S. L. Jones: Without any foundation.

The Hon. D. J. GAY: I am being quite open about what I am saying.

The Hon. R. S. L. Jones: Why say it if it has no foundation to it?

The Hon. D. J. GAY: I am saying it is most probable.

Reverend the Hon. F. J. Nile: He would have quoted the association motion if he had one.

The Hon. D. J. GAY: Exactly.

The Hon. R. S. L. Jones: Not necessarily.

The Hon. D. J. GAY:. Many people I know were at the recent Local Government Association conference. I certainly was not invited, but many people I know were there. They would have told me if a motion along those lines had been moved. I do not know for sure that it has not been moved; I presume that it has not been moved. My point is that one of the association presidents is speaking on behalf of his organisation from a motion that was passed, but the other president is probably expressing, and I use the word probably, a personal point of view. I am disappointed that the Local Government Association, which represents a broad church, has not seen fit to send any form of communication to the Opposition in a matter as important as this.

The Hon. M. R. Egan: You are always abusing him.

The Hon. D. J. GAY: I am not abusing him. Have I used any of the words that the Treasurer has used about him?

The Hon. M. R. Egan: I never criticised him.

The Hon. D. J. GAY: I think the honourable member may be misleading the House again.

The Hon. M. R. Egan: I don't think so.

The Hon. D. J. GAY: The President of the Shires Association wrote to me last week to outline the association's view on the issue. The letter read:

> It has been a longstanding view of the Shires Association that above the line voting and the presence of political parties have significantly eroded equality of candidates to local government. The introduction of party politics into local government is inappropriate to grassroots community government, and the current Bill is an excellent opportunity to remove the undesirable elements of above the line voting and party politics.

Frankly, this is not an unreasonable position to work from, nor is it an argument that is outside the realms of possibility. Political parties would not be banned, but we would be bringing back more of a level playing field if the Committee were to support our amendment. It would put political parties on the same level as the community. I realise I am not going to get huge support from the Committee. It has been indicated by the new old parties that they want to protect their advantage over community organisations. I note those parties have indicated—and quite fairly indicated—that they now have an advantage over community organisations and the independent people who want to stand in local government. The Greens will be supporting the party advantage above the line. The Australian Democrats will be supporting the party advantage above the line and, of course, the Labor Party will be in it like Flynn. Unity, another one of the new old political parties, wants to pursue this point above the line.

The Hon. I. Cohen: If the Nats don't watch themselves they will go down anyway.

The Hon. D. J. GAY: The National Party have thought for a long time that political parties should not be in local government. This is not a recent aberration of the National Party.

The Hon. Dr A. Chesterfield-Evans: You're in it up to your boots.

The Hon. D. J. GAY: Members of our party are in local government, but we believe that political parties should not be involved in local government. It really is for the community to be able to make that choice.

The Hon. M. R. Egan: You are collapsing fast.

The Hon. D. J. GAY: It is not a farce, it is the truth.

The Hon. M. R. Egan: No, you are collapsing fast.

The Hon. D. J. GAY: I am sorry, but I am not.

The Hon. M. R. Egan: You are collapsing fast, and now that I think about it, you are a farce as well. Not you personally, but I thank you for the suggestion.

The Hon. D. J. GAY: I commend the amendment to the Committee. It is an appropriate amendment. Many members in this Chamber have indicated they personally believe it is the right way to go. It is certainly the way most of the private people in local government and the community wish local government would go. I know it is not the way of the stuck-in-the-wood old parties. I congratulate the Liberal Party on having the guts to embrace something new and something positive.

The Hon. M. R. Egan: You hate the Liberal Party.

The Hon. D. J. GAY: No, I don't.

The Hon. E. M. Obeid: You do, you hate them more than you hate us. We are no threat to you.

