LEGISLATIVE COUNCIL

Wednesday 6 December 2000

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

The President offered the Prayers.

BUSINESS OF THE HOUSE

Notices of Motions

Motion by the Hon. M. R. Egan agreed to:

1. That, during the present session and notwithstanding anything in the standing orders, a notice of motion to adopt a report from the Standing Committee on Parliamentary Privilege and Ethics on a citizen's right of reply is to be placed on the notice paper as business of the House for six days after the giving of the notice of motion.

2. Any existing notice of motion on the business paper is to be dealt with as business of the House on the next sitting day after the adoption of this resolution.

NATIONAL PARK ESTATE (SOUTHERN REGION RESERVATIONS) BILL

Second Reading

Debate resumed from 5 December.

The Hon. R. S. L. JONES [11.05 a.m.]: I commend the Premier, Bob Carr, for his leadership in ensuring the declaration of these marvellous new conservation reserves. The New South Wales logging industry savagely attacked the Premier and the Minister for the Environment, Bob Debus, over the decision in April this year to provide some 220,000 hectares of new national parks on the South Coast and about 100,000 hectares in the Tumut area while giving industry a specific timber allocation of 90,000 cubic metres for the next 20 years. The logging industry abused the Premier and the Minister and accused them of selling out to green interests. If that means that the Premier has protected a billion-dollar-a-year tourism industry on the South Coast which depends on the beauty of the area and the water quality of its lakes, rivers and beaches, then I say we should do it again!

The native forest logging industry for the whole region employs fewer than 150 people, yet it provides more than 6,000 jobs in tourism. The new parks alone will generate more jobs from increased tourism in recreation, park management and maintenance than the whole of the current native forest logging, casting and sawmilling jobs on the South Coast. And that is before we consider the fishing and oyster industries, which are worth far more than the logging industry but which are also vulnerable to the abusive, intensive logging which the New South Wales logging industry has proposed through its spokesperson, Col Dorber, the Executive Officer of the Forest Products Association of New South Wales. The fishing and oyster industries are at risk from the logging industry.

The Forest Products Association now wants to build massive electricity and charcoal plants on the South Coast to burn the remaining production forests. This is simply another, vastly expanded form of woodchipping and clear-felling which was originally aimed at producing woodchips for papermaking. It is no wonder that people think that their forests are only safe in national parks. Any government that encourages such vandalism of the forests will be swept from office on a tide of public protest. The Premier and his environment Minister, Bob Debus, have delivered the best reserves decision of a very mixed bunch for the east coast forest assessments. It is a relatively much better conservation decision than the earlier north-east and Eden decisions.

The Hon. Dr B. P. V. Pezzutti: Point of order: I can hardly hear the Hon. R. S. L. Jones, and I am sure Hansard would be having a similar problem.

The PRESIDENT: Order! Yes. There are two problems. First, there is far too much chatter on the benches and, second, the Hon. R. S. L. Jones needs to speak into the microphone.

The Hon. R. S. L. JONES: Nature conservation and future generations will benefit from the creation of a string of marvellous new or expanded coastal parks, among them Conjola, Five Lakes and Murramarang between Nowra and Batemans Bay. These parks will protect a number of superb coastal lakes, including Swan Lake, Lake Conjola, Termeil Lake and Lake Durras. On the Great Dividing Range the major reserve gap between the Budawangs and the Deua-Wadbilliga National Park has been filled by the new Monga-Buckenbowra reserve. Its wilderness and old-growth forests, ancient pinkwoods and the mist valley of the upper Mongarlowe River complete a 350 kilometre long reserve link from the Victorian border to Macquarie Pass near Nowra. There are many other outstanding new parks.

In the final arrangements to conclude this bill a number of boundary adjustments were made and further adjustments may occur over the next three months, in accordance with the bill. I have received a number of representations from conservationists about these adjustments. I believe that at least several on the South Coast—including the Georges Creek catchment of the Deua River and the slopes of the Peak Alone Mountain—were inadvisable and require urgent review between the Resource and Conservation Division of the Department of Planning and the South East Forest Alliance of conservation groups. I have also received a number of representations from conservationists about provisions in the bill which ensure that the boundaries of land adjacent to a public road within the new parks estate can be changed up until 31 December 2005; no decision is needed before 31 December 2005 on access roads within the new parks estate which will need to be excluded although still vested in the Minister for the Environment; and an extensive network of the unused, little used or inappropriate tracks, trails and other means of access are excluded from the parks until 31 December 2005 and may remain excluded indefinitely.

Clause 10 (6) (b) allows for park boundaries adjacent to roads to be changed for five years until 31 December 2005. This should be changed to ensure that the boundaries of land adjacent to a public road can only be changed up until 31 December 2002, which is more than enough time. It is unprecedented for public roads to be allowed to be widened for a five-year period when a national park is created. Amending the period to 31 December 2002 will avoid such a precedent. Clause 8 of schedule 7 makes provision to publish orders up until 31 December 2005, which will result in road corridors in new national parks, nature reserves and State recreation areas that will ultimately be permanently excluded and remain vested with the Minister for the Environment. I presume this is to avoid limitations in the National Parks and Wildlife Act which may prevent either exclusive vehicle access to private property owners or significant logging truck access to nearby State forests. Obviously, I do not intend to prevent this type of access where it is legitimate and there are no other feasible alternatives.

Clause 8 provides a five-year period until 31 December 2005 in which the National Parks and Wildlife Service may review which access roads are required to be excluded from the parks estate but to remain vested with the Minister, similar to provisions in the Forestry and National Park Estate Act 1998 and the Forestry Revocation and National Park Reservation Act 1996. However, clause 8 should only apply to vehicle access roads that potentially meet the above criteria of exclusive private property access or significant logging truck access where no alternatives exist. These provisions should not apply to tracks, trails and other means of access, unless the only effective access is a non-vehicular access. The broader provision could result in a great administrative burden for the management agencies and could result in many unnecessary access tracks being permanently left out of the parks estate and not properly protected under the National Parks and Wildlife Act.

They will be inadequately protected against later use and abuse through access for intensive recreation, mining exploration vehicles, test drilling and so on. It would also make it difficult and confusing to adequately administer or control appropriate access and use of the national parks, and create a multitude of pressures for continuing special access during the five-year period, which would be detrimental to effective conservation management. Subclause (2) (c) of clause 8 also needs to be made consistent with subclause (2) (b), so that the bill does not allow a new logging road or access track to be constructed over national parks estates. Accordingly, it needs to ensure that only roads used immediately before the Act are considered for exclusion from the parks estate. This makes it consistent with subclause (2) (b), which uses the word "used".

The orders declaring access roads for inclusion in or exclusion from the park estate, published under clause 8 (6) of schedule 7, should be published by 31 December 2002 rather than 31 December 2005. A five-year period for such action is far too lengthy and is unacceptable. The suggested two-year period makes the time to publish an order the same as the time permitted under previous Acts, such as the Forestry and National Parks Estate Act 1998. The bill could be improved by ensuring that if an order is not made in respect of an access road

by 31 December 2002 the area encompassed by that road will be automatically reserved as part of the national park, State recreation area or nature reserve in which it is located. This would guarantee that any access roads that may have been inadvertently left vested with the Minister for the Environment but should have been reserved as national park or nature reserve do revert to national park or nature reserve.

Approximately 2,700 hectares in three proposed State recreation areas should be reserved as national parks. These are Colymea, Corramy and Barnunj State recreation areas. The bill shows areas which were proposed by the Government in April to be either dedicated conservation reserves or Crown reserves managed for conservation to now be State recreation areas, which can allow for high impact recreation or intensive recreation. State recreation areas do not properly provide for the protection of nature conservation values. If the State recreation areas were made national parks, this would make up, in part, for some of the 2,500 hectares excluded, among other reasons, to provide additional timber commitments to the industry. The area proposed for Colymea State Recreation Area lies to the west of Jervis Bay National Park and is an important area of native vegetation of 1,674 hectares.

Environment groups were under the impression that this area was to be an informal reserve rather than a national park because of mineral department objection. Now we find that the National Parks and Wildlife Service would like this area as a State recreation area rather than a national park because it wishes to provide for intensive recreation. National parks can provide for vehicle access, but we do not want four-wheel drives and trail bikes destroying the natural values of this area. This area should be a new Colymea national park. Barnunj State Recreation Area is an important area of coastal vegetation that covers 164 hectares next to the new Meroo National Park. It was so small in the A3 maps, which the Government handed out after the decision in April 2000, that no-one except the Government would have realised that this area was not going to be part of Meroo National Park. This area should not be set aside for recreation but be added to Meroo National Park.

Corramy Recreation Area consists of two areas of 856 hectares south-east of Wandandian linking through to Conjola National Park to the south. In the maps showing the decision in April the Government marked these areas as formal reserve—that is, national park or nature reserve. Now the National Parks and Wildlife Service has decided that they should be designated State recreation areas to provide for intensive recreation. The National Parks and Wildlife Service says it has consulted with local environment groups in reaching this decision. The service actively sought this area to be a State recreation area, despite the Government's decision in April. After further discussion the Bendalong and Districts Environment Association, the local group consulted by the National Parks and Wildlife Service, questioned its becoming a State recreation area. Rather, this area should be part of Conjola National Park.

After considering the depth of informed comment from conservation groups, I seek the following assurances from the Minister for Urban Affairs and Planning on behalf of the Government. First, that the new Act will be amended in the first session of Parliament 2001 to limit the time for national park boundary changes adjacent to public roads to 31 December 2002; limit the time for declarations of access roads to be excluded from national parks to 31 December 2002; ensure that only previously used access roads can be declared as excluded from the national parks estate; limit the definition of an access road to apply only to those vehicle trails required to meet State Forests operational needs or access requirements of a private owner to his land where this cannot be legally met under the National Parks and Wildlife Act; and ensure that unless an access road is declared as excluded from the national parks estate, it will automatically form part of the parks estate.

The second assurance I seek is that the Government will revoke the Corramy, Colymea and Barnunj State recreation areas and create national parks in their place through gazettal by 31 March 2001. The third is that the Government will add to the relevant national park or nature reserve by 31 March 2001 those areas of vacant Crown coastal land which were identified by the National Parks and Wildlife Service as suitable for addition to the reserve system but were not for various administrative reasons. Those areas include the lake beds of Durras, Meroo and Swan lakes to the mean high-water mark, Bendalong Village Crown lands, Cudmirrah high dunes and Wairo Beach. The fourth is that the Government will involve conservation groups, through the South East Forest Alliance, in the resolution of these areas. The fifth is that the Government resolve boundary changes in discussion with the South East Forest Alliance for the Georges Creek, Deua and Peak Alone-Wandella areas. As the Government has not been generous enough to acknowledge them, I want to record for the future the unselfish—indeed self-sacrificing—efforts of a number of conservation leaders who have worked for a long time to protect these wonderful areas as new national parks.

I thank Peter Hudson of the Bendalong and Districts Environment Protection Association; Geoff Bartram and John Perkins of the Friends of Durras; Jenny Edwards and Martin Phillips of Coastwatchers; Jeff

Angel and the late Milo Dunphy of the Total Environment Centre; Andrew Wong of the Wilderness Society; Tom McLoughlin of Friends of the Earth; Terry Barrat of the Jervis Bay Regional Alliance; Keith Muir of the Colong Foundation for Wilderness; Simon Clark and Mark Blecher of the South East Forests Conservation Council; Judy Walker and Rob Roberts of the Dignams Creek Catchment Committee; Peter Evans and David Andersen of the Peak Alone-Wandella Catchment Association; Alison Sexton-Green and Harry Laing of the Friends of Mongarlowe River; Graham Daly of the Canopy Committee; Mike Thompson of the Southern Highlands National Parks Association; Bruce Dover of the Australian Conservation Foundation's Forest Campaign Group; and Noel Plumb, the Convener of the South East Forest Alliance.

I point out that these have been core groups for the South East Forest Alliance which have co-ordinated the conservation position for the southern forests assessment. There are, of course, many, many others who have been part of the long struggles—sometimes for more than 40 years—to conserve these wonderful areas. The people I named are only some of the more recent leaders in this great enterprise. All those who took part in the struggle for these areas ought to be commended. The Government will now seek to conclude a regional forest agreement with the Federal Government and is still to announce the logging rules for the remaining production forests. I can only urge the Premier to ensure that when concluding these arrangements the very good reserve outcomes are not undone by delivering more mature, complex forests to the loggers, or by allowing the intensive logging and clear-felling—under whatever euphemism—which will encourage the outrageous proposals for electricity and charcoal woodchipping. I commend the bill to the House.

The Hon. Dr P. WONG [11.20 a.m.]: I support the bill and I congratulate the Government on the creation of such a large forestry reserve system in the southern coastal areas of New South Wales. Anyone who has ever visited the region will surely appreciate the natural beauty and significance of its forests. We must also appreciate the economic value of these forests to the region and strike an appropriate balance between conservation, tourism and renewable forests harvesting. It is clear that this region has great economic potential, if the right balance can be achieved between preserving forests which have conservation and eco-tourism value and the harvesting of renewable forests. It appears to me that the Government is making a genuine attempt to strike an appropriate balance.

I do not envy the Government its task of juggling the competing interests, but if the Government acts in good faith in negotiations with forestry, tourism and conservation interests then an agreement is surely possible. I believe that it is important for the Government to maintain a dialogue with all interest groups in the actual establishment and continuing management of the various parks and reserves that are created by this bill. What is not covered by the bill, but what is important for the success of the process, is the level of resources being provided for the proper management of these areas through the National Parks and Wildlife Service and other bodies. Clearly, if national parks are created that are not properly resourced, the conservation and tourism potential of an area cannot be fully realised.

The Hon. Dr A. CHESTERFIELD-EVANS [11.22 a.m.]: I speak on behalf of the Australian Democrats to the National Park Estate (Southern Region Reservations) Bill. I thank some of the people who have assisted me in addressing the bill, including Noel Plumb of the South East Forest Alliance, and Gerhard Weidman, Harry Laing and Alison Sexton-Green of the Friends of Mongarlowe River, who showed me around the area earlier in the year. The bill intends to make provisions for the adjustment of national park boundaries. It will transfer specified State forests and other Crown lands in southern New South Wales to national park estate. It is a very progressive move towards the conservation of the State's precious old-growth forests. The South East Forest Alliance, which represents a coalition of local and peak conservation groups, has told me that this bill will create one of the best, if not the best, regional systems of forest conservation reserves in the country.

The Australian Democrats congratulate the Premier, Mr Carr, and the Minister for the Environment, Bob Debus, for dedicating approximately 220,000 hectares of new national parks on the South Coast and approximately 100,000 hectares in the Tumut area. The logging industry accused the Premier of a green sell-out when the decision was first announced in April this year following the southern region forest assessment. I do not believe that it is a sell-out to protect old-growth forests, the magnificent wilderness areas and the habitat of threatened wildlife. The area is threatened by a voracious logging industry that attempts to hide the grim industrial logging and clear-felling for woodchips behind the mantle of small sawmills and traditional "selective" logging. Given the poor return to Australia from the destruction of our heritage, it makes one wonder why this type of economics is engaged in and why contracts are signed.

Sadly, the legislation also masks the failure of Premier Carr to fully deliver on his 1995 promises of protecting the forests and phasing out export woodchipping by the year 2000. The east coast forest assessment

process, which Premier Carr set up in response to the huge public demand to protect the forests, has resulted in preservation of less than two-thirds of the scientifically recommended areas dedicated as new national parks or nature reserves in the north east and Eden regions. That does not take into account the southern forests region where the Government refused to calculate the area needed for conservation in accordance with its own scientific criteria. The Government did that to avoid creating a public record that all the South Coast State forests between Narooma and Nowra should have been placed in national parks to protect the necessary habitat needed for endangered forest wildlife.

The conservation movement recognised that in the spirit of the assessment process some compromise would be necessary. Members of the conservation movement, the South East Forests Alliance, put forward a series of linked community reserve proposals which were aimed at protecting all old-growth forests, all wilderness and rainforests, as well as a substantial part of high-conservation-value habitat areas for forest wildlife. These proposals also aimed to maximise protection of the catchments for the complex and sensitive coastal lakes of the region and the headwaters of the region's wild rivers. I shall have more to say later about these community proposals. The assessment was also focused on the sawlog industry and, despite repeated requests by conservationists, a phasing-out of export woodchips and the associated intensive lobbying and clear-felling was planned.

While some reduction of the quota to the Eden woodchip mill from the Eden region was achieved—about to 20 per cent to a new level of 345,000 tonnes per annum—no such reduction of supply from the South Coast forest was made. Indeed, it is clear that the industry and State forest expects to increase current woodchips supply from 60,000 tonnes per annum, which is obviously very worrying. I draw to the attention of the Premier one particular, iconic area which has not fared well in the decision—namely, the Deua and Tuross River country to the west of Moruya and Narooma. For some strange reason, the Government has specifically excluded from its new parks thousands of hectares of State forest in the upper Deua area and west of the Tuross River that had previously been publicly identified by the National Parks and Wildlife Service as wilderness.

These areas of old-growth forest and relatively undisturbed habitat are now exposed to the threat of intensive logging, road construction and excessive burning. In addition, the decision failed to address the future of most of the proposed Cooranbene extension north of Deua National Park being Crown leasehold land, and some freehold land, that had been identified as wilderness and includes important lowland habitat for gliders and koalas. Conservation groups, such as the Canopy Committee, and other members of the South East Forest Alliance are particularly disappointed that the Government has refused to take the opportunity to fully protect the water quality and biological integrity of the upper Deua and upper Tuross catchments from intensive forestry operations. The Canopy Committee is an all-volunteer group that has sought for over two decades to protect this area as a national park. Established and guided by the late Milo Dunphy, the Canopy Committee has prepared a comprehensive reserve plan for the Deua-Tuross region and this plan was largely incorporated in the community reserve proposals of the South East Forest Alliance.

The existing national park, together with the extensions announced in April, would have succeeded in securing the upper Deua catchment were it not for the surprising omission of a relatively small area in the Dampier State Forest between the Deua River fire trail and the Hanging Mountain forest reserve. It is of limited benefit to place the immediate area of the river in a narrow informal reserve if sediment and increased run-off from forestry operations on the ridges and slopes above it can run into it and it is susceptible to weeds and fire. Last-minute adjustments to meet a guaranteed supply of 42,000 cubic metres per annum of quota quality sawlogs has resulted in the loss of another 150 hectares from the catchment of Georges Creek in the headwaters of the upper Deua River. The South East Forest Alliance has told the Australian Democrats that the previous wilderness identification for a large part of this area has been dismissed. It has been excluded from the parks system due to some limited logging carried out by State Forests.

This was done after its identification as wilderness but prior to a logging moratorium being placed on the area by the Government in 1996. Does the Premier really wish to reward this underhand tactic by State Forests and the industry in which they attempted to pre-empt the assessment of the wilderness and other natural qualities of the area by handing over the area to those groups for woodchips? It is pleasing that the Government has recognised the realities of catchment protection principles by adding the western side of the Tuross gorge in the lower Badja extension to the national park. However, the forests immediately above the gorge, which drain into the gorge via a number of creeks possessing considerable flora and fauna and old-growth values of their own, remain exposed to intensive logging with the exception of some fragmentary, informal reserves.

The Tuross River and the western side of the gorge cannot be regarded as properly protected until the upper part of the catchment extending to the Badja Forest Road is also permanently reserved. As with the upper Deua, a large area was exhibited at the commencement of the forest assessment process in 1996 as identified

wilderness, but it has since had the classification removed for the same reasons as the upper Deua wilderness. Many conservation groups are concerned that the Government has chosen not to acknowledge the substantial and rare flora and fauna, old-growth, rainforest and scenic values of large parts of the Dampier State Forest. That action will leave some 50 per cent of the community reserve proposal by the Canopy Committee out of the reserve system and available to the logging industry.

Conservationists welcome the permanent protection of sections of the Dampier State Forest such as the vital Donalds Creek catchment, most of Georges Creek catchment and the upper Buckyjumba and Belowra areas. However, they are aware that those additions correspond very closely with those proposed in the 55,000 cubic metre per annum option in the assessment process that was the favoured option of the logging industry. Clearly, Cabinet has made little attempt to compromise between competing interests and has set aside those areas that were not attractive to the industry. Given the industry's plans for intensive logging in that area despite its unsuitable topography, I cannot avoid being concerned for the future of the remaining old-growth forests, rainforest and ecosystem diversity, and rare animal and plant species living in the area.

Many of those values will be lost through the removal of most of the forest and almost all of the old trees. There will be an inevitable spread of weeds, fire, sediments and the unauthorised incursions of loggers into ostensibly protected forest management zones. In the same way as the proposed informal reserve at the upper Deua River, areas of rainforest such as those at Bumbo Creek and Gulph Creek cannot be protected from effects of intensive logging activities at high locations in the catchment. Similarly, much of the proposed Wandella extension, particularly to the south and west, has been left exposed to the threat of heavy logging. It appears that only those areas that are particularly steep and therefore relatively inaccessible for logging have been protected. Again, the additions to the reserve system correspond with those proposed in the 55,000 a cubic metre option, which was favoured by the industry.

Fortunately, the industry did not get its way with the Snowball and upper Badja extensions in the north-western corner of the Deua-Tuross area. The Canopy Committee and other groups have informed the Democrats that they are pleased with the result, as this part of the community reserve proposal has been completely achieved. It is particularly important that the Badja link forest, with its old growth and vital tiger quoll habitat, has been finally preserved. Preservation of the Snowball area will certainly assist with the protection of the uppermost reaches of the Shoalhaven River catchment. Overall, however, the decision of the Government on those parts of the Deua-Tuross area to be placed in the national parks system is seriously deficient. Conservationists will continue to push for the gaps to be filled and for the high standard of protection now afforded to much of the Deua-Tuross upper catchment by national park tenure to be extended to those very special areas.