The Hon. D. J. GAY: I do not hate anyone. I have political foes in this place. I have two enemies. I have the traditional enemy and the real enemy, and I am not saying who they are. I commend my amendments to the Committee.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [10.03 p.m.]: I thank the Deputy Leader of the Opposition for moving all the Opposition's amendments in globo, and I advise him that we oppose all of them in globo. Sufficient explanation has been given in my second reading speech and my speech in reply to the second reading debate.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 15

Mr Breen	Mr Lynn	Mr Tingle
Mr Corbett	Mrs Nile	
Mrs Forsythe	Revd Nile	
Mr Gallacher	Mr Pearce	*Tellers,*
Mr Gay	Dr Pezzutti	Mr Jobling
Mr Harwin	Mr Samios	Mr Ryan

Noes, 20

Dr Burgmann	Mr Hatzistergos	Mrs Sham-Ho
Ms Burnswoods	Mr M. I. Jones	Mr Tsang
Dr Chesterfield-Evans	Mr R. S. L. Jones	Mr West
Mr Cohen	Mr Obeid	Dr Wong
Mr Dyer	Mr Oldfield	*Tellers,*
Mr Egan	Ms Rhiannon	Mr Macdonald
Ms Fazio	Ms Saffin	Mr Primrose

Pairs

Mr Colless	Mr Della Bosca
Miss Gardiner	Mr Johnson

Question resolved in the negative.

Amendments negatived.

Progress reported and leave granted to sit again.

PRINTING COMMITTEE

Report

The Hon. I. W. West, as Chairman, tabled report No. 3 of the committee, dated 30 November 2000.

Ordered to be printed.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (TRADEABLE EMISSION SCHEMES) BILL

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

ADJOURNMENT

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.13 p.m.]: I move:

That this House do now adjourn.

COUNCIL FOR ABORIGINAL RECONCILIATION

The Hon. HELEN SHAM-HO [10.13 p.m.]: As a member of the Council for Aboriginal Reconciliation, I should like to speak about the council's life and its achievements. Honourable members may recall that the council was established by a unanimous vote of the Federal Government in 1991 for a 10-year life span to promote and guide a formal process of reconciliation. During this time the council has worked hard to fulfil its objectives in consultation with the Australian people. Our central goal has been to find ways of developing a better understanding and respect between Aboriginal and Torres Strait Islander people and other Australians before our term expires on 1 January 2001.

As an Asian woman I feel that I have brought a unique perspective to the council's work. From the ethnic perspective, reconciliation is about much more than simply uniting black and white Australia: it is about nation building; it is about bringing together all Australians from diverse backgrounds regardless of race, culture or creed and regardless of where they came from, and when.

Reconciliation is about building a bridge between the first people and newcomers by creating understanding and respect between different communities. It is about amending the past wrongs done to the first Australians. Being a member of the council has been an extremely satisfying and rewarding experience. It has also been a once-in-a-lifetime experience and an honour that I feel surpassed my election as the first member of Parliament of Chinese descent in Australia. Not only have I gained a far greater insight into and understanding of Aboriginal and Torres Strait Islander peoples, I have also established lasting relationships with past and present council members and all of the people involved. My life has been very much enriched. I will miss the comradeship and warmth of our council meetings.

Just last weekend the council met for the last time and handed over to the National Museum of Australia the items we had collected over the past 10 years. As one can imagine, this was an exhilarating and moving weekend for us all because we were given the opportunity to reflect on how we felt about what we have achieved during our term. Much has been achieved over the past decade. Reconciliation is now firmly entrenched in the social and political agenda. Recent debates in this House on the fisheries and water

management bills demonstrate this point clearly. More importantly, reconciliation has become a part of the consciousness of the Australian people. We only have to look at the tremendous success of Corroboree 2000 in May of this year and the huge turnout at the People's Walk for Reconciliation to see just how far we have come as a nation in making reconciliation a reality.

I am flying to Melbourne this weekend to participate in the Melbourne Corroboree walk. I believe that the Treasurer and other Ministers will also be participating, which is good to see. This will be one of the council's final public events before it completes its term on 31 December. The very last council event will be held next week, on 7 December, when the council's final report will be tabled in the Federal Parliament. I hope to be there as well. In order to continue the process of reconciliation, the council has set up a foundation known as Reconciliation Australia. This is a non-government body that will build on the work done so far by the council by giving effect to the Australian declaration towards reconciliation. It seeks to build support for reconciliation in the Australian community through education campaigns, to facilitate community and business relationships with indigenous Australians and to support local and regional reconciliation initiatives.

As most of the foundation's income will derive from general public donations, a fundraising campaign will be launched on 1 January 2001. I urge all honourable members to lend their support to this very important cause. It is my hope that in 2001 and beyond the Australian people will continue to work together to move beyond the rhetoric of reconciliation and carry the nation forward to the goal of an inclusive and united Australia. It is my unshakeable belief that better race relations in this nation will become a reality and that Australia will be a better country. I am grateful that I have been a member of the Council for Aboriginal Reconciliation. I thank the Prime Minister for appointing me to the council. I am happy that I have made a little contribution towards reconciliation.

KARIONG JUVENILE JUSTICE CENTRE MANAGEMENT

The Hon. PATRICIA FORSYTHE [10.18 p.m.]: Honourable members will be aware from questions that I have asked in the House that there are many problems involving the management of Kariong Juvenile Justice Centre. Kariong is the only maximum security centre for juveniles in New South Wales. As such, its role is to manage the most troubled and difficult juveniles in the justice system. The centre needs staff with special qualities, a strong sense of dedication and a capacity to work with their colleagues in a strong team. Kariong is far from that. In March this year the Ombudsman presented a report on the centre, arising out of serious riots that occurred at the centre in March and April 1999. Honourable members may recall the report. The executive summary on page 9 states:

> This report strongly criticises the attitudes and behaviours of a segment of Kariong staff. It does not condemn all the staff who work or who have worked at the centre.

The report on many aspects dealing with management and staff was scathing and highlighted a lack of records, poor documentation, the need for better training and improved staff selection, conflict between staff, et cetera. At page 155 the report states:

> The centre's deep dysfunctions primarily relate to deep rooted mistrust, factionalism, suspicion and ambivalence amongst staff. This can only be addressed by strong leadership supported by the department's senior management.

The centre has had four managers in the past 18 months. It is time the Government took seriously its problems and acted to properly address the staffing-management malaise. The good staff have had enough. That is why they have appealed to the Opposition to raise their concerns. One staff member this week described the centre to me as being "in an absolute mess". My informant said, "Nothing has changed. The centre operates still on a jobs-for-the-boys mentality. There is corruption, cronyism and nepotism." This is November 2000. All of those issues were referred to in the March 2000 report. Many were also highlighted in the 1998 report by David Sherlock, the now director-general, and Jan Shier in their report into workplace discrimination, sexual harassment and unprofessional conduct.

That report found serious deficiencies in the management and operation of the centre. Last week I asked questions about an assault on a detainee when staff did nothing, and the tape of the incident had gone missing. The Government admitted the incident. The Government also did not deny another issue: a water fight amongst staff that affected the centre's computer equipment. This week I advised both the office of the New South Wales Ombudsman and the Independent Commission Against Corruption of the possible whereabouts of the missing tape. If staff knew of its whereabouts, why had it not been recovered?

Staff advised that another tape had gone missing following an incident in mid-November in which a female drug and alcohol counsellor allegedly took a 19-year-old detainee to her office at 6 'clock in the evening,

causing concerns among other staff. If that was contrary to guidelines, what action has been taken? If a tape has been taken, has that been identified as corrupt behaviour? The suggestion is that the tape cannot be found. Apparently, staff are also under investigation following the loss of leg cuffs. I admit that I was unaware that a centre in New South Wales would have needed leg cuffs. How will juveniles possibly change their ways when the staff around them act contrary to the law? The good staff have had enough. I urge the Government to take seriously the problems at Kariong before there are more serious incidents. The time for excuses has passed. The time for a full judicial inquiry has come.