I can confidently predict that community conflict will re-emerge as soon as State Forests begins intensive logging in these icon areas. The Canopy Committee believes that the decision of the Government can be improved substantially by the extension of informal reserves in the Deua-Tuross area that has not been fully reserved. That will protect them, at least in the interim, from damage done by intensive forestry operations. It is essential that the area be excluded from the integrated forestry operations approvals that will follow this bill. That is especially so for those areas still being examined under the wilderness assessment process for the southern region, including those parts that have been previously formally identified as wilderness under the Wilderness Act.

The Australian Democrats seek the reassurance of the Premier that the logging moratorium will continue to apply to all areas in the upper Deua and Tuross rivers region upon which it was placed in 1996 until at least the wilderness assessment and declaration process is complete. The Canopy Committee and other groups are greatly concerned at the proposed intensity of logging operations in the Deua-Tuross, which will supply woodchips for export, material for charcoal production and as a potential for biomass for electricity generation. The Australian Democrats have previously expressed their opposition to using forest timber off-cuts and remains used as biomass for the generation of electricity, and condemn the New South Wales Labor Government for that recklessness. It is my understanding that Federal Labor supports the provisions for the use of biomass in energy generation, and the Australian Democrats totally oppose that as well.

On behalf of the Canopy Committee the Australian Democrats request that the Government make available to the public all of its proposed logging protocols for the area, including any provisions on habitat and catchment protection. Any integrated forestry operations approval that permits harvesting should permit only selective lobbying outside the boundaries of the community reserve proposal. There should be no increase in the intensity of forestry activities without a full public review by an environmental impact statement. Photos taken

of logging activities at Peak Alone-Wandella State Forest delivered to my office by Friends of the Earth only add to our concerns about logging practices. It must be acknowledged that the Government has made additions to the reserve system in areas adjacent to the Deua-Tuross, such as within the Mungerarie and Moruya State forests east of the Dampier extension, parts of Tallaganda State Forest west of the Snowball and upper Badga extensions, and a section of the Bodalla State Forest east of the Wandella extension.

The Canopy Committee welcomes those advances, but we are aware that they do not effectively compensate for the missing parts of the Deua-Tuross with regard to wilderness and biological values. As indicated by the 55,000 cubic metre option, these national park additions cover areas largely unwanted by the industry. As previously mentioned, there are numerous good points with the overall decision for the southern region. Vital areas of high conservation value have now been protected, increases in reserved area of some 200,000 hectares on the South Coast and 100,000 hectares in Tumut are valuable, and some important links between ecosystems have been created. The reservations in the Murramarrang, Croobyar, Conjola and Monga areas are particularly significant, as they are additional to what the industry and State Forests were prepared to give.

In January this year I had the pleasure of meeting with Harry Laing from Friends of the Mongarlowe River in Braidwood. He took me to the Monga-Bukenbowra State Forest wedged in between Deua and Budawang national parks. The Mongarlowe River provides clean water to the Shoalhaven River. It is truly a beautiful place where sea winds condense into a thick mist over the escarpment and are caught by the foliage of the trees feeding the moisture into the river. I would like to thank Alison Sexton-Green. By contrast the Tallaganda, Buckenbowra, Dignams Creek, Bimberamala and Jervis Bay link additions, while important, largely follow the recommendations of the loggers as per the 55,000 cubic metre option.

It is disappointing that the Government followed the industry line with regard to the future of the Clyde River Valley, with the conservationists' proposed catchment management area for modified harvesting and the Flat Rock, Bimberamala link and Buckenbowra link reserve proposals being rejected. It is hoped that the proposed Ettrema extension to Morton National Park will be successful following consideration of an Aboriginal land claim. I seek an assurance from the Premier that should the land claims fail the area of some 11,000 hectares will be added to the park. It is also to be regretted that the Government has taken the lesser option with regard to Tumut, leaving out 4,000 hectares of identified wilderness at Buccleuch on the northern end of Kosciuszko National Park, even though it did not affect overall sawlog supply.

It is clear that the conservation advances in the southern region do not measure up to the biologically vital, catchment protecting position put forward by the South East Forest Alliance conservation groups in the forest assessment process. That was still a major compromise, as the Government well knows that if all the agreed scientific criteria for the protection of the habitat of endangered and threatened species had been applied there would be no logging allowed anywhere on the South Coast. The Australian Democrats remain concerned that the unprotected forests of the southern region will come under increasing pressure to supply woodchips to the Eden woodchip mill, and for electricity generation and charcoal production in line with recent industry proposals by the Forest Products Association and its director, Mr Col Dorber.

The Australian Democrats are concerned that the legislation under which these forests will be harvested, the Forestry and National Park Estate Act 1988, severely constrains the ability of the public and government authorities from enforcing adequate minimum environmental standards. It is essential that the Government allows for public scrutiny of logging protocols, and any proposal to increase the intensity of forestry activities above existing levels in these areas. Such scrutiny should be allowed in a similar fashion to that which previously applied to environmental impact statements and species impact statements under the Environmental Planning and Assessment Act, which the Government overruled in 1998.

I urge the Premier and his Cabinet colleagues to complete the job through the formal reservation of the remainder of the Deua-Tuross area. The Canopy Committee and other groups have asked that I convey their thanks to the Premier and the Minister for the Environment for the progressive aspects of their decisions on the future of the forests of the southern region. They particularly thank the Premier for what they understand to be his personal assistance in securing some of these areas. It is pleasing to learn that much of what the conservation movement has worked and fought for over the years in the southern region has now been highly protected, with the exception of the areas I have outlined. We support the bill, although we are disappointed that it is not a little more extensive.

The Hon. C. J. S. LYNN [11.38 a.m.]: The National Park Estate (Southern Region Reservations) Bill represents an important extension of the national forest policy statement, which was signed by the

Commonwealth and State governments in 1992. The regional forest agreement previously signed in light of the policy statement currently covers the south-east and north-east regions. The legislation seeks to add 385,000 hectares to the national park estate in the southern region of New South Wales, which will create a continuous corridor of 350 kilometres from Nowra to the Victorian border. The key provisions contained in the bill will provide some long-term security for the timber industry in the region. I understand that the terms and conditions of the new forest agreement relating to the southern region have been agreed at a ministerial level, and that the Commonwealth Government will sign off on this new forest agreement. I support the principles of the bill, as they reflect a genuine need to include the southern region in the forest agreement.

In that respect, there is a wide consensus among the community and industry groups such as the Forest Products Association, the Forest Protection Society, the Nature Conservation Council, New South Wales Farmers, et cetera, that the bill is consistent with the national forest policy statement. They are generally happy with the provisions in the bill. That is not to say that the bill can be passed without the expression of some concerns. One concern relates to access. I am concerned that future declarations of forest management zones will make it difficult for occupational permit holders, leases and neighbouring landlords. For example, in relation to leaseholders I have received a letter from Access for All Incorporated dated 28 November in which grave concern is expressed about the large number of permissive occupancy grazing leases that constitute substantial components of leaseholders' incomes. It states:

> These leases are effectively hidden in the bill under a coding system by the National Parks and Wildlife Service [NPWS], rather than the usual portion number system. The relevant maps showing the details are not yet available to the public … for most of the leaseholders, the first they knew that their leases were to be resumed was a letter from NPWS telling them it was to happen. They have had no opportunity to appeal the process.

That could put some farmers and graziers out of business. It could also end up marginalising the local councils involved since they will lose revenue formerly collected from the leaseholders. I appreciate that the leases are of concern only to leaseholders, who are a minority group compared with other major groups in the industry. However, that should not be an excuse to ignore their legitimate rights and interests, because it is the contribution from all groups that will ultimately achieve the goals of the bill. The bill is obviously part of a process of converting forestry lands to wilderness; it is just a matter of time. I have heard a lot of green-speak and Democrat-speak about tourism but let us set the record straight. Wilderness areas do not allow in families, the young, the old, war veterans, or the disabled. Basically they allow in only cave dwellers and SAS soldiers. So tourism can be forgotten: That is a real green herring. I urge the Government to take into consideration the concerns of leaseholders and those who are entitled to access and take steps to remove their concerns.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.42 a.m.], in reply: I thank honourable members for their input to the debate. The Government is pleased that it appears that the bill will receive the unanimous support of both Houses of Parliament. I understand that it is also supported by the Federal Parliament. The bill represents the culmination of months of consultation and discussion with environmentalists, industry, trade unions and a wide cross-section of the community. It has been publicly endorsed by all groups involved including the Total Environment Centre, the Nature Conservation Council, the Forest Products Association, the Construction, Forestry, Mining and Energy Union and the New South Wales Labor Council, as well as a number of local community groups and individuals.

The bill, which is a package, is based on the best scientific and economic information data available. The Government has worked hard to meet the competing demands of conservation and industry and believes that the bill represents the best compromise available. I advise Reverend the Hon. F. J. Nile that Commonwealth officials have indicated agreement on the terms of the regional forest agreement (RFA), which the Government is in a position to sign by the end of this year. Honourable members opposite may wish to use their influence in Canberra to ensure that that occurs. The bill is complementary to the Forestry and National Park Estate Act 1998; it creates new reserves. The provisions of the Act apply equally to the southern region. The Government intends to have a New South Wales forest agreement for the southern region and an integrated forestry operations approval. The same certainty for industry and conservation carries through to the southern region.

The Government also intends to issue a 20-year timber supply agreement as soon as possible, and will commit to that when the Commonwealth signs the RFA. The Government is also addressing the other issues raised by Reverend the Hon. F. J. Nile. Extra money is being provided to the National Parks and Wildlife Service to deal with the problem of feral pests in the new reservations. The issue of existing grazing rights is also being addressed by a joint consultative committee which includes representatives from New South Wales Farmers and neighbouring land-holders. The Hon. I. Cohen asked about land around Bendalong and another coastal village. Those relatively small areas have not been finally excluded from the new reserves. Rather, together with other areas, they will be subject to further consultation with relevant departments and local councils to determine final practical boundaries.

The Government chose not to delay the creation of major new reserves until every last issue had been resolved. The Hon. Dr A. Chesterfield-Evans has once again failed to grasp that point in his contribution. Similarly, the future of coastal lakes, including Durras, Swan and Meroo, is under discussion within Government. They were not considered in this process because of its focus on forests and forestry. Similarly, coastal dunes were not considered during this forestry assessment and decision process. The Government will ensure outstanding issues are dealt with in a timely manner. The forestry issue has been one of the most divisive and contentious issues for State and Federal governments for more than two decades. This bill ends that division. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.46 a.m.]: I move:

That this bill be now read a third time.

The Hon. D. F. MOPPETT [11.46 a.m.]: I refer the Minister to the debate in the lower House, during which assurances were sought about certain matters. Those assurances have not been given to this House and the Opposition wants to have them on the record before we vote on the third reading of the bill.

The Hon. R. S. L. Jones: What are the assurances?

The Hon. D. F. MOPPETT: I am sure the advisers here would be aware of the assurances sought by the honourable member for Ballina.

The Hon. R. S. L. Jones: What are they?

The Hon. D. F. MOPPETT: If I knew what the assurances were, I would not be asking for them.

The Hon. I. M. Macdonald: What are you asking for?

The Hon. D. F. MOPPETT: As I understand it, certain commitments were also given in relation to timber supply.

The Hon. I. M. Macdonald: Have they been made in the other House?

The Hon. D. F. MOPPETT: They were referred to in the debate in the other House. The assurance from the Minister was certainly not recorded in *Hansard.*

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.48 a.m.]: I am advised that the Government has, in fact, given all the assurances sought by the Opposition. The Hon. D. F. Moppett should specify the assurances to which he refers. It is hard to proceed on what he has said so far in this House.

The Hon. D. F. Moppett: Madam President—

The PRESIDENT: Order! The question before the Chair is, That this bill be now read a third time. A member may speak only once to the question unless leave is granted to allow the member to speak again.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [11.49 a.m.]: Further to the question asked by the Hon. D. F. Moppett, in the other place the honourable member for Ballina sought certain assurances but there is no indication of where those assurances were locked in. We are looking for those assurances to be given publicly if they have not been given. They relate to the generally inadequate separation of land-holder and leaseholder interests in the area. If we have missed those assurances in the debate and the Government's advisers, through the Parliamentary Secretary, are willing to give us those assurances, we would be willing to accept that.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [11.50 a.m.], by leave: If the Deputy Leader of the Opposition is referring to the leaseholding issues, that matter was raised by Reverend the Hon.

F. J. Nile and I dealt with it in my reply. Unfortunately, I cannot repeat the precise words. As I understand it, that covered the assurances that were sought in relation to grazing in areas adjacent to these national parks.

Motion agreed to.

Bill read a third time.

LOCAL GOVERNMENT AMENDMENT BILL

In Committee

Consideration resumed from 30 November.

Clauses 2 to 4 agreed to.

Schedule 1

The Hon. Dr A. CHESTERFIELD-EVANS [11.53 a.m.], by leave: I move Australian Democrats amendments Nos 1 and 4 in globo:

No. 1 Page 3, schedule 1. Insert after line 13:

[2] Section 308 Candidate information sheets

Insert after section 308 (2):

(2A) In addition to the matters required by the regulations, a candidate information sheet must include:

(a) the name of any political party, or political parties, registered under this Act or under the p*arliamentary Electorates and Elections Act 1912*, of which the candidate was a member at the closing date for the election, and

(b) the name of any political party, or political parties, registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*, of which the candidate has been a member in the 3-year period before the closing date for the election.

[3] Section 308AA

Insert after section 308:

308AA Public disclosure of party affiliations

(1) The Electoral Commissioner is required to prepare, for each contested election, a record of the party affiliations of each candidate for the election and of each member of each group appearing on the ballot-papers for the election.

(2) The record of party affiliations must specify the name of each candidate and:

(a) the name of any political party, or political parties, registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*, of which the candidate was a member at the closing date for the election, and

(b) the name of any political party, or political parties, registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*, of which the candidate has been a member in the 3-year period before the closing date for the election.

(3) The record of party affiliations must also separately list any groups appearing on the ballot papers for the election and must specify in relation to each candidate who is a member of that group:

(a) the name of the candidate, and

(b) the name of any political party, or political parties, registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*, of which the candidate was a member at the closing date for the election, and

(c) the name of any political party, or political parties, registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*, of which the candidate has been a member in the 3-year period before the closing date for the election.

(4) The record of party affiliations must be published, at least 14 days before the election:

(a) in at least one newspaper circulating generally in the area for which the election is to be held, and

(b) on the Internet.

(5) The Electoral Commissioner is to prepare the record of party affiliations on the basis of the information provided by candidates in candidate information sheets, but must also have regard to any other information of which the Electoral Commissioner is aware.

No. 4 Page 6, schedule 1. Insert after line 19:

[8] Section 323 Printing of political party name on ballot-papers

Omit "The name of a political party is" from section 323 (1). Insert instead "The words 'Endorsed by:' and then the name of a political party are".

[9] Section 323 (3)

Insert after section 323 (2)

(3) The words 'Currently a member of:' and the name of a political party, or of political parties, re to be printed adjacent to the name of a candidate on the ballot-paper for an election to civic office if the candidate was a member of the political party, or political parties (being a political party or parties registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*) as at the closing date for the election.

(4) The words 'Previously a member of:' and the name of a political party, or of political parties, are to be printed adjacent to the name of a candidate on the ballot-paper for an election to civic office if the candidate was a member of the political party, or political parties (being a political party or parties registered under this Act or under the *Parliamentary Electorates and Elections Act 1912*) in the 3-year period before the closing date for the election.

(5) The Electoral Commissioner is to print details of present or former party affiliations under subsection (3) or (4) on the basis of the information provided by candidates in candidate information sheets, but must also have regard to any other information of which the Electoral Commissioner is aware.

(6) If this section requires more than one thing to be printed adjacent to the name of a candidate, then the words required to be printed under subsection (1) or (2) must be printed adjacent to the name and any other words must be printed underneath those words.

Amendment No. 1 is to designed to help local government electors be better informed about the choice they make when they vote for a local government candidate. Currently many sham parties and Independents are set up by members of political parties. They pretend to be Independents but vote pursuant to a party meeting, or endeavour to channel votes to another party. Each council area is different. South Sydney City Council has always had a strong Labor Party presence, although now its representatives on that council are in the minority. Other parties have attempted to set up different parties for the purpose of preference votes only. An article in Saturday's *Sydney Morning Herald* reads:

> ... on Avon Place, St Clair, is a brick bungalow, empty during the lead-up to the September poll and still a bugbear of local ALP politicians.
>
> Co-owned by two Liberal Party candidates in the Penrith Council poll, the property appeared as the home address of no less than three micro-party candidates—one stood as an anti-Badgerys Creek candidate while the other enrolled as pro-Marijuana Party candidates. Surprise, surprise, all three turned out to be Young Liberal members, and all funnelled their preferences to the Liberals in the poll.

The party of the Leader of the Opposition, the Hon. M. J. Gallacher, that well-known pro-marijuana campaigner, was out there garnering those votes.

The Hon. J. H. Jobling: Point of order: The member has now deviated from the amendment before the Chair and is making a personal attack on a member of this Chamber. I remind the honourable member that if he wishes to do that, he must do so by way of substantive motion. I therefore ask that you do two things. First, I ask you to uphold the point of order that he is out of order and, second, to draw him back to the amendment before the Committee.

The Hon. Dr A. CHESTERFIELD-EVANS: To the point of order: The amendment is about making clear the party allegiance of candidates. The example I have given is entirely relevant to what happens when the party allegiances of those in local government elections are not stated. I have given an example and referred to the Leader of the Liberal Party in this Chamber. I would have thought that was as clearly related to the amendment as one could ever get. It is the exact guts of what the amendment proposes to stop.

The Hon. R. S. L. Jones: To the point of order: While I understand the point made by the Hon. Dr A. Chesterfield-Evans, there is no evidence that the Leader of the Opposition was soliciting preferences from the marijuana party people. The Hon. Dr A. Chesterfield-Evans should not make those allegations in this Chamber.

The Hon. Dr A. CHESTERFIELD-EVANS: Further to the point of order: Certainly I do not say the Leader of the Opposition himself —

The Hon. J. H. Jobling: Just withdraw it. The reference to the Leader of the Opposition is totally out of order, and you know it.

The Hon. Dr A. CHESTERFIELD-EVANS: All right, I withdraw that he personally was involved in it, but the Liberal Party was certainly involved.

The CHAIRMAN: Does the Hon. Dr A. Chesterfield-Evans want me to rule on the point of order?

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

The CHAIRMAN: Order! The member must confine his remarks to the clause under consideration. If he wishes to make a personal reflection on, or imputation against, another member, he should do so by way of substantive motion. The honourable member may proceed.

The Hon. Dr A. CHESTERFIELD-EVANS: Certainly this relates to the Liberals attempting to garner votes from people with pro-marijuana sentiments to get preferences. Admittedly that does not necessarily mean the Leader of the Opposition in this Chamber was involved in that particular scam.

The Hon. J. H. Jobling: Point of order: The member is clearly canvassing your ruling. He is now referring, by way of inference, to the Leader of the Opposition, and indirectly is still making the same allegation. I ask that he be directed to withdraw the comment and that he be drawn back to the amendment before the Committee.

The Hon. Dr A. CHESTERFIELD-EVANS: To the point of order: I was actually withdrawing the allegation. I was clearly stating my withdrawal. I cannot understand how I am canvassing the ruling. I am actually withdrawing the issue as far as the Leader of the Opposition is concerned.

The CHAIRMAN: Order! I will listen intently to your withdrawal. The honourable member may continue.

The Hon. Dr A. CHESTERFIELD-EVANS: You did or you will?

The CHAIRMAN: I will.

The Hon. Dr A. CHESTERFIELD-EVANS: You want it again? A third time?

The Hon. D. T. Harwin: Talk to your amendment.

The Hon. Dr A. CHESTERFIELD-EVANS: No, I cannot. I am fixing the withdrawal in order to obey the Chairman.

The Hon. D. T. Harwin: All you have to do is say, "I withdraw."

The Hon. Dr A. CHESTERFIELD-EVANS: I withdraw the allegation. I will not say whichever allegation. How about that? That will make you happy.

The Hon. C. J. S. Lynn: He's protecting your integrity.

The Hon. M. J. Gallacher: Yes, otherwise we might start talking about—oh, he's come down!

The Hon. Dr A. CHESTERFIELD-EVANS: Not the person I was referring to, of course.

The Hon. M. J. Gallacher: Otherwise, we might start talking about you.

The Hon. Dr A. CHESTERFIELD-EVANS: The Leader of the Opposition—not the person I was referring to, of course—has returned to the Chamber. The object of the amendments is to stop front parties. There has been much rumour, slur and comment about whether Independents and other parties are in existence

only to draw preferences to the old parties. These amendments will make transparent the existence of front parties. Basically, amendment No. 4 will provide for disclosure of the true allegiances of groups and parties. Endorsed candidates will be marked on the ballot paper as endorsed candidates. Candidates running under a group, a sham party, or as Independents but who have membership of a State-registered party will be listed as currently a member of whatever party they are a member of. Many Independent councillors would like to have such an entry marked beside their names. To stop candidates resigning from parties immediately prior to an election, just for the purposes of the election, they will be listed as "previously a member of" with the name of their party.