ABORTIFACIENT RU-486

The Hon. JAN BURNSWOODS [9.22 p.m.]: I refer to the debate about the restrictions currently applying in Australia to the drug RU-486. This drug has been available for 10 years in various European countries, having been developed in France in the early 1980s. It has been utilised not only to induce abortion but also in the treatment of cancer. It is also an extremely effective post-coital contraceptive pill, commonly known as the morning after pill. It has been trialled over and over again, but it is not yet available in Australia. RU-486 is not the termination method of choice for many women in countries where it is available as an alternative to surgical procedures. It is effective only until the seventh or eighth week of gestation. So for many women who find themselves pregnant beyond this stage it is not an option.

The use of RU-486 contains risks, and some of the debate about its availability in this country has been about them. But all surgical procedures and everything else connected with abortion also contain risks. Turning to the tests that have been applied in Australia, as far back as the mid-1980s RU-486 satisfied very stringent tests for safety and efficacy and was approved for use in Australia by the Therapeutic Goods Administration. It is accepted by the medical community worldwide as a safe alternative to surgical termination. In 1996 the Australian Government supported an amendment moved by Senator Harradine to require Federal Parliament approval for the importation of RU-486 or any similar drugs that could be used as an abortifacient. This has effectively restricted access to RU-486 by Australian women. Since that amendment was passed no applications for importation of the drug have been received.

As I have said, women in Europe, including those in the United Kingdom, Ireland, Norway, Finland, Denmark, France, Germany, Sweden, China and the United States of America, have the choice of a non-surgical termination if that is what they and their doctors believe is best for them. However, Australian women and their doctors do not have that choice. I realise that for many people these issues are somewhat controversial. However, it seems that it is time to again debate some of these issues. For some years now very little debate has taken place with regard to RU-486 in particular. Some of the more recent debates that have occurred in various areas and within various political parties, including my own party, about the rights of women and reproduction have raised some worrying issues about a return to restrictions that hedged around women in the past.

Given my own recent experience and that of other members of the social issues committee in relation to the committee's inquiry into adoption during the period 1950 to 1998, which has almost concluded, we have certainly become aware of the way in which women were denied access to so many options other than adoption. We have also become aware of the way in which the secrecy and the lack of debate helped make the development of options more difficult and slower, and how it helped make the women themselves feel more guilt and more trapped by the secrecy imposed on them.

Some of the more recent issues in regard to medication and some other reproductive procedures suggest that we need to be extremely vigilant in ensuring that we do not turn back the clock to the situation as it was some 30 years ago for women in this country. I am aware that women in various parties and organisations are concerned about taking up these issues. One of those organisations is the Women's Electoral Lobby [WEL]. I congratulate WEL on having recently raised this issue and continuing the campaign over many years. As I have said, it behoves us all to be extremely vigilant about these issues.

DOUGLAS SCOTT DEATH IN CUSTODY

Ms LEE RHIANNON [10.27 p.m.]: The term "deaths in custody" has come to haunt Australia in many ways, and it is something that still causes great tragedy. There is one particular case from the 1980s that a number of people are fighting to this day. I should like to bring that case to the attention of my colleagues. In July 1985 Douglas Scott was found dead in his prison cell at Darwin's Berrimah Gaol. Mr Scott had been remanded in custody 27 days earlier for having failed on one day to report to police while on bail for minor offences. In spite of the findings of a coroner's court and of the Royal Commission into Aboriginal Deaths in Custody that the death was a suicide, there is strong evidence to the contrary. Both Federal and Northern Territory governments are being urged to reopen inquiries into Douglas Scott's death.