The amendments are not at all radical. Basically, the object is to provide information to the many people who go to the ballot box with a ballot in one hand and a series of how-to-vote cards in the other, to enable them to make comparisons and decisions in the booth. This will enable some neutral information to be provided on the ballot paper at the time that voters are making their decisions. It is a question of true democracy needing an informed choice. The bill goes only part of the way towards removing sham parties and false Independents. The lack of true information about sham parties and false Independents favours the old parties and their ability to channel preferences. The Government and the Opposition, if they are truly concerned about informed choice in our democracy, should support amendments Nos 1 and 4.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.01 p.m.]: The Opposition opposes the amendments. I am absolutely appalled that a member of the Democrats would propose such amendments. I could only guess what Don Chipp would think about the contribution of the Hon. Dr A. Chesterfield-Evans.

The Hon. R. S. L. Jones: He would have to declare two parties.

The Hon. D. J. GAY: The Hon. R. S. L. Jones would have to declare two parties, as would a few others in this place. Surely it is a matter of privacy. Surely, in our democracy, we can have membership of a political party without invoking this new McCarthyism of the Democrats. Frankly, that is what it is. The Hon. Dr A. Chesterfield-Evans will remember that those working in the film industry in the United States of America were grouped according to whether they were or were not members of the Communist Party. Some of the most appalling degradation of people and abuse of human rights happened under the guise of McCarthyism. Frankly, that is what the honourable member is trying to put in place by his amendments.

People who want to become a member of the Democrats—and goodness knows why they would—should be able to do that without this form of exposure being used against them in any circumstances. It is well-known that I do not believe in the involvement of political parties in local government—period! But I am strongly opposed to this new form of McCarthyism that the Hon. Dr A. Chesterfield-Evans wants to introduce. The reasons for wanting to bring in this system have already been covered by the Government in the new bill—the proliferation of small parties that were used to pass on votes. If the honourable member had read the bill he would understand that the bill removes that vote-passing procedure, without introducing the draconian measures contained in the amendments. The Opposition strenuously opposes the amendments.

The Hon. J. S. TINGLE [12.03 p.m.]: I will speak briefly in comprehensively opposing these amendments. I cannot believe that I heard them moved in this Chamber today. Like the Deputy Leader of the Opposition, I consider the proposal to be the sort of McCarthyism that I thought we would never have in this country. I am astonished that a member of the Democrats would move such an amendment. I had a hand in starting the Australian Democrats party in Queensland. I have never been a member of it but, because Don Chipp was a friend of mine, I actually helped him to get it going when I was living in Queensland in 1977. I, indeed, was the person who recruited Michael Macklin to become one of the Democrats' first senators. Don Chipp would never have moved an amendment like this. The Australian Democrats party that he started was a party of people of free thought, of people who simply believed in the freedoms of the individual. The amendments are as diametrically opposed to that philosophy as it is possible to be.

I ask honourable members to ask themselves: What does it matter what party one might have been a member of three years ago? As I said during the second reading debate on this bill, what matters is where people stand now. It is absolute rubbish to suggest that the amendments will stop front parties being formed, or that that will expose somebody's real political experience. What are the sanctions if somebody simply says, "I have never been a member of any party," or, "I have never been a member of the Labor Party, or the Liberal Party, or the National Party" and they have been? What can we do about that?

These amendments would do absolutely nothing to stop somebody running under a false guise when standing for a local government election. But the proposal would possibly smear, by association, a perfectly

legitimate candidate standing as an Independent or as a member of a party group simply because that person would be forced to reveal that some years ago—perhaps in his youth, perhaps because he did not know any better—he belonged to a party that he now totally disowns. This, to me, is an outrageous intrusion into a person's privacy. It is an outrageous intrusion into his or her right of free political association. I believe it would make local government elections unmanageable. The amendments ought to be rejected.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.05 p.m.]: Enough has been said about why the two amendments should be opposed. The Government opposes both amendments.

The Hon. R. S. L. JONES [12.05 p.m.]: I also oppose the amendments, for obvious reasons. Some people have been members of two or three political parties. I know a senior candidate in the forthcoming elections who has been a member of three political parties. Presumably, he would have to declare those three memberships, if they had been current in the previous three years. I also think it is a form of McCarthyism, and I cannot understand why the Democrats would move the amendments.

The Hon. I. COHEN [12.06 p.m.]: It must be said that the Hon. Dr A. Chesterfield-Evans has moved the amendments with good intent.

The Hon. D. J. Gay: I suspect you are right.

The Hon. I. COHEN: I suspect that what honourable members have said in opposition is an overreaction. They spoke about McCarthyism. But some rorts and designs for voting systems have been put forward right from the time that Barrie Unsworth removed labels from the top of the ballot paper for, I think, the 1998 State election so that parties could not even be identified, with only parties having mass support and staff to vote at polling booths being able to get anywhere in elections. The Greens have some concerns with the amendments, particularly regarding the timeframes involved. As was said, under the amendments some people—some of them in the Greens—would have to declare that they had belonged to three or more parties. People move on and grow politically in a relatively short period of time. Three years is too long a timeframe. When considering the legislation before us we should bear in mind that many of the issues raised are resolved in other ways. The amendments are not necessary.

Ms LEE RHIANNON [12.08 p.m.]: I agree with the comments made by my colleague the Hon. I. Cohen. I want to take part in this debate because I find it surprising that two members would use the word "McCarthyism" in an attempt to discredit the amendments that the Hon. Dr A. Chesterfield-Evans has moved. Their reaction has been quite extraordinary, considering some of the behaviour I have seen in this Chamber in the two years that I have been in this place. Some of those members have been involved in tactics that have similarities to what went on in the period of McCarthyism. We should have a clear understanding of what McCarthyism was. It was about attacking the character and standing of some people by saying that they were communists or that they were associated with the communist movement.

The Hon. D. J. Gay: Is that different from referring to people as drunk when you can't win an argument?

Ms LEE RHIANNON: I do not infer that people are drunk when I make such comments after 8.00 p.m. Obviously, I have touched on a sore point with the Deputy Leader of the Opposition. I think it is not appropriate that this House should allow people to drink. That is all that I am saying.

The Hon. D. J. Gay: There you go again. You know a few tricks.

Ms LEE RHIANNON: No, I don't know a few tricks.

The Hon. D. J. Gay: Point of order: The honourable member has just done it again. I ask her to retract the comment. She knows that I do not enter this Chamber after having partaken of drink. Yet the comments she just made in this Chamber, when read, imply that I do.

Ms LEE RHIANNON: To the point of order: I was not in any way talking about alcohol or consumption so I really do not know how the—

The Hon. D. J. Gay: I asked you to withdraw.

Ms LEE RHIANNON: I said nothing about drinking; I was talking about the McCarthyite period. It was when the Deputy Leader of the Opposition introduced that topic that I said that I had touched on a sore point. I know nothing about his drinking habits. As I always do when I raise that matter in this Chamber, I speak in general. I think it is inappropriate that members enter this Chamber after they have been drinking. The matters that we deal with here are very important. We would not want the pilot of our plane to have come straight from the bar. That comparison is worthy of the argument.

The Hon. D. J. Gay: Further to the point of order: Clearly, the honourable member has to withdraw the comments. The implication within her comments is that I am a person who enters the Chamber after dinner having had a drink. I do not and I ask the member to withdraw the implication.

The CHAIRMAN: Order! The Deputy Leader of the Opposition referred to a recent occasion when a similar comment was made in this Chamber. It was an unfounded accusation, and had a point of order been taken about it at the time, the member would have been asked to withdraw the remark. The remark about which a point of order has been taken in this debate is also unfounded and should be withdrawn.

Ms LEE RHIANNON: I withdraw the implication that the honourable member had been drinking. So back to McCarthyism—

The Hon. R. H. Colless: You are a good exponent of it.

Ms LEE RHIANNON: It makes it an interesting debate when we are speaking about local government. The point I was making about McCarthyism is that it occurred in an ugly period. I was disturbed that members in this place introduced it into the debate in an attempt to distort what the Hon. Dr A. Chesterfield-Evans had been saying. Certainly, the period of McCarthyism was very ugly. Many people took their lives because of the terrible accusations made about them. Rather than use that point in debate to attack the arguments of the Hon. Dr A. Chesterfield-Evans, it would be good to consider some of the behaviour that people have used to slur the associations that people such as I have had with the Communist movement.

The Hon. Dr A. CHESTERFIELD-EVANS [12.13 p.m.]: I want to respond to this accusation of McCarthyism. It is a silly and unfounded slur. The essence of the amendment is that someone has to state what political party he or she is a member of, if that person is standing as an Independent. That is simply overcoming dishonesty by putting honesty on the ballot paper. It is an absolute nonsense to say that that is McCarthyism. Why it should be against any democratic principles of openness in government is beyond my understanding. The idea that one has a private right to be a member of one political party while standing as an Independent seems to put the individual's rights over the rights of the electorate that the individual is presuming to represent. That seems an outrageous deceit to me. The term is only three years, the fairly recent past. If someone has done a U-turn on the road to Damascus and states, "I was a member of a certain political party but now I am not", let that person be judged in terms of that—

The Hon. D. J. Gay: So that is going to be the line: I was a member of the Liberal party; I am now the anti-Canada Bay party. That will be what goes on. It is not what the amendment proposes.

The Hon. Dr A. CHESTERFIELD-EVANS: Neither Don Chipp nor I would have to state that we were former members of the Liberal Party—a mistake that we made in our youth perhaps. It was more than three years ago and we have matured considerably since then. The idea that this is some kind of McCarthyism is simply nonsense. It simply requires people to state their allegiances and memberships. It is in the interests of open government and is quite unexceptionable.

The Hon. R. H. COLLESS [12.15 p.m.]: I am not sure whether the Hon. Dr A. Chesterfield-Evans has ever been involved in local government, but from what he has been saying he has not. There is a difference in the way city councils and country councils run their elections. In the vast majority of cases there are no party politics in country councils. On three occasions I have stood for election and been elected to Inverell Shire Council. I was a member of the National Party during all of that time. I was elected because I was one of the 12 best people to represent the interests of the people on Inverell Shire Council. It had nothing to do with politics. Everybody knew I was a member of the National Party. I was chairman of the branch and later I was chairman of the electorate council. That had no bearing on whether I was elected to the council. That is the crux of this matter. Politics does not play a part in country councils. In the local government elections on three occasions I ran on a ticket with a member of the Labor Party. In the bush, politics does not come into consideration. That might seem incongruous but that is what happens west of the sandstone curtain. To force people to state that they are or were or might have been or previously have been a member of any party or had any political affiliation is just crazy. It does not have an impact.

The Hon. PATRICIA FORSYTHE [12.17 p.m.]: We have just heard about country councils but I can say that in many city councils residents do not want politics to be part of the make-up of the council. In my council area people are elected as Independents. There is no division between Liberal, Labor or any of the other political parties as we know them. Members of the council are members of a number of political parties. Many of them have stood for a variety of political parties—dare I say including the Australian Democrats. Some of them are members of the Liberal Party but they do not caucus as a group of Liberals. I suspect that my own local ward councillor and many of the other councillors who might be members of the Liberal Party have very little in common. So he is not wearing a tag as a member of the Liberal Party; he is wearing a tag as a local concerned resident. That is the difference. Why do we want to know whether someone is in a particular party? We might assume what flows from that: whether people meet as a group, prearrange their decisions before they step into the council, or are guided by policies from an external organisation or policy group at senior or State level.

Where I live we have no local government conference. No policy binds the Liberals in that council from any other level, from State level. In fact, my local ward alderman and I are in violent disagreement on most policy aspects. I would have great difficulty if politics were involved in that area. I would have to be involved in local council politics to try to prevent his endorsement, because I do not agree with his position on things. But he stands as an Independent and I exercise my democratic right not to vote for him. Though he is a member of the Liberal Party I vote for other people, and he knows my views.

These councillors do not caucus and they do not have external policies imposed on them. They work, as many other councillors do, for what they see as the best interests of the residents. They stand on a platform worked out in concert with others of like mind in their area, but they are not bound by external policy. We in our area would be strongly opposed to the notion of bringing politics into our council. The minute that parties' names are put on the ballot papers assumptions are made. We are not trying to impose external policies; what counts at the local level is what matters. There are endorsed Liberal candidates in some areas, but that is because it suits those council areas. It definitely does not suit mine.

The Hon. D. T. HARWIN [12.20 p.m.]: I support the comments of my colleagues the Deputy Leader of the Opposition, the Hon. R. H. Colless and the Hon. Patricia Forsythe. Across the State local communities choose whether to have politics in their areas. That is appropriate. In my area, in the Shoalhaven, political parties do not contest local government elections. Members of the Australian Labor Party do not stand as Labor candidates and members of the Liberal Party do not stand as Liberal candidates. Everyone contests the elections as Independents. On Shoalhaven council Labor candidates line up behind different mayoral candidates and vote against each other. That also is totally appropriate. As the Hon. R. H. Colless said, if this amendment is passed they will no longer have the option of running as Independents. Candidates who are members of political parties would have to disclose that, and inevitably elections will involve political parties rather than Independent candidates.

There is no disquiet in the city of Shoalhaven about members of major parties running as Independents. People are perfectly satisfied with that. As I said, ALP members and supporters of the Liberal Party will line up behind one mayoral candidate, and other ALP members and members of other political parties may not line up with him or her, but we still have a good council. The council for the area in which I used to live, South Sydney, is very politicised and all the councillors are members of registered political parties, and that is fine too. I do not have a problem with political parties being involved in local government. That might be suitable for their communities. The amendments moved by the Hon. Dr A. Chesterfield-Evans take away choice. They are inappropriate and should be opposed.

The Hon. R. S. L. JONES [12.23 p.m.]: On a number of occasions Democrat members have been elected as Independents without declaring their membership. It may be that had they declared themselves as Democrat they would not have been elected at all. This happens all the time. I support the comments of the Coalition on this issue. In many country councils people do not want to declare their politics. People who join community groups and action groups are members of different political parties but they stand as a community group on a particular issue, such as saving the local bushland. They want to the elected as supporters of that group and not of a political party. Perhaps the Greens always stand as Greens, but other parties certainly do not.

Reverend the Hon. F. J. NILE [12.24 p.m.]: One of the problems we have in our party is altogether different. Sometimes persons whom we consider to be unsuitable want to stand for local government. They are not endorsed as candidates of the Christian Democratic Party. I have had to make it clear that I do not want them to do anything that implies that they are endorsed by the party or that they stand with the party's endorsement. I do not want them to associate the party's name with their names.

The Hon. J. R. Johnson: Do they go to preselection?

Reverend the Hon. F. J. NILE: Yes. Even the Hon. J. R. Johnson could apply for it. That is one reason that we do not want this provision.

The Hon. Dr P. WONG [12.25 p.m.]: I have a brief comment in reply to what Reverend the Hon. F. J. Nile said earlier. In the Strathfield local government elections a certain counsellor stood as an Independent. He was not standing on behalf of the Liberal Party. He campaigned very strongly and won his seat. Had he said he was a Liberal he probably would not have been elected. But he was honest about it.

Ms Lee Rhiannon: Who was it?

The Hon. Dr P. WONG: Councillor Andrew Ho. He was not selected by the Liberal Party and campaigned as an Independent. He got in, and good luck to him. He felt he could serve the community and not necessarily as a Liberal.

The Hon. J. H. JOBLING [12.25 p.m.]: Local government is what we are talking about. The principal reason one contests a local government election is to look after people in the local area. Over a 25-year stint in local government my allegiances were well known in the country area in which I stood. I stood as an Independent, as did all 12 councillors, for probably 15 or 16 of those years. I was hardly shy about my political beliefs—they were known. Whether a major party decides to endorse or not to endorse a candidate is a matter for that party. Therefore, to attempt to show that a candidate for election is a member or a former member of a party is absolute nonsense. It will produce the most incredible ballot papers. Inferences will be drawn that are totally untrue. If some major parties endorse candidates in certain electorates—and that is their right—the name of the party will be put after the candidate's name.

Anyone who chooses not to run under a party banner has the right to put his or her name forward as an Independent and if that person is well enough known and is working for people in that area he or she will be elected. This nonsensical amendment suggests that the mover has absolutely no idea or no conceptual knowledge of how local government elections work and what should go on a ballot paper. The amendment should be rejected forthwith and never see the light of day again.

The Hon. Dr A. CHESTERFIELD-EVANS [12.27 p.m.]: The idea that one should state one's political party is radical for this Committee. I take the point of the Hon. Patricia Forsythe that not all people involved in local government are restricted by the straitjacket voting of major parties. I would not dispute that party policies are not detailed enough for local issues and are not always relevant. The honourable member made the point that someone who is identified as a member of a major party may be threatened by the party to follow its policy. That is a risk, but the more local input there is, the fewer party machines can do that. If the Hon. R. H. Colless won government in a group with members of the Labor Party, so much the better. If a group of Independents were followed by the National Party and then followed by the ALP, people looking at that ballot paper would say, "Those Independents are crossing party lines. That is a good thing, so we should vote for them. We know they are in those parties but they are putting together a local team." That would be a positive point.

Everybody knows that South Sydney Council was run by the Labor Party for a long time, until the recent elections broke the stranglehold. It is true that some local government elections do not have a strong political party presence but often major political parties are given preferences from sham political parties. I am trying to draw those out of the woodwork because there is the danger that the practice will occur more frequently as a result of amalgamations and the fact that the major parties have more money, which gives them a huge advantage over independent small groups. I do acknowledge, however, that some people have prejudices against the big parties and that people seek to analyse those who have failed.

I take the point made by Reverend the Hon. F. J. Nile that if people do not win preselection because the party does not want to be embarrassed, that is somewhat of a problem. It is an accepted fact that every party has members it may not want and if people are not endorsed by the party, that can be taken for what it is worth. That is more information from which voters can draw their own inferences, but they can only do so if the information is provided to them, which is what these amendments seek to achieve.

Amendments negatived.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.32 p.m.]: I move Opposition amendment No. 5:

Page 6, schedule 1. Insert after line 2:

[6] Section 310A

Insert after section 310:

310A Counting of postal votes

At any election, any postal vote must be counted if:

(a) the postal vote is received before 6 pm on the first business day immediately following the close of the poll, and

(b) the voter has indicated, in accordance with the regulations, that the postal vote was completed before the close of the poll.

Where paragraph (a) provides "the postal vote is received before 6 pm on the first business day immediately following the close of the poll", the first business day immediately following the close of the poll would be the following Monday. I would like it to be a little later but the Government has indicated that that might overly delay the counting of votes. "The following Monday" would allow some time for postal votes to be received. Unfortunately, in some country centres, mail goes to a major centre and then comes back and is re-sorted, which can take a number of days. I believe that 10.00 a.m. on Tuesday would be better but Mr Wasson and the Government have indicated that the best time would be 6.00 p.m. on the day after the poll, which is the Monday. That is a step in the right direction. I commend the amendment to the Committee as a sensible measure that I hope receives support from all honourable members.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.33 p.m.]: The Government does not oppose the amendment. The amendment will allow postal votes to be counted up to 6.00 p.m. on the first business day after a poll, but a postal vote will only be counted if the voter can prove that the vote was posted before 6.00 p.m. on the day of the poll. The regulations currently provide that postal votes must be received by the returning officer or the senior deputy by 6.00 p.m. on the day of the election in order to be counted. I am concerned that this amendment will delay the counting of votes. In many cases preferences will not be able to be distributed until after all postal votes have been received. This may cause some delay in many local government areas, especially in by-elections and in areas with small voting populations, where the returning officer might normally be able to declare the poll on the Saturday or the Sunday.

I am also concerned that this amendment will have the effect of increasing the cost of local government elections, a cost that will be borne by the community. The Government has an additional concern that because many postal items are not postmarked these days, there is a risk of postal voters fraudulently casting votes after the poll has closed. In the light of preliminary counts, this vote could be received within the extended deadline proposed by the Opposition and thereby would give a postal voter disproportionate influence on the outcome of a poll. However, I note the Opposition's concern that as many voters as possible be enfranchised. For that reason the Government is prepared to support this principle, but without causing undue cost, delay or uncertainty in the declaration of local government election results. The Government does not oppose the amendment

The Hon. I. COHEN [12.35 p.m.]: If the process is to be done correctly, this is a reasonable amendment. However, I am concerned about the extra cost and time. It is a little like the Gore count. How long will the extension be?

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.36 p.m.]: The extension is until 6.00 p.m. on the Monday to allow postal votes to arrive. It still means that they have to be posted by 6.00 p.m. on Friday or at the close of the post office. I am getting the nod from the Minister's staff and departmental staff so I must be on the right track. I get a double tick—if only it were so simple! That would delay it until the Monday. The Government is right because it effectively means that in a close situation the poll could not be declared for two further days. However, in a close situation every vote is vital and the full democratic expression of local government voters is essential.

I am disappointed that the extension is not until 10.00 a.m. on the Tuesday, to assist people living in country areas. For instance, the mail of people living halfway between Goulburn and Crookwell goes to Goulburn, then on to Canberra for re-sorting and back out to Crookwell. The mail of people living in Goulburn goes to Crookwell then on to Canberra for re-sorting and then back to Goulburn. In some instances that will mean a turnaround of 1½ to 2 days and some people would miss out. However, the Government has accepted a compromise, and although it is not all that I would like it is a step in the right direction.

Reverend the Hon. F. J. NILE [12.38 p.m.]: I believe that for proof that the postal vote was completed before the close of voting, the returning officer should rely on the postal date stamp on the envelope; and if the envelope is not stamped the vote is not valid. I believe that the regulations should specify that the envelope must be post-stamped on Friday; otherwise it could not be proved that the vote was made on the Friday.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.38 p.m.]: By way of clarification, Reverend the Hon. F. J. Nile mentioned the matter raised by the Minister and Mr Wasson. But, increasingly, envelopes are not time- and date-stamped, and that presents a problem. If it is not stamped and if the postal vote is received not by the Friday but by the Monday and it cannot be established that it was actually sent at the right time, the postal vote will not be accepted. That may be tough, but I am told that is a correct interpretation of the rules.

Amendment agreed to.

The Hon. I. COHEN [12.39 p.m.]: I move Greens amendment No. 1:

No. 1 Page 6. Insert after line 2:

[6] Section 320 Registration of political parties

Omit "100" wherever occurring in section 320 (2) (c) and (3) (a).
Insert instead "75".

This amendment seeks to reduce the number of members from 100 to 75 that a local government party is required to have to be eligible for registration. The amendment will allow Independents and genuine groups such as local resident groups and community action groups to become registered with only 75 members. I believe that this is important for local democracy. The reduction to 75 will increase the ability for genuine Independents and groups to become involved in the political process without undermining the Government's proposed reforms, which are designed to prevent the cynical manipulation of the electoral process. It must be clearly stated that it is a recognition factor when we have this formula and above-the-line voting, which I do not expect will be changed by way of Opposition amendment, despite its good efforts.

The Hon. D. J. Gay: It would have more chance if you supported it.

The Hon. I. COHEN: That is another debate for another point in the amendment process. At present it is difficult for genuine groups that revolve around a local issue and seek to be identified to have 100 members. I am sure that honourable members know about the problems of getting people to join yet another political group. It is an onerous task. These groups should at least have the opportunity to express themselves on the ballot paper, if they so choose, with their own group label. The Greens believe that a membership of 75 for a local area is reasonable. I am simply seeking a reduction in membership, as signing up new members is a fairly onerous task. I do not believe that this amendment will make a difference in terms of allowing any further so-called rorting. It will simply ameliorate the position of genuine small groups that want the right to appear above the line on the ballot paper.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.41 p.m.]: The Opposition will not support this amendment. The Hon. I. Cohen used the word "cynical". Given its connotation, that is probably a good word to use. It is interesting to note that the Greens supported the Australian Democrats amendment to put labels on parties through the guise of removing small parties, yet the Greens have now moved an amendment to lower the threshold of 100 members set by the Government. The Greens want to reduce the threshold from 100 to 75, which would help the situation of which everyone has been critical—the establishment of small parties simply to allow flow-ons. Frankly, the Opposition will not support the amendment. It views the amendment with the same degree of cynicism with which the Hon. I. Cohen has labelled us.

Reverend the Hon. F. J. NILE [12.42 p.m.]: I understand that even if a group has fewer than 100 members it can still nominate a group on the ballot paper; it simply does not have a party name. It will not stop action groups and other groups that may have only 10 or five members from nominating a group on the ballot paper.

The Hon. I. COHEN [12.43 p.m.]: Reverend the Hon. F. J. Nile is correct; it will not stop groups from nominating as a group. I have seen many examples of groups that have found it onerous to get 100 members in order to be identified on the ballot paper. It is true that there will be three different categories: individuals,

unnamed groups, and a party or group registered as a party at the local government level. However, the Greens amendment seeks to alleviate the somewhat onerous task of getting 100 members for small or local action groups. In response to the comments of the Deputy Leader of the Opposition, I did not agree with the Australian Democrats amendment. I was simply ameliorating my comments and not speaking as harshly as some honourable members. I said I understood the amendment but at the same time I did not agree with it.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.44 p.m.]: The Government opposes this amendment. To register for the purpose of contesting elections in the Legislative Council, a party must have 750 members. When the Parliament passed the Parliamentary Electorates and Elections Amendment Bill last year the minimum number of members necessary to register a party for local government elections was set at 100 members. The Local Government Act already specifies 100 as the minimum number of members necessary to register a party, other than for a sitting councillor. The Government does not propose to change the number in this bill; it leaves the number at 100. It simply deletes the other option of registering as a sitting councillor. While I have noted the issue raised, I do not believe that a requirement for 100 members should cause any great difficulties. For that reason the Government does not support this amendment.

The Hon. I. COHEN [12.45 p.m.]: During the Committee stage of the Parliamentary Electorates and Elections Amendment Bill last year I moved an amendment to reduce the minimum number of members from 1,000 to 750. At that time the Government considered that to be a reasonable amendment. Similarly now, the Greens are asking for a reduction from 100 to 75 for local government parties to be eligible to be registered. That is in line with the reasonable position adopted by the Government on the Parliamentary Electorates and Elections Amendment Act.

The Hon. Dr A. CHESTERFIELD-EVANS [12.46 p.m.]: The Australian Democrats support this amendment. A membership of 75 may be an onerous task for a small party that wants to save a local park or something like that. It may be difficult to get 75 members on a small localised issue, yet it may be important in that ward. I suggest that this amendment—

The Hon. D. J. Gay: You are the bloke who moved the amendment to get rid of these small parties.

The Hon. Dr A. CHESTERFIELD-EVANS: I moved amendments so that people could see what was a genuine party and what was not. This is not the same thing.

Amendment negatived.

The Hon. Dr A. CHESTERFIELD-EVANS [12.46 p.m.], by leave: I move Australian Democrats amendments Nos 2 and 3 in globo:

No. 2 Page 6, schedule 1 [6], lines 5 and 6. Omit all words on those lines. Insert instead:

(f) sections 66A (2), 66C, 66D (2) (g1), 66D (3), 66FA (2), 66G (3A), 66HA, 66JA and 66N of that Act are to be disregarded,

No. 3 Page 6, schedule 1 [7], lines 18 and 19. Omit all words on those lines.

Amendment No. 2 is largely procedural and will allow members of a State registered party to be one of the 100 members involved in setting up a local government party. As I said, I do not expect these amendments to entirely eliminate sham Independents but they will enable the process to be more transparent. Amendment No. 3 restores the status quo so that a local government member, or 100 members, may start a party. However, I remind honourable members that candidates for front parties must declare their true affiliation.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.47 p.m.]: That Government opposes both of these amendments, for the reasons given in the second reading debate.

Amendments negatived.

The Hon. Dr A. CHESTERFIELD-EVANS [12.48 p.m.], by leave: I move Australian Democrats amendments Nos 5 to 8 in globo:

No. 5 Pages 7-11, schedule 1 [10], line 7 on page 7 to line 34 on page 11. Omit all words on those lines.

No. 6 Page 12, schedule 1 [10], lines 6-8. Omit "during the phasing-in period (whether under the old registration requirements or the new registration requirements)".

No. 7 Page 12, schedule 1 [10], line 11. Omit "and".

No. 8 Page 12, schedule 1 [10], lines 12-16. Omit all words on those lines.

These amendments will simply remove the phasing-in period, and will only affect the affiliation of a State registered party. There is no need for a phasing-in period as this is already the situation, and the reforms relating to Legislative Council elections have already been made.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.49 p.m.]: The Government opposes all these amendments.

Amendments negatived.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Schedule 3

The Hon. I. COHEN [12.50 p.m.], by leave: I move Greens amendments Nos 2 and 3 in globo:

No. 2 Page 23. Insert after line 23:

[2] Section 31 Classification of land acquired after 1 July 1993

Insert after section 31 (1) (b):

, and

(c) land that is dedicated in accordance with a condition imposed under section 94 of the *Environmental Planning and Assessment Act 1979*, and

(d) land that is acquired by a council wholly or partly with a monetary contribution to which section 94 (6) of the *Environmental Planning and Assessment Act 1979* applies.

No. 3 Page 24. Insert after line 9:

[3] Section 32 Classification or reclassification of land dedicated or acquired under section 94 of the Environmental Planning and Assessment Act 1979

Omit section 32 (1). Insert instead:

(1) This section applies to land:

(a) that is dedicated in accordance with a condition imposed under section 94 of the *Environmental Planning and Assessment Act 1979*, or

(b) that is acquired by a council wholly or partly with a monetary contribution to which section 94 (6) of that Act applies.

(1A) Land to which this section applies is taken to have been classified under a local environmental plan as community land.

(1B) The council may resolve that such land is to be reclassified as operational land but only if the council complies with this section, with section 34 (which provides for the giving of public notice) and with section 29 (2) (which requires a public hearing).

[4] Section 32 (4)

Omit the subsection.

Honourable members will probably be aware that development in local government areas often increases pressure on the need for public services or amenities. As a way of addressing these needs, a council can include conditions of consent requiring the developer to pay a contribution to the council to meet part of the costs associated with providing public services or amenities. These are known as section 94 contributions. For example, if a council approves a development application to knock down two existing two-bedroom houses that house four to six people, and build instead 10, three-bedroom townhouses that house 30 to 40 people, the additional people need additional public services and amenities. This can include access to open space.

Section 94 contributions apply in a variety of ways. A council can use the contributions to maintain or upgrade existing open space or buy new open space. Council may be given open space as part of the

development site in lieu of a section 94 contribution or cash. The contribution has trust-like qualities, in that the developer provides the money on the basis that the council upgrade existing open space or provide new open space. The developer does not provide the money so that it can be used for general budgetary purposes, such as maintaining roads. The money is earmarked for a very specific use and, by law, separate accounts must be kept.

A number of section 94 contribution cases are relevant to this amendment. *Bathurst City Council v PWC Properties* went all the way to the High Court, with the council saying that the development consent was given on the basis that there would be an adjacent, ground-level parking area surfaced in bitumen. The council argued that such a parking area was essential if the development was to go ahead. The car park was created on land owned or controlled by the council adjacent to the shopping centre. Part of the land was given to the council by the developer for nominal consideration. Transfers of the land were for the purpose of providing land for use as part of the car park and were provided partly to satisfy the condition in the development consent relating to car parking. Council then purported by resolution to classify the land on which the car park was situated as "operational land".

The High Court found against the council. It held that it was not open to the council to resolve to classify the land as operational since it had been conveyed to and was held by the council for a public purpose within the meaning of the Act; that the land should remain community land. While that case was decided on the 1919 Act and the savings provisions in the 1993 Act, the case is still highly relevant to the new Act and the issue of land dedicated or acquired for section 94 purposes. *Denman Pty Ltd v Manly Council* was heard by Justice Talbot in the Land and Environment Court in 1995. In his judgment his honour referred to a number of cases, particularly the 1990 case of *Levadetes and Idameneo (No. 9) Pty Ltd v Great Lakes Shire Council.* In that case Justice Holland stated:

> Section 94 (3) is mandatory and imposes on the consent authority a duty under which there are four elements in the obligation to perform. The first is to hold the money in trust for the purpose for which the payment was required. The second is to apply the money towards providing the relevant public amenities or services. The third is to do so in a reasonable time. The fourth is to apply the moneys in such a manner as will meet the increased demand for those amenities or services.

It is apparent from the judicial interpretation of section 94 (3) that a council cannot acquire land using section 94 funds or have land dedicated for a particular purpose, such as the provision of open space, in order to satisfy section 94 contributions, and then use the money allocated or land dedicated for something completely different. Allowing a council to sell or dispose of land bought using section 94 open space funds is tantamount to a breach of trust.

As a matter of principle, land given for such purposes or bought with funds earmarked for such purposes should automatically be classified as community land. This prevents the immediate sale of the land. The council will then, if it wants to sell the land, have to classify it as operational in accordance with the relevant provisions of the Local Government Act. In order to reclassify "community" land as "operational" land, the council has to give public notice of the proposal and specify a period of not less than 28 days during which submissions may be made to council. Before the resolution is made, the council must arrange a public hearing in respect of any proposal to reclassify the land as "operational".

Certainly, the council should not, by resolution only, be allowed to reclassify land obtained in the previously mentioned circumstances. The council should follow the procedure as set out in the Local Government Act. This will allow for public scrutiny and public consultation and participation. This amendment simply ensures that land given to a council by a developer for section 94 purposes or bought using section 94 funds earmarked for open space must automatically be classified as community land. I commend Greens amendments Nos 2 and 3 to the Committee.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.54 p.m.]: The Government opposes Greens amendment No. 2. Section 94 land acquired by council before 1 July 1993 was automatically made community land on 1 July 1993. With respect to land acquired by councils after 1 July 1993, through section 94 dedications, I believe that section 31 (3) (b) of the Local Government Act already prevents such land from being classified as "operational" by council resolution prior to its acquisition. This proposal is based on an assumption that section 31 (3) (b) does not already apply to land dedicated to council as a section 94 contribution. However, I was not provided with any case law to prove that that is the case. Therefore, it would appear that land dedicated under section 94 of the Environmental Planning and Assessment Act should already be automatically considered to be community land upon acquisition. Thus, the proposal by the Greens to amend section 31 is unnecessary.

The Government also opposes Greens amendment No. 3. I believe that land acquired by councils after 1 July 1993 through section 94 dedications is already covered by section 31 (3) (b) of the Local Government

Act. Therefore I believe that the legislation already prevents such land from being classified as "operational" by council resolution prior to its acquisition. The Greens proposal to amend section 32 is based on an assumption that section 31 (3) (b) does not already apply. However, again I have not been provided with any case law to prove that this is the case. Thus, the proposal by the Greens to amend section 32 is unnecessary.

The Hon. Dr A. CHESTERFIELD-EVANS [12.56 p.m.]: The Democrats support the concept put forward by the Greens. The Hon. I. Cohen referred to case law, and the Minister may not have had prior notice of that and presumably read from a prepared reply. If the Hon. I. Cohen is correct about the case law, the Government ought to take this amendment seriously and support it.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [12.57 p.m.]: The Opposition will not support the Greens amendments, but notes that the Hon. I. Cohen quoted case law that highlighted some concerns. The Opposition certainly has concerns about the functioning of section 94. It is my understanding that section 94, as it is drafted, is topsy-turvy. I understand also that the Government, through the Department of Local Government, which has carriage of this bill, has section 94 under review. I ask the Minister to indicate that the Government will look quite seriously at the concerns that have been raised, particularly as to the case law referred to by the Hon. I. Cohen.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [12.58 p.m.]: I am advised that the Minister for Urban Affairs and Planning is responsible for section 94. The honourable member should refer the matter to him.

The Hon. D. J. Gay: There is a review? And this will be considered?

The Hon. E. M. OBEID: The answer is yes.

Amendments negatived.

Progress reported from Committee and leave granted to sit again.

[*The Deputy-President (The Hon. Janelle Saffin) left the chair at 1.00 p.m. The Committee resumed at 2.00 p.m.*]

LOCAL GOVERNMENT AMENDMENT BILL

In Committee

Consideration resumed from an earlier hour.

The Hon. R. S. L. JONES [2.00 p.m.], by leave: I move my amendments Nos 1, 2, 3 and 7 in globo:

No. 1 Page 24, schedule 3 [2]. Insert after line 9:

(2C) A council must not resolve under this section that land be classified as operational land unless the council has arranged a public hearing in respect of the proposal to classify the land.

No. 2 Page 24, schedule 3. Insert after line 9:

[3] Section 31 (3) (c) and (d)

Insert after section 31 (3) (b):

, or

(c) the resolution would be inconsistent with the environmental or public recreational values of the land, or

(d) the resolution would be inconsistent with the provisions of any environmental planning instrument that is in force, or with any current draft environmental planning instrument, that applies to the land.

No. 3 Page 24, schedule 3. Insert after line 12:

[4] Section 36 Preparation of draft plans of management for community land

Omit section 36 (1). Insert instead:

(1) A council must prepare a draft plan of management for community land:

(a) within 6 months after the land is classified as community land, or

(b) in the case of land that is classified as community land as at the date of commencement of this subsection and that is not the subject of a plan of management as at that date - within 6 months after the date of commencement of this subsection.

No. 7 Page 24, schedule 3. Insert after line 31:

[7] Section 45 What dealings can a council have in community land and for what purposes can it use that land?

Insert after section 45 (4):

(5) A council must not use community land for any purpose for which a lease, licence or other estate could not lawfully be granted under this Part.

(6) A council must not erect a building on community land if such a building could not lawfully be erected by the holder of a lease, licence or other estate over the land.

Schedule 3 [2] to the bill changes the current provisions in the Act which require that land acquired by council is automatically classified as community land unless council decides, prior to acquisition, that it be classified as operational. Under that section a number of councils are now resolving that most of the land they acquire be classified as operational to make further disposal easier, even though it contains important environmental values. The proposed change in schedule 3 [2] would give councils three months after acquisition to classify the land as either community or operational and thus increase 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 as community land.

That 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. Therefore, this change should be rejected and a requirement inserted that all land acquired by councils be automatically acquired as community land. At the very least, councils that wish to classify the land as operational should have to follow the normal process for reclassification and the decision should be made transparent with community involvement, based on a discussion about the land's values and potential uses.

While councils will be required, under existing provisions, to give public notice of a proposed resolution to classify newly acquired land as operational land and the public will be able to make submissions to council on the matter, prior to resolving that the land be classified as operational land no public hearing is required. My amendment ensures that this oversight in public consultation and participation is rectified. Amendment No. 2 closes a loophole. Currently councils can use environmentally valuable community land, such as that designated as "wildlife corridors 7 (e) Conservation" in draft local environment plans, for inappropriate development such as the siting of roads and utilities, et cetera.

My amendment ensures that councils will no longer be able to use community land in ways that are inconsistent with the environmental or public recreational values of the land or its existing or proposed zoning. Section 36 (1) of the Local Government Act requires councils to prepare a draft plan of management for community land. However, there is no time specified by which those plans must be completed. Amendment No. 3 resolves that issue 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.

The Local Government Act, as it currently stands, places restrictions on the purposes for which community land may be the subject of an estate. For instance, 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; and section 47B places further restrictions on the purposes for which leases, licences or other estates may be granted over natural areas. However, there are no provisions to constrain the actual use of the land.

Therefore, a council could carry out an activity which could not be the subject of a lease, licence or other estate to another person. Amendment No. 7 resolves that situation 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.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [2.06 p.m.]: Whilst the Opposition understands many of the concerns raised—

The Hon. R. S. L. Jones: And supports them, enthusiastically.

The Hon. D. J. GAY: No, I have to say that we do not. I have a concern with Amendment No. 1, which states that all land acquired by councils be automatically acquired as community land. In many instances council takes over land that it definitely does not want to be community land. It may acquire land to build a parking station, or to put in place a business operation. Whilst the amendment is well intentioned, I am concerned that it would put at risk certain operations of a council. Many of my comments relate to the amendments moved by the Hon. I. Cohen, although I acknowledge that they are different, because they dealt with section 94. The review that the Department of Urban Affairs and Planning is conducting into section 94 would cover many of the concerns raised by the Hon. R. S. L. Jones relating to community land.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.07 p.m.]: I thank the Hon. R. S. L. Jones for moving the four amendments in globo. The Government opposes all four amendments for the reasons set out in my second reading speech.

Amendments negatived.

The Hon. R. S. L. JONES [2.08 p.m.], by leave: I move my amendments Nos 4, 5 and 6 in globo:

No. 4 Page 24, schedule 3 [4], line 15. Insert "it must either" after "plan".

No. 5 Page 24, schedule 3 [4], lines 16 and 20. Omit "it may" wherever occurring.

No. 6 Page 24, schedule 3 [4]. Insert after line 22:

(2A) If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.

Schedule 3 to the bill removes the present requirement that each time a council amends a draft plan of management the amendments must be publicly exhibited until such time as the council is satisfied that the draft plan may be adopted without further amendment. Instead, councils will 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 that reason, my amendments ensure that councils must at least notify the public of any insubstantial amendments to a plan of management, if they choose not to publicly exhibit the proposed changes prior to adopting them. I hope that the Government and the Opposition will see fit to support the amendments.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.09 p.m.]: The Government will support amendments Nos 4, 5 and 6 moved by the Hon. R. S. L. Jones.

Amendments agreed to.

The Hon. I. COHEN [2.09 p.m.]: I move Greens amendment No. 4:

No. 4 Page 29, schedule 3 [27], lines 14 and 15. Omit all words on those lines.

Section 633A of the Local Government Act deals with the use of skateboards, roller blades and roller skates. The provision provides:

A person who, in a public place, uses skating equipment so as to obstruct, annoy, inconvenience or cause danger to any other person in that place is guilty of an offence.

Currently the maximum penalty for the offence imposed under the Act is five penalty units or $550. The bill seeks to increase the penalty to 10 penalty units or $1,100. The Greens see no need to increase the penalty units

for this offence. Generally those who ride skateboards, roller blades and roller skates are young people. Young people will bear the brunt of this amendment. They will be the ones predominantly who will have to pay the increased fines.

If there is currently a perceived problem with young people skateboarding and using roller blades and roller skates in public places, the answer is not to impose on them large fines. What should occur is that more facilities should be provided so that young people have adequate places to use such equipment. Increasingly young people are using skateboards, roller blades and roller skates as forms of transport. In New Zealand, for example, a green member of Parliament, Nandor Tanczos, skateboards to work every day. That is commendable. He argues that skateboarding is cheaper and more convenient than catching the bus; it also gives him exercise. We should encourage people to use alternative means of transport. Increasing the penalty points will only discourage their use and penalise young people who choose to skateboard, roller blade or roller skate for recreational and transport purposes.

Byron Bay—which, as members would be aware, is a tourist town—provides very few facilities for young people under the age of 18. If they do not surf, there is nothing for them to do. We have been trying to have a skateboard ramp built in the area. We have also tried to have a skateboard ramp established in Lennox Head. Young people are being victimised here. I spoke to a young boy who was actually banned from skateboarding in town. Admittedly, he was skateboarding on the footpaths; he was a bit of a nuisance. But the fact is that these young people will be landed with very substantial fines. They will be dealt with according to the law just as they would be if they committed minor marijuana offences. They will be dealt with not so much for committing the offence but for their inability to pay the fines.