Letty Scott, widow to Douglas, has refused to accept the finding of suicide and has secured expert opinion which suggests that the death may have been the result of strangulation. Prior to the death of Mr Scott, witnesses had testified that they saw four prison guards go into his cell carrying batons. They heard sounds of a beating and Mr Scott's cries for help. After this, authorities claimed that Mr Scott hanged himself. However, conflicting photographic evidence of the death scene suggested that the area had been tampered with. Eye witnesses claimed that they saw Mr Scott hanging in a different manner to that suggested by the photographs. Eye witnesses were forced to clean blood from the floors and walls, and around the toilet and the mattress.

Photographs of Mr Scott taken after his death revealed bruising and a fracture of thyroid cartilege in his neck that is generally more consistent with manual neck compression than with hanging mechanisms. An external band of impressions around the neck was also likely to have occurred as a result of manual strangulation. The forensic report notes inconsistencies between an ambulance officer's statement and the autopsy report and that a number of factors were omitted in the commission's consideration at the time of death. This is a sensitive case for some people in power, as the legal aid lawyer in the Northern Territory 15 years ago was Shane Stone, later Chief Minister of the Northern Territory and now Federal President of the Liberal Party. The question this case has raised is whether Mr Stone potentially faces legal action for negligence.

Letty Scott claims that she has been harassed and feels constantly concerned for her own welfare. She claims to have been the victim of police harassment and violence. She claims that her campaign partner, Mr Daniel Taylor, suffered throat injuries from a police baton on one occasion. The Greens would like to commend Letty Scott for her tireless efforts to have this injustice recognised. It is an indictment of the human rights record of this country in relation to Aboriginal deaths in custody that Ms Scott has had to seek help for so long and from so far afield. The Greens also commend the individuals and groups that have been active on this issue, including Australians Against Execution, the Indigenous Social Justice Association and Mr Ray Jackson, who has been a tireless worker on these issues and is known to many people in this Parliament. The Greens support the calls for Douglas Scott's case to be reopened and, should wrongdoing be established, for justice to be done. We must learn the lessons of this case to stop such tragedies recurring.

JACK RUSSELL TERRIERS

The Hon. G. S. PEARCE [10.31 p.m.]: I would like to inform the House, and in particular members on the Government side, about Jack Russells. I do so as Jack Russells were mentioned in the House last week and my family is the proud owner of three energetic, wonderful Jack Russells. However, I particularly feel obliged to provide this information to the House because when the topic was raised last week by my honourable colleague the Hon. C. J. S. Lynn, both the Treasurer and the Assistant Treasurer looked on in astonished ignorance like Tweedledum and Tweedledee. The honourable Professor Obeid stared with his usual blank expression, not helped by the Labor rural rump on that side, which also did not know anything about Jack Russells and could not help the frontbench.

I, of course, do not claim to be a country person. However, I do know what a dog is. The Jack Russell is a popular breed of dog. I am told that the breed is particularly popular amongst people in the country. Perhaps it will not surprise honourable members to learn that the breed was developed by the Reverend Jack Russell in England—in Yorkshire, I believe—in the last century. Reverend Russell set out to breed a particularly intelligent, small dog for use in hunting, in particular rabbits. He bred fox terriers to produce a short, 10-inch to 12-inch tall but diminutive dog, which, perhaps similar to some members of this House, is relatively perfect in shape. One of his famous breeding dogs was called the Trump. He also bred a taller dog known as the Parson Jack Russell. Reverend Russell was reputed to ride through the Exeter Common with his dogs in his saddlebags, setting them free to pursue the rabbits. In addition to the ideal physical attributes of the Jack Russell, the breed is very popular because of its sharp intelligence and devoted loyalty, as well as its playfulness and energy. This is often manifested in their habit of jumping up for attention and yapping noisily. Our dogs Harry and Kate and their daughter Spooky do indeed jump around, much as do the three Ministers when they are sitting here in question time.

For all their exuberance and energy, Jack Russells often cause their masters grief. Because they are so determined to follow rabbits down any hole and burrow, they very often become stuck down a burrow and they have been known to starve to death while becoming trapped chasing their quarry. Sometimes they disappear down a burrow for months on end and then return gaunt and diminished. They also have a bad habit of taking on snakes, often with fatal consequences. They are known as a large dog with a huge heart in a small body.