The Government says that the legislation brings the fines into line with fines for various other misdeameanours, such as breaking glass and so on. Obviously, such offences are of an antisocial nature and fines must be imposed. But once again we are targeting young people and it is extremely inappropriate to increase these fines to as much as $1,100. It is great if parents can afford to pay the fines imposed, but in many cases they cannot. Often the young people in communities such as Byron Bay are without the support of the local community, and there are very few facilities and activities for them to go out and enjoy themselves. Skateboarding on the street is one of the ways in which they can enjoy themselves. It is certainly better than a lot of other things that young people could and would do in their idle time. I believe that the proposed fines are totally inappropriate.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.13 p.m.]: The Government opposes the amendment. Different types of public land—for example, Crown land, national parks or public land owned by councils—may be governed by different legislation. The Government aims for consistency in the legislation that applies to these different types of land. In particular, an offence such as breaking glass should be subject to the same penalty, regardless of whether the events took place in a national park or a council park. The provision in this bill aims to bring the penalties for offences in public places in the Local Government Act into line with similar legislation that applies to other types of public land, such as national parks.

Some offences under the Local Government Act currently have a maximum penalty of five penalty units, whereas the equivalent under the national parks legislation is 10 penalty units. I remind members that the provision in the bill amends the level of penalty for pre-existing offences. This is not a provision that deals with crime prevention. Other provisions of the Act require councils to prepare social and community plans to identify and respond to the needs of their communities. Strategies for addressing graffiti and other crime-prevention issues can be better addressed by identifying the needs of the community—young people no less than any other group—and providing community facilities to prevent problems arising.

Therefore, while we acknowledge these concerns, the Government does not support the amendment. The bill is not aimed at singling out young skateboard riders; it merely seeks to bring the penalties for different offences into line with other legislation to ensure consistent enforcement across different types of public land. The amendment would place this offence at odds with other offences in public places, such as polluting a public bathing place. Therefore the Government does not support the amendment.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [2.15 p.m.]: The Opposition does not support the amendment.

The Hon. R. S. L. Jones: You don't support young people.

The Hon. D. J. GAY: That is a trite comment. The Hon. R. S. L. Jones said that we do not support young people. What we do support is the whole community—not just young people on skateboards—using these public places. Quite a number of elderly people with frail bones have trouble getting out of the way of skateboarders who are out of control, and they need to be able to feel secure in those areas. I do not suggest that that applies to every young person on a skateboard, nor would I attempt to target skateboarders in that way.

The Hon. I. Cohen: How does $550 cover that?

The Hon. D. J. GAY: The penalty is up to $550. Let us be realistic. The Government needs the power to be able to move in a sensible way to allow everyone to use such areas; one particular sector of the community should not be precluded from using them. I support the measures that the Government has in place.

Amendment negatived.

The Hon. R. S. L. JONES [2.17 p.m.]: I will not move my amendment No. 8. While section 47G of the Local Government Act prescribes that public hearings into reclassifications or recategorisations must be conducted by a person who is 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. My amendment would have ensured that public hearings were advertised and all those wishing to participate were given equal opportunity to do so. I will not, however, move the amendment as I understand that the Minister will request the department to issue a circular to councils to guide them in the conduct of public inquiries under the terms of section 476 of the Act.

I also understand that the circular will incorporate the proposals contained in my amendment. Together with the peak environment groups of this State, I look forward with great anticipation to the issuing of that circular. I commend the Minister and his staff for their willingness to meet with my office and representatives of the Total Environment Centre and the Nature Conservation Council to discuss these issues and come to an arrangement, at least on this amendment, that is acceptable to all parties. I hope that we are able to deal with all future legislative proposals put forward by the Minister, and any concerns that I and the relevant community groups may have about them, in such a co-operative fashion.

Schedule 3 as amended agreed to.

Schedule 4 agreed to.

Title agreed to.

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

VALUATION OF LAND AMENDMENT BILL

Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries), on behalf of the Hon. J. J. Della Bosca [2.20 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Carr Government is introducing a number of reforms to the New South Wales land valuation system following last year's review into the operations of the Valuation of Land Act by independent consultant, Julie Walton. This Valuation and Land Amendment Bill addresses the Government's commitment to refine the current system of land valuation by removing unnecessary complexity from the land rating system and simplifying rights of objection and appeal for property owners. This Government has adopted the majority of recommendations from the Walton Report at an additional cost of about $900,000 this year. These changes will address the complexity of the existing systems, the limits of mass valuation, quality control and the need for better customer service.

The existing valuation systems were introduced in 1992 by the previous Government, which set up two separate valuation and appeal systems. For example, under the current systems a property owner can appeal to the Land and Environment Court but must take action against both the Valuer-General and the Chief Commissioner. The independent review found that these

distinctions are both confusing to property owners and are inequitable. Julie Walton made 21 recommendations, many of which will be implemented by the passage of this bill. The main thrust of the recommendations was that the two valuation systems be combined, standardised and simplified so that the Valuer-General takes responsibility as the State's valuing authority.

Two of Julie Walton's recommendations, 1 and 3, involved the formation of a specialist working group to advise on the valuation system and regular reviews. I can advise this House that the specialist working group has been established and has met on several occasions. It is made up of representatives from the Local Government and Shires Associations, the Property Council of Australia, the Real Estate Institute and the Australian Property Institute. Recommendation two was to commence a rolling program of handcrafting valuations for individual properties. More frequently, valuations will occur in areas likely to experience significant value changes. We are changing the system to make it more responsive to fluctuations value-driven by the market and more reflective of the characteristics of individual properties. As a result, handcrafting has been carried out this year on all properties that have been subject to premium property tax in the past. Tender documents for contract valuations and valuation manuals have been rewritten to include handcrafting in future valuations.

The reviewing and rewriting of manuals and procedures satisfies a fourth of Julie Walton's recommendations. This process is being carried out by an expert in the valuation process and a communications consultant at a cost of $40,000. The process should be complete by the end of November and also addresses recommendations 14 and 21. The fifth recommendation was to combine the two current valuation systems into one, which recognises the Office of State Revenue as the taxing authority and the Valuer-General as the valuing authority. This recommendation also included the expedition of a database project. I am pleased that this bill creates a single statute and a single register for land valuations, as recommended by Julie Walton, and that the new integrated property warehouse database project will be fully completed by April 2001.

The sixth recommendation was to retain annual valuations. This is being done. Recommendation 7 was about standardising assumptions and approaches to land value for rating and taxing purposes. That is being achieved by this bill. Recommendations 8 and 9 were not supported by this Government. Recommendation 8 was about separating notices for land value and assessments, but the Government feels that this would be complex and cumbersome for people and not provide sufficient information on which to base a decision to appeal. The ninth recommendation was about altering the base date for valuations from July to April based on the assumption that this would improve budget forecasts for land tax. Budget forecasts are done using a conservative analysis of the property market and would not be improved by changing the base date. The tenth recommendation was that there should be an annual review of the advantages and disadvantages of competitive tendering. The Government is currently introducing competitive tendering in rural areas. The effects of this process in rural as well as metropolitan areas will be evaluated in 2001.

Julie Walton's eleventh recommendation was about allowing time for the new system to settle down before there is any further change. This is supported by the Government. Recommendation 12 was that any new mass valuation methodologies should be created outside the tendering process and subject to rigorous testing. This is also supported and will be enhanced by the working group mentioned earlier. Julie Walton's thirteenth recommendation was about drafting of tender specifications. This has already been introduced for new tender contracts. The fifteenth recommendation was about notifying people of the most recent valuation. When fully implemented in April next year, the integrated property warehouse will enable Office of State Revenue to identify and send valuations to target landowners such as those subject to premium property tax.

Recommendations 16 and 17 were about providing information to landowners about valuations and the objections and appeals processes. A brochure outlining this information will be sent in the current round of valuations and is available on request or on the web site. The Valuer-General will also provide information on how a property was valued at the request of the property owner. Recommendation 18 was about an integrated approach to appeals against valuations. This bill will make the Valuer-General the single valuing authority and all objections will be handled by that office. Recommendations19 and 20 were about the need for objections to be dealt with by a person other than the valuer who did the original valuation and in a timely way.

A new position in the Valuer-General's Office has been funded by the Government and will be advertised this week to address these recommendations. The right to appeal to the Land and Environment Court will be retained. Part of the twentieth recommendation dealing with sanctions was not supported because it would prolong the appeals process and potentially lead to increased tender costs. With the passage of this bill, the Valuer-General will now make valuations annually that will be issued each year as valuation lists to the Chief Commissioner of State Revenue. These valuations will replace those currently being made and used under the authority of the Land Tax Management Act, and the relevant valuation provisions of that Act will be repealed.

The bill makes a number of important changes to streamline the objection and appeal process for property owners. Property owners will now be able to object directly to the Valuer-General when they receive their notices of valuation. Their objections will be responded to within 90 days. They may still appeal to the Land and Environment Court, but in a process where only one authority will be involved. This will considerably streamline appeals and reduce the time and expense for property owners.

I also wish to take this opportunity to advise the House of other progress that is being made in areas which do not require statutory changes. This includes the formation of Land and Property Information New South Wales, which resulted from the merger of the former Valuer-General's Office, the Land Titles Office and the Land Information Centre. Valuation notices will now include better and expanded information on valuation and appeal systems. The Valuer-General's web site will be expanded to include the new methods of valuation and the rights of property owners. I am confident that the result of the passage of the bill will be to establish a more open, fair and clear valuation system for property owners in this State. I commend the bill to the House.

The Hon. D. T. HARWIN [2.21 p.m.]: Under current legislative provisions land is valued by two separate entities—the Valuer-General and the Chief Commissioner of State Revenue. The Valuer-General reports values every three or four years for council rating purposes, whilst the chief commissioner reports values annually for the purpose of levying land tax. Landowners wishing to appeal against valuations made on their properties currently have to take action in the Land and Environment Court against both the Valuer-General and the chief commissioner. The independent review of the Valuation of Land Act 1916, carried out last year by Julie Walton, makes numerous recommendations.

The majority of the recommendations deal with simplification of the current valuation systems, eliminating statutory duplication and reducing confusion for landowners. The bill provides that valuations for both land tax and council rating purposes will now be conducted under the provisions of one Act only, the amended Valuation of Land Act 1916, and that the appeals process will be considerably streamlined, allowing landowners in the first instance to lodge an objection with the Valuer-General, who will answer within 90 days. Appeals may still be lodged with the Land and Environment Court, but action will only need to be taken against one authority, that is, the Valuer-General.

Other positive aspects of this legislation include the provisions dealing with heritage-listed land and land which is rent controlled. The diminution in value which both of these restrictions necessarily involve will now be taken into account when land is valued for tax and rating purposes. The Government's response to the Walton review is commendable to the extent that it addresses its recommendations. Land valuation procedures will be simplified, more and better information will be provided to landowners and appeals will be dealt with more quickly and in a less complex fashion. As recommended by Julie Walton, a specialist working group on valuations has already been established. As a result of its work, handcrafted valuations have been carried out on all properties subject to past premium land tax.

The bill does not address the regressive nature of land tax, the fact that the Government has increased the rate at which it is levied on no fewer than three occasions since it came to power in 1995, or the fact that it is a tax which hits families and small businesses, people who are trying to provide for their future and the future of their children. Landowners increasingly find that their property values have crept over the land tax threshold and a land tax bill is accruing without their knowledge. People are being taxed for living in their own homes. Although the bill is not a complete response to Julie Walton's review, the Opposition acknowledges that the changes which the bill makes are for the better. Therefore, we do not oppose the legislation.

The Hon. Dr P. WONG [2.24 p.m.]: The Unity party supports the Valuation of Land Amendment Bill, which simplifies the land valuation process and streamlines the objections and appeals system. As honourable members know, since 1992 two land valuation systems, conducted by the Valuer-General and the Chief Commissioner of State Revenue, have been in place in New South Wales. This bill will make the Valuer-General the sole authority responsible for land valuations, thereby reducing the current needless duplication.

Taking this responsibility away from the Office of State Revenue is sensible. It removes any impression, rightly or wrongly, that the Office of State Revenue may overvalue land to benefit from higher tax revenue. Also, with only one government body valuing land, the objection and appeals process is halved. This sensible bill will save taxpayers money by reducing duplication of services and at the same time simplify the whole valuation system. The Unity party supports this bill and congratulates the Government on this initiative.

The Hon. I. COHEN [2.25 p.m.]: The Greens support the Valuation of Land Amendment Bill, which is designed to improve the processes applicable to valuation of land. The bill is largely aimed at reducing the complexity of the land valuation process. The Greens have no objection to the bill, but we suggest that the Government needs to carry out a much broader review of land valuation in the context of biodiversity conservation on private land. It is common for speculators to buy parcels of land, particularly in urban fringe locations, with the expectation or hope that the land will be rezoned to increase the development potential of the site.

When neighbouring land is developed, the value of nearby parcels increases and the effects flow on, with consequent increases in local government rates. The result is the creation of development expectations, which are sometimes regarded as entitlements. Rate increases that occur due to the increasing value of the land result in a self-perpetuating cycle of increasing pressure for development. In these circumstances, land with important biodiversity attributes—containing native fauna and flora habitats—is valued and assessed for ratings purposes in the same way as cleared land. The essential point I want to make in the context of this bill is that the land valuation and ratings systems make absolutely no distinction between cleared land which may be suitable for development and bushland which may be unsuitable for development.

There is some scope in the bill for valuation to take into account the importance of the land for biodiversity conservation. Where the land is a wildlife refuge, subject to a conservation agreement or to other protection under the National Parks and Wildlife Act, the Valuer-General must assume that land use is limited. However, much of the land which is important for biodiversity conservation in New South Wales is private land. Apart from zoning restrictions, such land is subject to few, if any, restrictions on use. Even land contained in environmental protection zones may be rezoned. The effect of the valuation system is that it is an important but largely unrecognised factor in land use outcomes throughout the State.

If the valuation of land which is managed for biodiversity conservation were lower than comparable land managed for development potential, land-holders would have an incentive to conserve their land. I urge the Government to carry out a further review of the appropriate legislation, including the ratings provisions of the Local Government Act. The Government needs to ensure that the legislation contains the appropriate incentives for nature conservation and does not operate to further endanger important species and ecosystems. Despite the issues I have raised, the Greens support the bill.

Reverend the Hon. F. J. NILE [2.27 p.m.]: The Christian Democratic Party is pleased to support the Valuation of Land Amendment Bill. The committee inquiry I chaired into land tax received many complaints from members of the public who believed that the land tax valuation on their homes was, to put it mildly, extravagant and far above the real value of the land. They believe that that this happened as a result of the valuation of land by the Chief Commissioner of State Revenue. It was contended that the higher the value of the land the greater the income from land tax. We are pleased that this bill provides for a single statute system, rather than the two statute system, for land valuations that will be used for council ratings and, where appropriate, land tax decisions.

The bill provides that the Valuer-General is the single authority responsible for land valuations. It also simplifies objections and the appeals process. Objections will be made to one authority, the Valuer-General, and appeals can be made to the Land and Environment Court against the Valuer-General's decisions or if a decision has not be made on an objection after 90 days.

The Valuer-General will make valuations annually for the chief commissioner for land tax assessments and in three-to-four year cycles by arrangement with councils for rating purposes. One of the problems discovered by the land tax inquiry was that a property may be sold in a particular street for a very high price. The exorbitant price may be attributed to various factors, the main one being a lack of land available for sale. The valuation of that property increases the value of all the other properties in the same street in an artificial manner. It is hoped that the new system will result in conservative valuations and realistic valuations. I believe that in the past when the Valuer-General undertook the valuing of land for council rating purposes, a similar effect resulted. If the same principle follows through to valuations as a result of this legislation, I believe that a great deal of the opposition and anger created by land tax adjustments affecting the family home once it reaches a certain valuation will be removed. The Christian Democratic Party supports the bill.

The Hon. R. H. COLLESS [2.30 p.m.]: In May 1999, owing to public concern, the Carr Government approached Julie Walton, an independent consultant, to conduct an inquiry into the operation of the Valuation of Land Act. This bill is the result of that inquiry which made 21 recommendations to address the current complexity of the land rating system and simplify the rights of objection and appeal of property owners. The object of this bill is to create a single statute for land valuations that will be used for council rating and, when appropriate, for land tax decisions rather than the current two-statute system. The bill makes the Valuer-General a single authority who is responsible for land valuations. It simplifies objections and appeals because objections are to be made to one authority, the Valuer-General, and appeals can be made to the Land and Environment Court against the Valuer-General's decisions or, if the decision has not been made, on an objection after 90 days.

Previously there were two separate valuation and appeal systems which served only to create confusion and to slow down the processes of appeal. The Opposition will not be opposing the bill, because it recognises the need to reduce the complexity of the valuation system and simplify a number of its aspects. The bill amends the Valuation of Land Act 1916 to extend the provisions of that Act to valuations for the purposes of the Land Tax Management Act 1956. However, the bill does not address the issue of land tax problems, as the Hon. D. T. Harwin outlined earlier in the debate. The Valuer-General will make annual valuations for the chief commissioner for land tax assessments and in three-to-four year cycles by arrangement with councils for rating purposes. Land subject to heritage restrictions and rent-controlled land will be valued by taking into account the effect on land values of those restrictions.

The Opposition is concerned that the limits of mass valuation, as outlined in the Walton report, have not been fully addressed by the bill. The report outlines the Opposition's concerns that State valuation agencies have moved away from traditional valuation methods to mass valuation techniques which involve the allocation of properties to groups and their valuation as a group. The report finds that the validity of the use of mass valuation methodologies in certain aspects is open to doubt. Objections to individual evaluations that have used the mass valuation methodology must be taken seriously. This matter has not been addressed directly by the bill. The report finds that there is a need for an attitudinal change until corrective action is taken. It recommends that the Valuer-General should regard objections in a positive light and use them to finetune valuations and monitor the standard of valuations recommended by contractors. The report clearly states that any attitude of "Do not query professionals" is inappropriate.

People, as well as governments, lack adequate warning of large and sudden increases in land values which may result in large and unexpected increases in tax liabilities. The Walton report considered better synchronising of the cycle of valuation, objection and assessment with the budget cycle, the provision of valuation-checking mechanisms and enabling objections to be made before individual tax assessments are made. The Opposition gives credit to the findings of the Walton report while expressing disappointment that the Government has not addressed many of the report's main issues and the social implications in this bill. Many people in our society are disadvantaged by the sudden and unexpected rise in valuations—the elderly, small business people, families and small investors in rental accommodation. The Walton report sought to consider ways in which more stability and predictability might be achieved for individuals and Government by adjustments being made to the valuation system, despite the inherent volatility of the property market and hence the land tax base. This bill will definitely make a contribution to the creation of a less complex, more open and fair valuation system for New South Wales.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.34 p.m.], in reply: I thank all honourable members for their contribution to the debate and support of the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

AUSTRALIAN INLAND ENERGY WATER INFRASTRUCTURE BILL

Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.36 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Australian Inland Energy Water Infrastructure Bill provides the legislative basis to consolidate water and electricity infrastructure management, to improve customer service, and to provide enhanced opportunities in far-western New South Wales. The proposed bill reflects this Government's commitment to improving regional service delivery and infrastructure development, and its commitment to operating State-owned businesses on a commercial basis. The Broken Hill economy has historically been dominated by mining. The Pasminco Broken Hill Mine, which is the largest employer in the Far West region employing 600 people, is the only remaining mine in the area. It has announced plans to close operations by 2006. It is estimated that the mine is responsible for one quarter of the region's economic activity. Forty four per cent of the Broken Hill population is outside the labour force and the town has a large population of pensioners and retirees.

The State of the Regions annual report concluded that far-western New South Wales fared badly in terms of economic opportunity. It stated that "around half the population ... lives in either marginalised communities or communities that without strong action to upgrade the economic fundamentals run a strong risk of becoming marginalised". Australian Inland Energy [AIE] is an electricity distributor supplying approximately 19,000 customers over an area over 150,000 square kilometres in the Far West. AIE has its head office in Broken Hill and it employs about 100 staff.

AIE is a statutory State-owned corporation established under the Energy Service Corporation Act 1995. That Act states that in addition to being a successful energy distribution business, the objectives of an energy distributor include exhibiting "a sense of social responsibility by having regard to the interests of the community in which it operates" and exhibiting "a sense of social responsibility towards regional development and decentralisation". In recent years electricity market pressures and local issues have prompted AIE to consider diversification into other infrastructure-related markets.

The 1998 Electricity Distribution Boundary Review Committee in its report to the then Minister for Energy concluded "If AIE is to reduce its reliance on government subsidies, the future for AIE may ... lie in diversifying its operations into other services in the Far West region." The Broken Hill Water Board is a statutory authority established under the Water Supply Authorities Act 1987. The water board provides bulk water supply to the city of Broken Hill as well as traditional water supply and sewer infrastructure services. The water board services a population of 24,000 including about 10,000 properties, and it employs approximately 80 staff. Subsidies to cover the water board's operating losses are split between Pasminco and the New South Wales State budget roughly 80 per cent to 20 per cent respectively. The planned closure in 2006 of the Pasminco mine and loss of the subsidy will necessitate major changes to the water board's funding arrangements.

The Government has been examining options to maintain the commercial viability of the Broken Hill Water Board and the operations of AIE, and to improve the economic fundamentals of far-western New South Wales. In August 2000 the Government

began the task of amalgamating AIE and the Broken Hill Water Board into a single infrastructure services corporation capable of delivering efficient infrastructure services to the people of far-western New South Wales. The Australian Inland Energy Water Infrastructure Bill completes this amalgamation and will lead to more efficient use of government resources, consolidated investment in regional services infrastructure and improved customer service in the far-western region. And in the longer term there is potential to achieve economies of scale as the fixed costs of both organisations are shared over a larger customer base.

AIE and the Broken Hill Water Board have been operating as a single entity for several months since the water board delegated its water supply and sewerage functions to AIE. This bill provides the legislative amendments to complete the amalgamation. In particular, the proposed bill provides a scheme for the statutory transfer of all assets, rights and liabilities of the Broken Hill Water Board upon its abolition to Australian Inland Energy Water Infrastructure. The bill also provides for the transfer of all staff from Broken Hill Water Board to Australian Inland Energy Water Infrastructure on the same terms and conditions of employment. The bill will abolish the Broken Hill Water Board and, in recognition of the amalgamation, "Australian Inland Energy" will become "Australian Inland Energy Water Infrastructure".

Australian Inland Energy Water Infrastructure will continue to be an energy distributor under the Energy Services Corporation Act 1995 and this bill will not affect the carrying out of any of its electricity supply and distribution functions in the Far West region. In addition to electricity and water services, the Government is examining ways for Australian Inland Energy Water Infrastructure to draw on its expertise in areas like energy-related products, network management and infrastructure development, to carry out an enhanced regional development role in far-western New South Wales.

The closure of the Pasminco mine will place a significant strain on the Broken Hill community, and it is possible that, on their own, neither AIE nor the Broken Hill Water Board could remain viable. The amalgamation will provide the far-western region with an organisation of the size and in-house expertise to help to meet the future challenges facing the far-western region. In addition to regional benefits for the Far West, there are also possible cost savings from the amalgamation in both the short and long term.

Possible short-term savings include senior vacancies at the Water Board that can be filled by AIE managers, a reduction in contracted professionals and consultants and a host of miscellaneous costs than will now be spread over a larger revenue base. In the longer-term savings may stem from better utilisation of fixed assets such as buildings and computers and reduced capital expenditure due to network synergies across water, energy and other network functions.

There is no redundancy program associated with the amalgamation. No permanent staff employed of either AIE or the Broken Hill Water Board will lose their jobs. Labour cost savings are likely to come from not having to employ new staff to fill several vacant senior management positions at the Water Board. It is envisaged that AIE staff with appropriate management experience can serve in some of these positions. The overall employment effect of the creation of Australian Inland Energy water infrastructure is likely to be positive as a result of this organisation's ability to more actively pursue the requirement of the Energy Services Corporations Act 1995 to have regard to regional development issues. The proposed transfer will have no material impact on the electricity prices or water prices, both of which will be determined by the New South Wales Independent Pricing and Regulatory Tribunal.

As previously discussed in this House, the Government is developing a framework that gives effect to the requirements of the Energy Services Corporations Act 1995 by recognising the unique regional development needs of far-western New South Wales. This framework will recognise that market forces drive economic development and contribute to higher living standards in regional economies. Subject to parameters developed by the Government, Australian Inland will adopt a strategy of working with the market to improve the Far West region's economic fundamentals by delivering efficient network and infrastructure services.

This bill creates a multiservice utility that will provide a range of vital services to the people of far-western New South Wales. The bill indicates this Government's commitment to regional infrastructure services and regional development, as well as its commitment to operating State-owned business on a commercial basis. With no loss of jobs and improved co-ordination of regional infrastructure services, the Australian Inland Energy Water Infrastructure Bill represents a new benchmark for service delivery and infrastructure development in regional New South Wales. I commend the bill to the House.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [2.36 p.m.]: The Opposition supports the Australian Inland Energy Water Infrastructure Bill, which will result in the formation of a new company to manage water and energy infrastructure in Broken Hill. The current electricity distributor in the area, Australian Inland Energy, is the smallest State-owned distributor in terms of customers, but it is one of the largest in service area. Australian Inland Energy serves approximately 19,000 customers over a huge area of 150,000 square kilometres in the Far West. The Broken Hill Water Board is a statutory authority which was formed under the Water Supply Authorities Act 1987. It provides bulk water supplies to the city of Broken Hill as well as traditional water and sewer infrastructure services. The Broken Hill Water Board currently provides services to a population of approximately 24,000, which equates to almost 10,000 properties.

The planned closure of the Pasminco Mine in 2006 will bring about the need for major changes to the board's funding arrangements because of current subsidy arrangements between the Government and the company. Similarly, the transition to the fully contestable retail market in electricity will bring about change for Australian Inland Energy. From both a practical and a financial perspective, it makes complete sense to consolidate the service and supply of electricity and water to the residents of the Broken Hill area. The Government began the process of amalgamating the two bodies in August. However, some people in Broken Hill tell me that the honourable member for Murray-Darling was running round well before that time, spruiking that he had a major announcement to make.

I am certain that the amalgamation proceeded only because the Government bypassed the local member to whom I have referred. I have also been informed that his active interference in the process led to serious delays. I suspect that the honourable member for Murray-Darling has very little knowledge of water, which probably has not touched his lips in more than 20 years. The bill completes the amalgamation process. As I indicated earlier, the Opposition supports this move. There are several key reasons why the Opposition believes that the Government is travelling along the right path in regard to this legislation.

The bill transfers all the assets of the water board to the new company, and also provides for the transfer of all water board staff to the new company. There is a significant potential for better economies of scale, as some consolidation of assets and management will occur over time. It is important that the new company is able to diversify, especially in the highly competitive contestable energy market. The addition of the functions of the water board will add to the financial viability of Australian Inland Energy as it enters the competitive market. I am pleased that the Minister has indicated that there is scope for the new company to further contribute to regional development in the Far West. The gradual wind-up of many mining operations in Broken Hill has already put a considerable strain on the town, and the closure of the Pasminco mine in 2006 will further that strain. Although the amalgamation will not be the panacea for all ills, the indication from the Government that the new company could have further functions is at least a step in the right direction. The creation of a multiservice utility is an important move for Broken Hill. The Opposition welcomes and supports the bill.

The Hon. Dr P. WONG [2.40 p.m.]: I will support this sensible government legislation to formally amalgamate Australian Inland Energy and the Broken Hill Water Board. I hope that the Government is committed to providing a continuing and adequate level of infrastructure and services to residents of the Broken Hill region beyond the life of the Pasminco mine. It will be a challenge for both the Government and the residents of the region. As the mine closes and the economic base of the region winds down it will be necessary to identify and promote other economic activity. If it is clear that economic activity will decline, the Government must have in place proper planning for continued service delivery to take into account the changing economies and cost of providing these services. If this service delivery is provided on a purely user-pays basis, it would impose a significant extra cost and hardship on the existing residents. The Government, which has benefited for 100 years from the revenue generated by mining in Broken Hill, has a responsibility to continue to subsidise the cost of providing water, electricity and other services to the region.

Reverend the Hon. F. J. NILE [2.41 p.m.]: The Christian Democratic Party supports the Australian Inland Energy Water Infrastructure Bill, which will amalgamate Australian Inland Energy and the Broken Hill Water Board by transferring the water supply functions carried out by the Broken Hill Water Board to Australian Inland Energy, and rename the entity Australian Inland Energy Water Infrastructure. Part of the reason for the amalgamation is the closure in 2006 of the Pasminco mine, which has largely dominated the Far West regional economy. In 1986 the Pasminco mine employed 4,600 people and produced 2.2 million tonnes of lead and zinc concentrate. Today that mine, which is really a combination of Broken Hill and CRA, employs only 600 people. However, last year it produced a record 2.8 million tonnes of zinc and lead concentrate. Obviously, mechanisation in the mining industry has reduced the number of people required to physically work in the mine and the ability to transport product from the face of the mine to the surface by various conveyor belts.

Some two years ago, when the occupational health and safety committee was inspecting companies in Broken Hill, we visited the manager of the Pasminco mine. Its anticipated closure was controversial and, as members of Parliament, we decided we should meet with the management to find out not so much about the future of the mine but what employment opportunities would exist in Broken Hill. The owners of the mine have made a lot of money out of Broken Hill and we wanted to know what they were going to put back into Broken Hill to create other industry and provide employment. They were very sympathetic and gave us assurances that they would investigate the matter. I have not heard whether they have contributed to any employment fund in Broken Hill, but I hope they have. They certainly indicated their willingness to do so. We are pleased to support the bill.

The Hon. Dr A. CHESTERFIELD-EVANS [2.45 p.m.]: The Australian Democrats support the amalgamation of Australian Inland Energy and the Broken Hill Water Board. Australian Inland Energy and the Broken Hill Water Board are amalgamating because their viability is under threat as a result of the proposed closure of the Pasminco mine. The Pasminco mine will close in 2006, which will place significant pressure on the viability of the Broken Hill Water Board and Australian Inland Energy. It will also place the jobs of their staff at risk. Australian Inland Energy currently employs about 100 staff, and the water board employs about 80 staff. When I expressed concern about possible job losses following the amalgamation I was told that cost savings would be made by a better use of resources.

I notice that Minister Yeadon admits in his second reading speech that although no person will be made redundant or sacked, current senior vacancies in the water board will be filled by staff at Australian Inland Energy. Although no staff may lose their jobs, there have been job losses and the net number of jobs will drop. The biggest cause of job losses in areas like Broken Hill has been the mechanisation of mining. It is definitely the case with the Pasminco mine. In 1986 the mine employed 4,600 people and produced 2.2 million tonnes of lead and zinc from the Broken Hill plant, but Pasminco now employs 600 staff and produced 2.8 million tonnes of zinc and lead concentrate last year. Pasminco's annual report states that the capacity of the mine is even higher, at 2.9 million tonnes of ore per annum. The description of the mine is:

> Pasminco Broken Hill Mine is on the southern outskirts of this famous outback mining city, situated in the far west of New South Wales. With a colourful and dynamic history dating back as far at 1883, Pasminco's underground South operation is now the only remaining major mining operation in the city. The mine supplies zinc and lead concentrates to Pasminco's Port Pirie and Hobart smelters, and a range of customers in Asia. Pasminco expects to close mining operations in 2006, when the orebody is exhausted.

Many times we hear about the need to help the mining industry, as it is an industry that has plenty of jobs. However, the mechanisation of the process means that we have to look to other industries to provide job opportunities. Mining is not the big employer it once was, and the drop in the population in mining towns such as Broken Hill reflects this. Members of this community, like many towns and cities in regional, rural and remote Australia, are looking to new industries. The community of Broken Hill has a history of resilience and fighting against the odds to maintain a city that has a long and proud history. I expect that the community of Broken Hill will, once again, deal with job losses as a result of the amalgamation, and the more troubling job losses that will follow the closure of the Pasminco mine. The Australian Democrats support the bill. We will monitor the situation in Broken Hill during the amalgamation process and, in the years to come, the closure of the Pasminco mine.

The Hon. D. F. MOPPETT [2.48 p.m.]: I have just returned from a brief trip to Broken Hill, so I can certainly provide an up-to-the-minute perspective. Most honourable members have spoken with a good deal of authority, but they tended to speak about Australian Inland Energy [AIE] as the entity that is under threat, whereas the reality is that a progressive, innovative corporation will take over the operations of the Broken Hill Water Board. The changes in economic outlook for Broken Hill fall most seriously on the future of the Broken Hill Water Board.

Historically, provision of adequate water not only for domestic purposes but for the extensive mining and metallurgical operations undertaken in Broken Hill was no mean undertaking. When mining operations were first started at Broken Hill they were threatened on many occasions by drought. In the early days the meagre water storage arrangements regularly faced exhaustion. At the moment the Broken Hill Water Board administers the Stephens Creek reservoir, with the backup of the Umberumberka reservoir, which preceded the Stephens Creek development and is now more of a tourist attraction. The board also undertakes the much more significant and expensive operation of pumping water from Menindee Lakes across to Broken Hill and treating it for use by the city.

All those services, like so many others in Broken Hill, were achieved by special arrangements which depended very heavily on the contributions of mining companies to offset costs. Broken Hill is in some ways like many other great mining centres, but often people have remarked about its unique conditions—an apt point to make. The generosity of mining companies in the past in contributing to infrastructure which had been established perhaps by council or by State Government authorities, and indeed the propensity of those companies to provide social infrastructure for their employees and for the town generally, are often overlooked when people talk about the turbulent history of those companies. I am sure that at times Broken Hill residents did not hold mining companies in high esteem, but that is part of the rich history of industrial relations in this country.

Interjections I made during debate were not acknowledged so they would not have been recorded in *Hansard*. However, I will digress to add that the incredible productivity change that Pasminco achieved was partly due to technology. There is no doubt that everywhere in Australia the techniques used in extracting minerals from underground mines and in hard rock mining have improved out of sight. Union representatives—I will be as even handed as I can—realise that the writing is on the wall. Unless they are prepared to yield on some of the rules that apply in the county of Yancowinna, the demise of Broken Hill will be greatly accelerated. Relaxation of certain local rules has allowed for working conditions which maximise the output of modern machinery. I am sure Reverend the Hon. F. J. Nile observed the change from dependency on winding operations bringing everything up to the surface to the development of extraordinarily long slopes that machinery can drive down into mines despite the great working depth. The union representatives are all part of that process.

At the end of the day people realise that the contributions made by mining companies to local government under the current rating formula—which all mines, whether in Cobar or elsewhere, are subject to—are substantial. I know that the Minister for Mineral Resources is aware of that. At the end of the day, if all mining operations were to stop proverbially tomorrow, local government areas would get one hell of a shock. In fact, the local council in Broken Hill is to be congratulated on having a working team constantly looking at and reviewing the scale of operations so those activities can be scaled down to enable council to live within its budget when the time comes. The council is working out how it will deal with the amenities that have been left behind—swimming pools, bocce courts, bowling clubs, golf clubs and so forth that were established in the roaring days but which will be very expensive to manage if the local community has to look after them.

Australian Inland Energy was an anomaly in the breaking up and reconfiguration of the distributing county councils. It took on board the Darling Electricity Construction Agency [DECA] scheme, as we all call it, the far west electrification scheme, and got the blunt end of the stick because the financial arrangements which some land-holders had entered into and which were proving very burdensome were only administered by it. It was not the lender, nor was it the recipient of the Treasury payments, but it did send out the bills. As human beings, as usual, we all want to shoot the messenger rather than the person who sent the message. Australian Inland Energy complained about that because of the state of its customer relations, and has attended to it. Australian Inland Energy wanted to continue servicing those on the DECA scheme and wanted the lenders to make suitable arrangements with the company. AIE has progressed from that rather doubtful start when it seemed to be so much smaller than any other corporation and its survival really was a matter of conjecture. This is not a matter of Big Brother and smaller brothers. Rather, Australian Inland Energy is in a unique situation and knows that it really has to work hard to survive.

One of the great innovations that Australian Inland Energy has pursued—and we wish it well in the undertaking—is the establishment of a saltbush plantation as a carbon emission sink. I do not think anyone has ever envisaged that shrubs would be used for that purpose. Everyone thinks of the influence of carbon trading on the great forests of our temperate zone. Australian Inland Energy has successfully established approximately 170,000 plants. That is not a huge undertaking but it is possibly a pointer to things to come. Australian Inland Energy is thinking laterally, and that is to be highly commended. We all must think carefully about some of the statements made by the Treasurer when he introduced legislation to make carbon trading possible, because basically that has come to a standstill. The recent Hague Convention certainly did nothing to open up further discussion. The trading companies or stockbroker-type people who were interested in the development of a carbon trading market here, once that was facilitated by legislative framework, are closing down those operations. We look forward to that endeavour being renewed to fulfil the aim of Australian Inland Energy.

I assure honourable members that Australian Inland Energy is well managed. Councillor Marion Browne, who has identified herself with the Australian Labor Party, is chairman. Marion Browne holds universal respect in the community and anyone who visits the area would know how dedicated she has been to the development of these new electricity undertakings. Her contribution, together with that of Eddie Norris, the general manager, should be saluted. I am sure all honourable members wish this new corporation and the people of Broken Hill well as they come to grips with a very challenging future.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.58 p.m.], in reply: I thank all honourable members for their contributions and support, and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL

Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [2.59 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The State Revenue Legislation Further Amendment Bill contains amendments to the Duties Act, Land Tax Management Act, Stamp Duties Act, Taxation Administration Act, and First Home Owner Grant Act. The proposed amendments include a number of anti-avoidance measures, tax concessions and improvements to State tax administration. I will deal with the amendments to each Act in turn.

Duties Act

The Duties Act currently provides for stamp duty and mortgage duty relief for first home buyers. First Home Plus, as the scheme is known, is based on the value of the home and different value thresholds apply for metropolitan and non-metropolitan homes. The metropolitan area definition does not include the areas of Lake Macquarie or Newcastle. In recognition that some home values in these areas are as high as homes in other parts of the metropolitan area, the proposed legislation will extend the definition to include them. This amendment will allow more first home buyers to have access to the scheme. The next proposal for change relates to the closing of a loophole. Under the current legislation, a purchaser under an agreement for sale can elect to have the property transferred from the vendor to a person who is "related" to the purchaser, without paying ad valorem duty on the transfer. This concession is intended to apply in situations where either the purchaser is unable to identify who will ultimately be the owner, such as another family member or a family trust, or there is a change of mind prior to settlement.

The current concession is capable of being abused by persons stamping additional transfers after settlement of the contract but prior to registration. These generally are separate transfers and are unrelated to the original contract to purchase. The bill includes amendments to close this loophole and limit the concession to the period between exchange and settlement of the contract, to reflect the original intention of the provision. A further amendment is proposed in relation to the land-rich provisions of the Act. The land-rich provisions impose normal transfer duty on certain share and unit acquisitions where such acquisitions involve obtaining a majority interest in a land-rich private corporation. A land-rich private corporation is one where the main asset is real property with a value greater than $1 million. Similar provisions operate in all other Sates and Territories. The current definition of acquisition under the land-rich provisions is limited to acquisitions of shares and units in a company. It does not include acquisitions as a result of changes in memberships of companies limited by guarantee. The bill includes clarification of the land-rich provisions to ensure that changes in memberships of companies limited by guarantee are considered acquisitions.

First Home Owner Grant Act

The First Home Owner Grant is designed to offset the anticipated increase in the cost of housing for first home purchases as a result of the introduction of the goods and services tax on 1 July 2000. This assistance is available for first home buyers in Australia and a similar Act operates in all other States and Territories. To be eligible for the First Home Owner Grant, the applicant must be either an Australian citizen or permanent resident. New Zealand citizens receive a special category visa and do not meet the current eligibility criteria. The bill includes an amendment to define New Zealand citizens who reside permanently in Australia as permanent residents for the purposes of the First Home Owner Grant Scheme. All States and Territories have introduced similar amendments after endorsement by the Commonwealth Government.

Land Tax Management Act

The bill will clarify the land tax liability in respect of land owned by the Sydney Harbour Foreshore Authority. The establishment of the authority to subsume the role of the Sydney Cove Redevelopment Authority resulted in a change in the land tax liability of the authority's tenants. The bill will impose land tax on tenants of the former Sydney Cove Redevelopment Authority where the authority previously paid land tax and recovered the cost from those lessees. The next proposal stops the misuse of a land tax exemption. An owner of land is exempt from land tax if the land is used solely as a site for a public garden, public recreation ground or public reserve. The bill proposes amendments to ensure that the exemption is only available to owners who meet the requirements for exemption as a charitable or non-profit body under other provisions of the Act. This will prevent owners of residential properties from turning parts of their properties into a public garden primarily to attract the exemption.

The bill proposes an unavoidable change to the definition of a nursery. Land used for a nursery is exempt from land tax on the basis that it falls within the definition of "land used for primary production". Concessions in the Duties Act use the same definition, which relies, in part, on the definition of "nursery" in the Horticultural Stock and Nurseries Act 1969. This Act is to be repealed, effective from 31 December 2000. The bill includes amendments to the Land Tax Management Act and the Duties Act to insert a definition in relation to nurseries with essentially the same meaning as the current provisions.

Stamp Duties Act

The receipt of most Government pensions, benefits and allowances is exempt from financial institutions duty [FID]. Under the Commonwealth Government's New Tax System, new social security payments are available. The FID exemption is to be extended to cover these new payments with effect from 1 July 2000 and the bill includes these amendments.

Taxation Administration Act

A separate board is established under each of the Duties Act, the Land Tax Management Act and the Pay-roll Tax Act to review the tax liability of persons where the payment of the tax would result in serious hardship. Each board has the power to waive, defer or write off any tax. The members of each board are the same and include the Chief Commissioner of State Revenue, the Auditor-General and the Secretary of the Treasury. As a result of a review of these boards, it was recommended that the three separate boards be formally made into one Hardship Review Board. The bill includes provisions to establish the board under the Taxation Administration Act and consequential amendments to the three revenue Acts containing the original hardship boards. The bill also proposes to consolidate and strengthen the provisions making related companies jointly and severally liable for group tax debts. Currently under the Pay-roll Tax Act, members of related companies are jointly and severally liable for any shortfall in the annual amount of pay-roll tax paid. However, this does not extend to any interest for late payment or penalty tax imposed on a group member.

> The proposed amendments reflect three principles. First, related or grouped companies are to be jointly and severally liable for debts of any or all of the members of the group; second, these debts are to include any liability to pay an amount under a revenue law including interest and penalty tax; and last, any member of a group who pays tax debts of another member is entitled to recover the relevant amount from the member that incurred the tax debt. These provisions are to be included in the Taxation Administration Act, with consequential amendments to the Pay-roll Tax Act and the Land Tax Management Act. I commend the bill to the House.

The Hon. J. F. RYAN [2.59 p.m.]: The State Revenue Legislation Further Amendment Bill represents the last instalment the Government will make in dealing with its revenues for the course of this year. I note that it continues to prop up the profligate spending of this Government and increase its taxation, as has been the case with many bills. However, on this occasion the Opposition will not oppose the bill. It will let it through without a great deal of debate or demur. Perhaps next time we will think otherwise. The House has not had the opportunity to debate the budget. Therefore honourable members have not had an opportunity to speak about budgetary matters that are of interest to them. I thank the Government Whip for the courtesy of allowing me to at least address one matter that more correctly would be part of the budget debate.