I trust that my comments have been enlightening to the other honourable members of the House. I think that, given the Treasurer's comments during question time last week when he was telling the House about his

very early attempts to gain preselection for his party a number of decades ago, they are particularly appropriate. Indeed, he must have been just 12 or 13 when he embarked on the first of his unsuccessful preselection attempts. The fact that he spent his youth unsuccessfully seeking preselection probably explains his ignorance when it comes to dogs. However, it is no mean feat, after many years in this House, to be able to jump and yap like a good Jack Russell.

ORGANIC FOOD

The Hon. I. COHEN [10.35 p.m.]: It is difficult to think of any industry that has been treated more unfairly than organic farming. Every few weeks a newspaper or television program suggests that organic food will kill people because it is grown with the help of manure which harbours dangerous germs. In truth, while both conventional and organic farmers use manure on their fields, organic farmers are forced to compost it more thoroughly. As a result, their produce is much safer than is being suggested. People are repeatedly told that organic farming is less productive than is conventional farming, but a 15-year American study has shown that yields are almost precisely the same while soil quality in organic plots gradually improves.

In July, the Advertising Standards Authority banned an advertisement by the organic standards body, the Soil Association, because it claimed that organic food is better for the environment. But a comprehensive review published just two months beforehand showed that organic farms in Britain support five times the number of wild plant species as do conventional farms, and three times as many butterflies. Organic farming is a victim of an unrelenting smear campaign which has been backed by the agrochemicals industry and its captive scientists. But despite all the money and energy that big business has spent on trying to stamp out organic farming, it cannot be crushed. Public demand in Britain exceeds supply by 230 per cent and that demand is rising by 40 per cent a year. In response, supermarkets are falling over themselves to find enough organic food to fill their shelves.

In June, Iceland announced that it would gradually replace all the conventional vegetables it sells with organic ones at no extra cost to consumers. This will set the terms on which the other superstores must now compete. It looks like wonderful news for anyone who cares about the environment and the quality of the food that people eat. But before we crack open the organic champagne, we should ask how the superstores are managing to do that. If organic food costs no more to produce than does conventional food and if its prices are to shadow conventional prices, then someone, or something, has to pay.

It is my contention that, because of the grossly unfair way in which the food market is structured, the better provision of organic food could hurt the very interests it is supposed to defend, namely, the environment and the small organic farmers who have protected it. Organic food costs more because organic farmers dump fewer of the costs onto the environment. Professor Jules Pretty of Essex University has calculated that every conventionally farmed hectare of arable or intensive grazing land in Britain costs £208 a year in taxes and high water bills. The Government and the water companies must pay to remedy the poisoning of drinking water with pesticides and nitrates, the loss of habitats and landscape features, the suffocation of aquatic wildlife and mad cow disease which intensive agribusiness perpetrates. If those costs had been carried by the farmer, conventional food would be 89 per cent more expensive than it is.

How will superstores bring their organic prices down? Partly, it seems, by reducing their profits. As these profits are generally outrageous, that has to be a good thing. But, judging by what superstores have done to conventional growers, they will not stop there. Most superstores are trying to reduce the number of suppliers of each kind of fruit or vegetable they sell to just three or four. This allows them to cash in on the economies of scale that bigger farmers can achieve while simultaneously nailing suppliers to the floor. At the same time, they have begun to purchase their grain through Dutch auctions on the Internet and by buying only when the price falls to precisely the average cost of production. That immediately wipes out all but the very biggest and most intensive farmers who have managed to cut their costs to below the average, generally by dumping more onto the environment.