Honourable members will recall that from the end of last year and throughout this year I have been pressing for changes to laws protecting home building consumers. I note with some pleasure that the Minister for Fair Trading recently announced a package of changes to the laws protecting home building consumers. At the beginning of this year I set for myself the goal that I would attempt to achieve just that: major changes to our home building laws. As an Opposition backbencher, I realise I have no real basis on which to expect that I would be successful in setting myself such an objective. All I had to assist me was the force of argument to convince the Minister and the support from a number of people in the community for which I am grateful. I thank the Minister for having been prepared to listen to submissions I have made in this House and in other places. He has been prepared to announce a package of measures, which, at first glance, are a step forward. Naturally we will have to examine some of the detail regarding those measures and will do so next year.

I indicate that there are reasons to continue with this effort. I shall give one example that arose from a recent decision of the Fair Trading Tribunal to illustrate to honourable members the importance of reform in this area. I refer to a family that had a house built by someone whom I know to be a respected developer. The building had a number of problems about which the family were concerned, but because of the terms of an agreement, which I shall deal with in a moment, I cannot speak about them. The problems were sufficiently evident, however, that the builder and insurer made a number of concessions to the home buyers, which included a combined offer of $4,000 cash to fix the problems. I am sure that anyone with experience in home building disputes would agree that concessions like this from builders and insurers are notoriously hard to get unless the defects are obvious and beyond any contest. The only problem with the settlement for the home owners was that the money offered by the builder was not sufficient to fix the problems, so they took their dispute to the Fair Trading Tribunal.

The home building company withdrew its previous offer and proceeded to fight every complaint to the bitter death. In addition, it also issued the threat that the complainants would face substantial legal costs if they were unsuccessful. It has been reported to me that members of the tribunal presiding over the matter joined with the developers in making these threats. The home buyer, although represented by a barrister, got scared. It would appear that because of the attitude of the presiding member, Ms Gurr, they felt they were not being given the opportunity to have a fair hearing and were being railroaded into a settlement they found unacceptable. Rather than face the burden of extensive legal costs, they decided to ask for a means by which they could discontinue. In order to discontinue they signed what I believe is an outrageous agreement. Included in that agreement was a clause that commits the applicants as follows:

> [from making] any adverse critical or detrimental representations or communications, including but not limited to the media, orally or in writing and whether directly or indirectly in relation to ... the quality standard or nature of the workmanship, materials, aesthetics and design of the improvements, fixtures, fittings and finishes of the property known as—

The address is then given. The agreement included also a condition not to pass on any information about their concerns—concerns that were conceded initially by the builder—to any future purchaser of the property. It included also an agreement to indemnify the developer against any legal claim that might arise from those problems regarding the quality or finish of the house by any future purchaser. The complainants became responsible for the quality of the home into the future no matter what happened to it. In my opinion, even though I am not a lawyer, it appears that this agreement invalidates the guarantees given to all home building purchasers by the Government's Home Building Act.

I understand that tribunal members not only approved this outrageous settlement but physically helped to draft it. The home builders in this case now appear to be in a position where they are unable to make any more complaints about their house, on these or other matters. The home owners have just received an expert

report that claims the house is not properly protected from termites. Even coming to me to seek advice places them at legal risk. I supported their request for a rehearing to the chairman of the tribunal, Judge Kevin O'Connor, pointing out these and other concerns I had with the agreement. I received a letter from Judge O'Connor, which states in the last two paragraphs:

> The proceedings were settled, most significantly in circumstances where—

he names the applicants—

> were legally represented. As you will appreciate, to reopen a settlement is a grave step.
>
> As already indicated, I am not satisfied that my power should be exercised in that way in this case.

I accept that it is a grave step to reopen a settlement, but I ask him to appreciate also that delivering an injustice of this nature, which might even be contrary to law, is a grave step. Before this couple went to the tribunal they had undertakings from the builder that there were problems in the house and an offer of cash to settle. Now they have nothing and even less protection against further problems that might arise with a building than they would normally have under the law. It should not be legal to make such an arrangement. Obviously, the law is an ass and, in my opinion, so is the chairman of the tribunal if he continues to blindly accept such nonsense. However, under current law there is nowhere for these people to go to complain. Tribunal members exercise a quasi judicial function, but they are not subject to any supervision from an independent body such as the Judicial Commission. The only place people can go to complain about the tribunal is back to the tribunal, and its members simply declare themselves to be innocent. This is but one of many cases of concern. I raise it in the hope that I will be able to make further submissions to the Minister in another place in order to rectify what I believe to be a grave injustice. Otherwise, I commend for the consideration of the House the State Revenue Legislation Further Amendment Bill.

Ms LEE RHIANNON [3.08 p.m.]: The Greens will not oppose the State Revenue Legislation Further Amendment Bill, which seeks to address a wide range of matters in the Duties Act 1997, the Pay-roll Tax Act 1971, the Land Management Act 1996, Stamp Duties Act 1920, the Tax Administration Act 1996 and the First Home Owner Grant Act 2000. The Greens welcome one of the major purposes of the bill, which deals with tax avoidance. The bill strengthens the provisions that make group tax payers liable for debts even if they have been incurred by another related company. These provisions should go a long way to solving problems with payroll tax. We welcome also the tax concessions to Commonwealth Government social security benefits and the extension of First Home Plus to Newcastle and Lake Macquarie.

The Greens note the decision to replace the three existing boards with one Hardship Review Board. We understand that the board will be constituted in the same manner as the three existing boards. We trust that the new board will exercise a cautious approach towards the waivering, deferral or writing off of tax in extreme hardship cases. We will follow with interest the debate on this bill, which we will not oppose.

Reverend the Hon. F. J. NILE [3.10 p.m.]: The Christian Democratic Party supports the State Revenue Legislation Further Amendment Bill, which proposes a number of amendments to the following revenue Acts: Duties Act 1997, Pay-roll Tax Act 1971, Taxation Administration Act 1996, Land Tax Management Act 1956 and Stamp Duties Act 1990. It will also amend the First Home Owner Grant Act 2000. We are pleased that the bill will block some tax avoidance schemes that have been operating. Apparently groups of companies have been able to avoid tax, penalties, interest and recovery costs where the liability is imposed on one company but the group assets are held by another company. This bill will ensure that group taxpayers under a revenue law are jointly liable for all such debts.

We note also that the bill will establish a single Hardship Review Board, which will replace the three existing boards. The new board will have authority to waive, defer or write off tax in cases of extreme hardship. I understand that that authority will cover land tax. The Minister might indicate whether that statement is accurate, because from an inquiry into land tax it seemed certain that there would be no provision to waive land tax—that is despite the fact that the inquiry felt that there should be exemptions in some cases. One such case would be an elderly pensioner widow who has no money and who is not able to meet a bill for land tax on a residential property that she owns.

In other words, I would like the Government to indicate that in some cases of extreme hardship the Hardship Review Board could waive the requirement to pay land tax. That discretion, of course, should not be abused, but there will be some cases in which a waiver would be justified. It should not be the case that in such circumstances the State revenue people would say to the lady, "You do not have to pay this land tax bill. We

will accumulate the tax, and when you die we will sell your property and take the land tax from the proceeds of the sale of the property." That is not waiving the tax; in those circumstances the money is still taken from the value of the property upon the death of the person.

I note that the bill makes some minor amendments to the First Home Owner Grant Scheme, and provides that New Zealand citizens who reside permanently in Australia—in other words, those who live in Australia but are not Australian citizens—will now be eligible for the first home owner grant. My mother was born in New Zealand, so I suppose I am half New Zealander, but that provision seems to me to be a bit odd. We seem to be making all these concessions to New Zealanders who live in Australia. That is why they are flooding into Australia; it is heaven on earth. Now they will be able to apply for the first home owner grant as well. I wonder how many New Zealanders Treasury expects will apply for the first home owner grant. I believe this provision is too generous. Is there a similar scheme for Australian citizens who are permanent residents in New Zealand? Can Australian citizens living in New Zealand apply for a first home owner grant? I would say the answer is probably no.

The Hon. R. S. L. Jones: New Zealand probably could not afford it.

Reverend the Hon. F. J. NILE: No. They are bankrupt under a Labour government. It is a pity. Maybe somebody makes these decisions thinking that we must be fair to New Zealand citizens living in Australia. But, as was pointed out recently in the media, there is a large population movement from New Zealand to Australia, particularly by people who would avoid our immigration laws by using the open door of New Zealand to get into Australia. By doing that they can jump the queue, leaving others who obey the law to go through all the appropriate procedures, such as being interviewed in refugee camps and other places around the world, waiting sometimes years to get to Australia. The people I am talking about go to New Zealand and after a short time come to Australia, even without visas, by using the policy of open movement between New Zealand and Australia. Those people also will get the first home owner grant of $7,000. These sorts of provisions are probably attracting more New Zealanders to Australia, rather than deterring them.

The Hon. R. S. L. JONES [3.15 p.m.]: Reverend the Hon. F. J. Nile seems to suggest that New Zealanders who come here do not contribute any tax. But, of course, they pay tax when they come here.

Reverend the Hon. F. J. Nile: But they go to New Zealand for only a short time simply to get to Australia.

The Hon. R. S. L. JONES: But they come here because it is a much better place to live than New Zealand is. It is much livelier here in Sydney, there are more things happening, and there are more opportunities for jobs.

Reverend the Hon. F. J. Nile: They should develop the economy of New Zealand.

The Hon. R. S. L. JONES: Their economy collapsed when the Conservatives opened up the New Zealand economy to world competition. I had a business there in 1983 that was very well protected with tariffs and so on, when everyone had a job and every product you picked up was made in New Zealand. The whole of the economy was booming. When the Conservatives opened up New Zealand's economy to world competition and reduced tariffs, the economy collapsed. New Zealand is a bit like Tasmania is to the north island; it is suffering from its economy being opened up to the harsh winds of global competition. We are going down exactly the same track ourselves.

On the question of New Zealanders who are residents of Australia getting the first home owner grant, I brought this issue up when we were briefed on this bill. It appears that a person who had already bought a house in New Zealand would not be disqualified from applying for and receiving a first home owner grant in Australia. A person who has a fancy house in Auckland might very well come to Australia and get a first home owner grant to buy another house here. That could easily happen. Nothing prevents it from happening. It occurs to me that there is a loophole within the loophole, as it were.

The Government should look at whether such persons should be required to declare that the home they are buying in Australia is their first home. It could very well be their first home in Australia, but actually their second home because they have a home in New Zealand. It is a fact that New Zealand and Australia are getting closer and closer and that the two countries work together on very many things. It is a good thing that we are doing that. Maybe we will have a common currency at some point.

Reverend the Hon. F. J. Nile: New Zealand could become a separate State.

The Hon. R. S. L. JONES: Or two States, the North Island and the South Island being separate States. I am not sure that New Zealand would want to do that. We should not forget that this very Chamber used to run New Zealand back in the early nineteenth century. Maybe New Zealand would be better run if this House still did that. There is in my view—a view that is shared by other honourable members—a problem with the proposed change to the Land Tax Management Act. I pointed this out to the Government and to Treasury via Government advisers. The problem is that the amendment will remove the exemption from land tax for owners of land who use the land solely as a site for a public garden, public recreation area or public reserve.

Treasury has already said informally that it does not know how much land will be affected by that amendment. It does not know how many pieces of Sydney land that are effectively public lands—whether gardens, recreation reserves or other public reserves—are currently in private hands because of this exemption. If the amendment proposed by the bill is passed, at least one plot of land, and maybe several blocks of land that are regarded by the public as public land will most likely be sold off, never to be available to the public again. It worries me because there has been no quantification of the amount of land affected by the amendment.

If Treasury were able to tell us that, say, three specified blocks of land in Sydney are affected by the proposed amendment, we might have some reason for supporting the amendment. But, as we do not know how much land may be pulled off the market and made no longer available for public use, it is irresponsible of Treasury to propose the amendment without knowing the effects of it. Therefore, in Committee, I will move amendments to remove that amendment withdrawing the exemption until Treasury gives us some idea of the impact of the amendment to remove those lands from public use.

If the legislation is amended and people sell off their land—waterfront land or wherever it may be—and the land is built on, local communities will be shouting about the loss of public amenity that has resulted from the Government charging the owners land tax. So there may well be a backlash against the Government for causing blocks of land all over Sydney to be pulled out of public use and sold because the owners cannot afford to pay the land tax. It is an iniquitous provision that has not been well thought out by Treasury.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [3.23 p.m.], in reply: I thank all members for their contributions and commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 8 agreed to.

Schedules 1 and 2 agreed to.

Schedule 3

The Hon. R. S. L. JONES [3.25 p.m.]: I move my amendment:

Page 8, schedule 3 [4], lines 4-14. Omit all words on those lines.

Although Treasury should have some idea, we have not been told of the impact of the provision on revenue or on public amenity. At least one block of land will be effected. As I said at the second reading stage, blocks of land throughout Sydney—we do not know how many—currently are being used for public use by people walking their dogs, having picnics, sitting under trees or whatever it may be. These blocks of land may be affected by the amendment of the Act. We simply do not know whether they are affected. I suggest that proposed section 10P (1A) be removed from the bill. Treasury should do its sums and find out what blocks of land are affected and the impact on the loss of public amenity. No-one is able to tell us what the impact of the provision will be. It is up to Treasury to let us know what impact its proposed legislation will have.

The Hon. J. F. RYAN [3.26 p.m.]: The Opposition would not normally support an amendment of a revenue bill in the upper House, which is an extraordinary step. However, from reading the explanatory notes and the second reading speech there seems legitimate reason to question what this provision is doing in the bill.

The explanatory note says that an owner of land is entitled to an exemption from land tax if the owner uses the land solely as a site for a public garden, public recreation ground or public reserve. That would be regarded as desirable and welcome. There is reference to a recent Supreme Court decision, *Evatt v Chief Commissioner of Land Tax* 1999, which indicates that a private owner of land may qualify for the exemption in respect of the garden of a dwelling by opening it to the public even if a fee is charged for operating and maintenance costs.

The Government is concerned about the decision in this case and it proposes that the exemption will not apply if the land is owned by a natural person or is held in trust by a natural person. Perhaps the Government is concerned that the exemption, whilst welcome, needs to be limited in some way or other. However, the Hon. R. S. L. Jones has said that Treasury argues that it does not know how much land will be affected by the amendment and has not indicated how much revenue will be involved by the passing of the amendment. It is good legislative practice for us to know the impact of the laws we are passing. That is not unreasonable. So at this moment we are inclined to support the deletion of the clause. I cannot imagine that it would have horrific impacts for the revenue of the State. It appears to be a very narrow issue and to involve a very narrow distinction. The Chamber could return to the issue next year if it continues to be a problem. But we will listen with interest to the response of the Government on the devastating impact of support for the amendment. As I said, we accept that amending a revenue bill is a matter of concern but this provision appears to have a perilously limited area of application. Given that, the Opposition is inclined to support the representations made by the Hon. R. S. L. Jones.

The Hon. Dr A. CHESTERFIELD-EVANS [3.27 p.m.]: I support the amendment, which seems very sensible. It would seem that a large amount of land is being transferred from public access to private pleasure. Historically, this trend is almost irreversible. If significant lands are affected by this provision, we should know about it and discuss it. If it is trivial and very few blocks will be involved, the Government at least should be able to reassure us of that. The best course would be for the Government to accept the amendment and come back to us when the facts are clearer rather than force us to a division now.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [3.28 p.m.]: The Government opposes the amendment. The Hon. R. S. L. Jones is concerned about the limit to the exemption for public gardens, public recreation grounds and public reserves. The current legislation provides an exemption for land use for these purposes provided it is not used for a profit-making enterprise. However, a 1999 Supreme Court decision indicated that the concept of using such land for profit was limited to day-to-day operations and did not extend to consideration of whether the owner of the land could profit from the sale of the land or the winding up of a body that owns the land.

The Supreme Court decision opens up a land tax avoidance loophole for owners who simply provide access to the public. This might be particularly attractive in the case of vacant land or large blocks where only part of the land is being used. Even if a fee were charged for access, the land would still qualify for exemption provided the fee was used for the upkeep of the garden and not directed to the profits of the owner. The fee could be set at such a prohibitive rate as to limit the number of people who use the garden for public recreation et cetera. There would be many cases in which owners of taxable land could reduce or avoid tax using this loophole. Typical examples are land used as the owner's principal place of residence and subject to the premium property tax with a land value of $1.319 million or more for the 2001 tax year. Existing gardens or part of an existing garden could be fenced off and opened to the public to attract the exemption. Vacant land being held for a future development or subdivision would also qualify. This would be particularly attractive in respect of vacant land in urban growth areas. In such areas land tax acts as an incentive to develop or subdivide the land. The proposed amendments will remove the loophole by applying a similar test for the exemptions as already applies to non-profit bodies, including charities.

The amendments will ensure that the land cannot qualify for the exemption if it is owned by a natural person other than as a trustee for a non-profit body. When land owned by a natural person is sold that person would be entitled to the proceeds of sale, including any capital gains. Alternatively, the owner could develop the land for a future profit-making purpose. While the land may become taxable, the owner would avoid land tax during the period when the land was used as a public garden. The proposed amendment applies section 10P (1) to the exemption. This provision already applies to other exemptions for charitable and educational institutions, religious societies and non-profit bodies. Section 10P (1) ensures that the exemption does not apply if a member of the owning body is able to benefit from the distribution of the land or the proceeds of the sale of the land if the body is wound up. To pass the test imposed by this section, the constitution of the body must prevent a member from benefiting financially upon a winding up.

If an owner currently qualifies for the exemption but the constitution of the body does not strictly comply with the new requirements, or it prevents members from benefiting, the Chief Commissioner has a

discretion to grant the exemption provided the body agrees to amend its constitution within six months. This provision already applies in relation to other exemptions for charitable and educational institutions, religious societies and non-profit bodies. The proposed amendments will not generate additional revenue, because until the recent Supreme Court case the Office of State Revenue's practice has been to not grant the exemption unless the land was owned by a non-profit body. However, the proposed amendments will prevent a potentially large loss of revenue if taxpayers were to take advantage of the Supreme Court's decision and seek to qualify for the exemption for land that is currently taxable. For that reason, the Government opposes the amendments.

Reverend the Hon. F. J. NILE [3.32 p.m.]: I am concerned about the impact of the amendment in view of the purpose of the legislation, which is to close loopholes. It appears the amendment would open a loophole. Many people in the Vaucluse harbourside area have large properties, with houses sitting on what are almost parklands, but it is all part of their property. If this amendment were passed they could fence off part of it to avoid paying land tax. If they could cut off a large percentage of the land it could even preclude them from being taxed at all. I would not be very happy with inserting a loophole in the legislation.

The Hon. R. S. L. Jones: It could be a recreation area.

Reverend the Hon. F. J. NILE: No, it would be a phoney recreation area. They could set it up and charge $100 to get in. No-one would get in but they could go to court and claim not to have to pay land tax because of the honourable member's amendment.

The Hon. J. F. RYAN [3.33 p.m.]: This is the Legislative Council doing what it is supposed to do—it is the Chamber of review. The honourable member has raised some reasonable concerns and I believe that the Government is willing to adjourn this matter to give us time for further consideration. I invite the Government to do just that.

Progress reported from Committee and leave granted to sit again.

DISTINGUISHED VISITOR

The DEPUTY-PRESIDENT (The Hon. A. B. Kelly): I acknowledge the presence in the gallery of Kraisorn Thewprasert, who is a former officer of the Thai Parliament and who is currently a Senior Consular Officer with the Australian Embassy in Thailand.

CRIMINAL PROCEDURE AMENDMENT (PRE-TRIAL DISCLOSURE) BILL

Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [3.34 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Criminal Procedure Amendment (Pre-trial Disclosure) Bill. Honourable members should be aware that this bill passed through the Legislative Assembly with substantial Government amendments to the bill as originally introduced. The purpose of the bill is to introduce a process where courts, on a case-by-case basis, may impose pre-trial disclosure requirements on both the prosecution and the defence to reduce delays and complexities in criminal trials. The current situation is regulated by a combination of common law rules, legislation, prosecution guidelines, Bar Association and Law Society rules, and Supreme Court practice directions. This bill improves upon and formalises these requirements.

A working party considered the options for reform after the former Attorney General indicated the Government's intention to reform this important aspect of the administration of justice in January last year. The working party comprised representatives from the Director of Public Prosecutions [DPP], the Legal Aid Commission, the Bar Association, the Law Society, Crown prosecutors, public defenders and the police. I advise the House that members must read the bill in conjunction with the draft regulations made available by the Attorney General. Parliamentary Counsel worked with the Criminal Law Review Division of the Attorney General's Department to ensure the regulations reflect the Government's intention with this valuable reform. I will provide a brief overview of the bill and the changes since its introduction into the other place.

The bill allows the court to reject evidence not disclosed in accordance with the requirements and may grant an adjournment to a party whose case would otherwise be prejudiced. In jury trials, a comment may be made to the jury in relation to a party's non-compliance with disclosure duties. That comment, however, cannot

suggest guilt. These consequences follow at the discretion of the court. The Government is of the view that at this stage it is appropriate that the regime be a case management based scheme. We will be monitoring the take up of the scheme to ensure it works to the advantage of the parties and to the court system at large. The bill allows courts to invoke pre-trial disclosure requirements in appropriate District Court and Supreme Court cases.