At present, organic farmers are mostly protected from these vicious devices by the shortfall in supply. But as more growers enter the market, it seems to me to be inevitable that they will start to be treated like conventional producers. Organics have been pioneered in Britain almost exclusively by small farmers who are fighting, often at great cost to themselves, against the tide of Government policy and market dominance. While their neighbours told them they were mad, they maintained environmental oases in the midst of Britain's chemical deserts. If the superstores award the bigger opportunistic farmers who began to convert only when they were sure the market was ready, the pioneers could be destroyed by the very revolution they tried to bring about.

The following article, written by George Monbiot and published in BBC *Wildlife Magazine*, was given to me by Bob Phelps of the Geneethics Network. It shows how organic farms can be a success and, if treated properly, can improve the agriculture and biodiversity in any area where they are utilised:

> This means that the growth in organic sales could, paradoxically, damage the environment. The Soil Association lays down strict rules for the protection of landscape features. But most big, highly mechanised farms have already obliterated their long barrows and ancient hedgerows. Small farmers tend to be greener. A study in the United States, for example, shows that an average of 17 per cent of land on small farms is maintained as woodland, compared to just 5 per cent on larger farms. If small organic farmers go under because the market favours big ones, their land will be swallowed up, mostly by conventional bigger farms. More organic production, in other words, could lead to the loss of long-established landscape features.

COUNCIL POUNDS ANIMAL WELFARE

The Hon. R. S. L. JONES [10.40 p.m.]: Recently, I brought to the attention of the House the conditions under which dogs are being kept in the Gosford pound. Whilst Gosford may be the worst pound, there are other pounds in metropolitan areas, the North Coast, the Central Coast and the Southern Highlands which are also pretty bad. The rules under which pound animals are kept are governed by Animal Welfare Code of Practice No. 5, "The Care and Management of Dogs and Cats in Animal Boarding Establishments", published by New South Wales Agriculture. In a foreword to the code, the Minister for Agriculture notes, "the general community's increasing expectations with regard to animal welfare" and that "it is appropriate that humans continue to recognise and improve their responsibilities to animals". The code, unfortunately, contributes in part to the poor standards of animal care practised at some pounds. The code uses the word "should" when the word "must" should be used. The word "should" carries little legal weight. Point 5.2.1 of the code states:

> Staff should respect animals and should have experience in handling them. Formal training, such as a technical college qualification in animal care, is encouraged.

The word "should" used in that context is not good enough. Many people are simply not qualified at all. Point 5.2.2 states:

> Staff should be aware of their responsibilities and be competent to carry them out.

This is certainly not the case in respect of Gosford pound—and, I suspect, many other pounds. Another example of the inadequacy of the code is that it does not specify that females on heat should be separated from males, which has a traumatic effect on females, of course. The code also states that kennels should be cleaned and disinfected before new dogs are introduced after an outbreak of an infectious disease. This requirement must be made mandatory. In pounds with bad management, the spread of disease is almost guaranteed to occur and it is not surprising that many animals coming out of pounds are diseased, and many subsequently die. If your dog ended up in a pound, you would expect the dog to be looked after with a high level of care, not exposed to disease or attacked by another dog. There is no requirement for a pound to have an agreement with a veterinarian, or for a veterinarian to visit the pound.

While stating that animals should be checked daily to monitor health and comfort, under point 6.2.1, and that any changes in health status should be reported to the manager of the establishment, under point 6.2.3, the code does not specify what, if any, record of the checks or follow up treatment should be kept. This then makes a mockery of the statement that "veterinary attention must be sought by the … manager," which is set out in point 6.3.3. The accountability of individual staff members is next to zero. In fact, I have been told that some staff at pounds have the view that because the animal is going to be euthanised next week anyway, there is no point in wasting money on veterinary treatment. I point out that some staff who euthanase animals have absolutely no training or qualifications. That state of affairs would be absolutely unacceptable to all members of this House and to members of the public. I call on the Minister to develop a very tough, proper, enforceable code with top penalties for the operation of pounds in this State to ensure that the the general community's increasing expectations with regard to animal welfare, to use the Minister's words, are satisfied.

Motion agreed to.

House adjourned at 10.42 p.m.