In addition to providing for case-managed pre-trial disclosure, the bill provides other amendments designed to further enhance the efficiency and fairness of the criminal justice system. New section 63A prevents a prosecutor from amending an indictment that has been presented at trial without the accused's consent or the court's leave. This will improve the practices of the DPP and the Crown in ensuring cases getting on to trial are ready to go. Schedule 2 amends the Director of Public Prosecutions Act 1986 to formalise the general duty placed on police officers to disclose to prosecuting authorities all relevant information and material obtained during the investigation of an indictable offence. Schedule 3 amends the Crimes (Sentencing Procedure) Act 1999 to enable courts to take into account compliance with pre-trial disclosure requirements when sentencing an offender.

Pre-trial disclosure carries significant benefits for the parties involved in a case, the courts and the criminal justice system generally. It enables the parties to focus on issues that are in contention, rather than having to prepare evidence in relation to issues that are not in dispute. This will result in the more efficient use of court time, the time of counsel and less inconvenience to witnesses whose evidence would not in any event be challenged. Adjournments in response to unexpected developments in the course of a trial would be minimised. The defendant is in a better position to make an informed decision about whether or not to plead guilty, based on the strength of the disclosed prosecution case. If defendants are pleading not guilty, they are assisted in preparing for the trial by being made aware of the prosecution case in advance.

Furthermore, pre-trial disclosure ensures that prosecutors disclose all evidence available to them, not just the evidence in the prosecution's possession that is favourable to its case. Let me emphasise: the defence response is premised on full and timely disclosure of the prosecution case. These provisions do not alter or qualify the fundamental principle that it is the Crown's responsibility to prove the accused's guilt beyond a reasonable doubt, nor do they affect any privilege or immunity that applies under the law to the disclosure of information, such as client legal privilege or sexual assault communication privilege.

This bill is different from the bill introduced into the Legislative Assembly. The provisions regarding voluntary pre-trial disclosure have been deleted and replaced with a clause to the effect that nothing in this part prevents voluntary pre-trial disclosure by the defence. As the Crown must make full disclosure in any event, there is simply no need to legislate for any voluntary scheme outside the context of the complex criminal trial. This is not intended to discourage the parties from resolving pre-trial issues well in advance of the trial. In fact, the whole scheme of the bill encourages this process.

As it is now the bill emphasises more clearly that disclosure is limited to complex criminal trials**.** Section 47A states clearly that the purpose of this division is to enable the court on a case-by-case basis to impose pre-trial disclosure requirements in order to reduce delays in complex criminal trials. Section 47C was amended to reflect this and to ensure consistency. The amendment provided for guided judicial discretion in relation to defining the question of whether a trial is a complex trial. Guided judicial discretion is a more appropriate option in relation to defining whether a trial is a complex trial than statutory definition. The judge will take into account the following factors: likely length of the trial, nature of the evidence to be adduced and legal issues likely to arise.

The bill was also amended to ensure defence disclosure sanctions are conditional on prior compliance by the prosecution. The second reading speech made it clear that pre-trial disclosure provisions do not alter or qualify the fundamental principle that it is the Crown's responsibility to prove the accused's guilt beyond a reasonable doubt. Section 15A was amended to ensure that disclosure by investigating police officers will be an ongoing requirement during the course of criminal proceedings. I understand this amendment was supported by the both the Director of Public Prosecutions and the Bar Association. Section 47F (4), which refers to client legal privilege, was changed to insert a reference to legal professional privilege.

Since the High Court has now made it clear that common law legal professional privilege continues to apply in ancillary processes, a reference to legal professional privilege should be inserted. The Government's change was supported by both the Director of Public Prosecutions and the Bar Association. The amendment is to ensure that in relation to transitional provisions the legislation should apply to proceedings in which the accused is committed for trial after the commencement of the division and the section. Legislation should apply

only to proceedings in which the accused is committed for trial after the commencement of the division and the section. Whilst the legislation is being implemented in its first 18 months—the review period—the Government has formed the view, based on numerous submissions, that pre-trial disclosure requirements upon the defence should apply only where the accused is represented. This is now expressed clearly on the face of the bill.

Disclosures made by the accused should not be treated as admissions. Following a recommendation from the New South Wales Law Reform Commission report entitled "Right to Silence" that pre-trial disclosure provisions do not alter or qualify the fundamental principle that it is the Crown's responsibility to prove the accused's guilt beyond reasonable doubt, this is now set in concrete in the bill. Drafting improvements suggested by the Chief Judge of the District Court were made to ensure that rules of court can be made to enhance efficiency. The bill now contains a provision designed to ensure that notice of the particulars of alibi evidence be given 21 days before the trial is listed for hearing.

An indictment may not be amended after it is presented except by the prosecuting authority with the leave of the court or consent of the accused person. The drafting has been improved to more clearly reflect this. Section 47F of the bill was amended to explicitly not overrule existing prosecution disclosure requirements. The prosecution's disclosure requirements apply in all criminal trials. The Act must not permit any inference that such disclosure requirements in the prosecution apply only where a judicial officer so orders in relation to complex criminal trials. I trust the overview of the Government's bill makes the intentions clear to all members. This was subject to discussion in the other place and is a matter of public record. I commend the bill to the House.

The Hon. J. M. SAMIOS [3.45 p.m.]: The purpose of this bill is to enable a court on a case-by-case basis to require the prosecution and defence to outline its case before a trial begins. At present, whilst the Crown must reveal its case to the defence, no requirement exists for defence disclosure. This is based on the presumption that any disclosure by the defence is against the principle of an accused person's right to silence. However, lack of defence disclosure has often, particularly in lengthy fraud trials, led to acquittals based on a technical point of law. In order for any realistic expectation of early resolution, it is important that both the defence and the prosecution are aware of the nature and strength of the whole case.

The bill provides both for pre-trial disclosure at the direction of the judge and voluntary disclosure. It gives the court the discretion to impose a lesser penalty on an offender based on the extent to which the defence made pre-trial disclosures. The bill formalises the duty of police officers to disclose all relevant information obtained during an investigation and amends the time for notice for alibi evidence to 21 days before a trial commences. The bill provides for penalties for non-disclosure, including rejection of evidence, dispensing with formal proof, granting an adjournment or making a comment to the jury about the non-disclosure. It is estimated that the bill will assist in reducing court delays and delays in complex criminal trials by up to 40 per cent. Pre-trial disclosure will enable the early resolution of more trials by ensuring that both the prosecution and the defence are aware of the nature and strength of the case. However, concerns have been raised that the bill will diminish the rights of accused people by breaking their right to silence. The Opposition does not oppose the bill.

The Hon. HELEN SHAM-HO [3.47 p.m.]: I support the Criminal Procedure Amendment (Pre-trial Disclosure) Bill. The bill aims to introduce a new system whereby courts in criminal proceedings may order that the prosecution and the defence comply with pre-trial disclosure requirements as found in the bill and regulations. The rationale that has prompted the introduction of this bill is multifaceted. One of the reasons given for the introduction of pre-trial disclosure is to reduce court waiting times. I agree that it is important that our legal system be streamlined to minimise delays. Although the proposals embodied within the bill may address some problems, it is also necessary for the courts to adopt more efficient case management practices.

The recent Auditor-General's report to Parliament for 2000, Volume No. 5, highlighted the fact that court delays continue to be a significant problem even though measures have been taken in an attempt to reduce them. The Supreme Court was particularly singled out in the report as being Australia's slowest superior court for criminal cases in the year 1998-99, although it has also made the most improvement in reducing delays. Another reason given for the introduction of this bill is that it is an attempt to curb the practice of ambush defences. However, it needs to be noted that in a case in which a defence is raised unexpectedly, the prosecution is always granted an adjournment and is always able to give an address in reply to that defence. It is risky for defence counsel to raise such a defence because it is then open to the prosecution to have the last say. As a consequence, these defences arise infrequently, and when they are raised they are very rarely successful. Some studies cited in the Law Reform Commission report found that ambush defences failed in around 95 per cent to 100 per cent of cases.

The bill gives effect to the recommendations of the Law Reform Commission's report No. 95 of 2000 entitled "The Right to Silence". This issue has been researched by the commission since late 1997. It also appears that the bill may have also had some input from the Federal Attorney-General's Department. In March 2000 the Standing Committee of Attorneys-General, a committee administered by the Federal Attorney-General's Department, hosted a conference on criminal trial reform. A deliberative forum on criminal trial reform by that committee led to a report dated June 2000. The report from that forum was released in mid-September. In the meantime, in New South Wales it became clear in early August that legislation governing pre-trial disclosure was to be introduced in this Parliament. The Criminal Procedure Amendment (Pre-Trial Disclosure) Bill was introduced into the Legislative Assembly and read a second time on 16 August.

Some aspects of the bill have caused concerns in legal circles because of the risks of undermining the foundations of criminal law and the rights of the accused. As a former lawyer, I believe that it is imperative that I raise these concerns about the bill, though many of the harshest criticisms made of the bill have been eradicated as a result of amendments passed in the Legislative Assembly, as indicated by the Minister in his second reading speech. In recent weeks I have received submissions and briefing notes about the bill from the New South Wales Law Society, New South Wales Young Lawyers, the New South Wales Bar Association and the Sydney Regional Aboriginal Corporation Legal Service. It is acknowledged by the legal profession that the disclosure of information preceding a trial is not a completely new concept. There are already some legislative provisions in operation which oblige both the prosecution and the defence to disclose information to one another.

For example, section 48B of the Justices Act 1902 requires that the accused must be served with the written statements of prosecution witnesses. Disclosure obligations for the prosecution, traditionally falling within the ambit of the common law, are also found within the Barristers' and Solicitors' Rules, as well as in the Director of Public Prosecutions prosecution guidelines. Under section 49 of the Criminal Procedure Act 1986 an accused is obliged to inform the prosecution of his or her intent to rely on alibi evidence or abnormality of the mind. However, extensive pre-trial disclosure requirements have not previously been imposed on accused people because of concerns that these obligations may undermine the fundamental rights of the accused. The Law Society generally agrees that complex and lengthy trials can be problematic, but those issues need to be considered in the light of the rights of accused persons. The Legislative Assembly passed an amendment which addressed one particular objection about the bill raised with me by the Law Society. Concern was raised about the issue of what constituted a "complex criminal trial", as there was no definition or other provisions to indicate what was meant by this term.

I am pleased that section 47C (2) now clarifies what circumstances require consideration in determining whether a trial is complex. This provision stipulates that a court may order pre-trial disclosure only when it is satisfied that the trial is a complex criminal trial by considering the likely length of the trial, the nature of evidence to be presented at the trial and the legal issues likely to arise at trial. Again, the Minister referred to that in his second reading speech. The legal fraternity raised concerns that disadvantaged and unrepresented defendants could be extremely vulnerable under this bill. It is commendable that the Government has acknowledged the pitfalls of universal pre-trial disclosure and the difficulties it would cause for defendants who do not have legal representation. Now, under section 47C (4) pre-trial disclosure obligations are only applicable to defendants who are represented by a legal practitioner. I hope that all defendants in criminal trials will be legally represented.

The bill was also criticised because it was argued that it would increase significantly the amount of paperwork for lawyers, especially defence lawyers. Most trials for indictable offences are cases in which the accused uses legal aid. Not only will the additional work for the defence lawyers take more time; it may place further strain on legal aid and the taxpayers' pocket. The section which really seemed to cause the most angst was deleted by amendments in the Legislative Assembly, to which the Minister referred earlier. The benefit which can be derived from this bill is that it should reduce the time wasted by counsel arguing over non-contentious or minor issues at the trial. Consequently, the time which trials take may diminish, causing a reduction in costs for the operation of the courts, thus saving taxpayers' money. If lawyers are spending less time in court and more time preparing for the trial, I think this is a good balance.

I suggest that the issue of legal aid should be separated from this debate. If this system creates more work for lawyers, so be it. This bill does not deal with the issue of legal aid funding so we should not spend unnecessary hours debating that issue in this context. Nevertheless, I wish there was more funding for legal aid. Failure to comply with pre-trial disclosures carries sanctions. Some representatives of the Law Society have voiced the view that decisions made by inept or inexperienced lawyers could have major implications for the

accused, who may lose his or her right to object to evidence. This may impact upon the length of queues for the Court of Appeal. In other words, more cases will have to go to the Court of Appeal—in a sense, this is a cost-shifting exercise. I understand this view, but I think it is necessary to have a carrot and stick approach which does not unduly impinge on the rights of the accused. Under this bill the court will be able to take into consideration the compliance with pre-trial disclosure in making its decision. This is the encouragement or carrot to act in accordance with the provisions.

However, when there has not been compliance the court has discretion to exclude, dispense with formal proof, adjourn the matter or comment to the jury. I stress the word "discretion"; it is certainly not mandatory. However, the exercise of this discretion must not be used if the prosecuting authority has not complied with pre-trial disclosure requirements. These are reasonable measures, especially since they are in keeping with the recommendations made by the Law Reform Commission, specifically recommendation 10 in its report entitled "The Right to Silence". However, I am a little alarmed that some of the details of this legislative package are found within the regulations, not in the bill itself. The Law Society is very concerned about that. For matters which have the potential to impact on the life and liberty of the accused, they should certainly be found in the legislation which has been scrutinised and amended as necessary by the Parliament. Nevertheless, on the whole I believe that the bill will operate for the prompt and fair administration of criminal justice. I commend the bill to the House.

The Hon. I. COHEN [3.57 p.m.]: The Greens oppose the Criminal Procedure Amendment (Pre-trial Disclosure) Bill primarily because it will reduce the rights of accused people when they defend themselves. Much of the substance of how the pre-trial disclosure model will work is set out in the regulation to the bill. In particular, clause 11 of the regulation details the disclosures to be made by the defence. The Greens are concerned that much of the detail is contained in the regulation. Major changes to criminal law procedure such as this should be up front in the statute, not left in the regulation. For the first time, with the consent of the court the defence must disclose before the trial whether it intends to rely on specific defences such as insanity, self-defence, provocation, accident, duress, claim of right, automatism and intoxication. While the stated aim of the bill—to reduce delays and complexities in criminal trials—is laudable, the mechanism for achieving this aim will impact negatively on the rights of defendants. The pre-trial disclosure model provided for in the bill is described as a case management model. In a parliamentary briefing paper entitled "Pre-Trial Defence Disclosure: Background to the Criminal Procedure Amendment (Pre-Trial Disclosure) Bill 2000" Gareth Griffith specifies:

> For those concerned primarily with reducing costs and delays in the criminal justice system, the main criteria for judging the success or otherwise of a pre-trial disclosure regime is in terms of its efficiency in producing pre-trial guilty pleas, thereby avoiding the need for so many lengthy trials.

On the other side of the coin are the issues of civil liberties and the rights of defendants. Commentators argue that this bill will impact significantly on three principles of the criminal law. They are the right to silence, the principle against self-incrimination and the principle of the presumption of innocence—innocent until proven guilty, which is also known as the Woolmington principle. The presumption of innocence is said to be the one golden thread that runs through the English criminal law. The presumption of innocence places the ultimate burden of establishing guilt upon the Crown. Mr Griffith argues that the new law could in practice "be seen as weakening the rule that a defendant cannot be compelled to assist in the process which may result in the proof of his or her guilt".

The Greens are particularly concerned about how this legislation will impact on the right to silence. According to Mr Griffith in a parliamentary briefing paper entitled "The Right to Silence", the right to silence principle is that in the absence of some contrary rule of common law or legislation all citizens are free to remain silent and to decline to provide the authorities with information. In *Petty v The Queen* in 1991 the High Court addressed the issue of the right to silence. The majority held:

> A person who believes on reasonable grounds that he or she is suspected of having been a party to an offence is entitled to remain silent when questioned or asked to supply information by any person in authority about the occurrence of an offence, the identity of the participants and the roles that they played. An incident of that right to silence is that no adverse inference can be drawn against any accused person by reason of his or her failure to answer such questions or to provide such information.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WOODLAWN MINEWORKERS ENTITLEMENTS

The Hon. M. J. GALLACHER: My question is to the Special Minister of State, and Minister for Industrial Relations. Is the Minister aware that 160 sacked workers from the closed Woodlawn mine are set to lose more than half of the $6.5 million owing to them for unpaid entitlements, royalties from a landfill project, because of a decision by his colleague in the other place, the Minister for Planning? Will his much-vaunted five-point plan fund the remainder of their unpaid entitlements? How does he intend to implement this?

The Hon. M. R. EGAN: I will take the question on notice and refer it to my colleague Dr Refshauge.

The Hon. M. J. Gallacher: Point of order: There seems to be some difficulty. The question was directed to the Minister for Industrial Relations. He was asked the question.

The PRESIDENT: Order! The Leader of the Opposition should know that under Standing Order 29 the Leader of the Government can answer whatever question he wishes, and he will.

The Hon. J. J. DELLA BOSCA: My answer is in identical terms to that of the Leader of the Government. I will take the question on notice and refer it to Dr Refshauge.

SNOWY WATER AGREEMENT

The Hon. A. B. KELLY: My question without notice is to the Special Minister of State. Will the Minister outline progress on the Snowy Mountains agreement?

The Hon. J. J. DELLA BOSCA: This afternoon, following question time, I will table an agreement to increase the flow of water to some of Australia's great river systems. Senator Nick Minchin earlier this afternoon told the Senate in Canberra that he has secured agreement in Cabinet to allow the Commonwealth to participate in the agreement between New South Wales and Victoria to increase flows in the Snowy River. Commonwealth participation will also enable increased environmental flows in the Murray River. New South Wales and Victoria will each contribute $150 million to the scheme, with the Commonwealth adding $75 million. The agreement is a tremendous environmental breakthrough for Australia.

The final result specifies increased flows up to 21 per cent of average natural flow in the Snowy River, with the possibility of further increased flows up to 28 per cent. An additional 70 gigalitres per annum of environmental flows will be released to the Murray River. The alpine rivers in the Snowy region will also benefit. It will rescue those rivers, while also delivering certainty for irrigators well into this century. The agreement contains no compulsory acquisition of water. Only a small amount of water will be purchased, with the vast majority of the increased flows coming from increased efficiencies and planned improvements to water use, transfer and storage. Any water purchasing will be done in a way that will not disrupt the water market or significantly reduce the volume of water available for irrigation farming.

New South Wales, Victoria and the Commonwealth have made all the decisions necessary to achieve Snowy corporatisation and it is now a matter of contractual documentation and the due diligence process. This cannot be expedited, so it is likely that corporatisation will occur in the first quarter of next year. I congratulate all involved in this great project: the environmental and legal experts, Mr Robert Webster, who chaired the Snowy Water Inquiry; the irrigators, who co-operated throughout the negotiating process; the environmental and community leaders, and my colleagues in Victoria and Canberra. This is a very significant environmental measure that will have lasting, positive effects well into the twenty-first century.

LEGISLATIVE COUNCIL INQUIRY INTO CABRAMATTA POLICE RESOURCES

The Hon. Dr P. WONG: My question is to the Treasurer, representing the Premier. In a recent speech in the Legislative Assembly, quoted in the *Fairfield Advance* on 28 November, Reba Meagher, member for Cabramatta, said that the upper House inquiry into policing in Cabramatta, "smacks of a whitewash". Does the Government support the member for Cabramatta and consider that this inquiry is a whitewash?

The Hon. M. R. EGAN: I am not aware of the matter to which the Hon. Dr P. Wong refers. I do not know to whom I should refer the question. Nobody in the Government is responsible for upper House committees. It might just have to float.

MARKET IMPLEMENTATION GROUP BUDGET

The Hon. D. J. GAY: My question is to the Treasurer, and Vice-President of the Executive Council. Is it a fact that State Treasury's Market Implementation Group [MIG] has exceeded its budget and run out of money? Is it also a fact that State Treasury is considering asking the State-owned generators and distributors for industry contributions to allow the MIG to continue operations? Will he inform the House what role the MIG will play following the introduction of full contestability following the passage of the bill through the House yesterday?

The Hon. M. R. EGAN: My understanding at this stage is that MIG's work goes up to the middle of next year. The introduction of full retail contestability is to commence on 1 January 2002. At this stage I am not aware of what plans Treasury might have. I am not sure that I can add anything to the question, or to the answer.

The Hon. D. J. Gay: Have they exceeded their budget?

The Hon. M. R. EGAN: Not that I am aware of, no. They are engaged by Treasury to undertake specific tasks and they are paid for the particular tasks that they undertake.

The Hon. D. J. Gay: You are not looking to get them paid by industry?

The Hon. M. R. EGAN: There is some work that MIG would be doing for which it would be appropriate that industry contribute.

SPORTS INJURY PREVENTION SCHEME

The Hon. R. D. DYER: I ask the Special Minister of State, Minister for Industrial Relations, and Assistant Treasurer a question without notice. Will the Minister inform the House about grants awarded through the Sporting Injuries Committee's Research and Injury Prevention Scheme?

The Hon. J. J. DELLA BOSCA: As Minister for Industrial Relations, the Sporting Injuries Committee falls under my portfolio. The committee, which comes under WorkCover, administers the Sporting Injuries Insurance Scheme and encourages research and education to promote safety in sport. The Sporting Injuries Committee, through the Research and Injury Prevention Scheme, provides financial support for programs aimed at reducing the severity and incidence of sports injuries in New South Wales. The committee has continued to increase its commitment to sports injury reduction and prevention through the introduction of the New South Wales Sports Safety 2000 Awards. These awards recognise and reward those involved in research, education and promotion programs designed to reduce or prevent injuries in sport.

During 1999-2000 the Sporting Injuries Committee awarded grants totalling $109,000 through the Research and Injury Prevention Scheme. Since the scheme commenced in 1991, more than $750,000 in grants has been awarded. The scheme has been particularly beneficial for the Institute of Sports Medicine at the Children's Hospital at Westmead. The institute received a grant of $49,500 for a study of injuries among junior rugby league players aged between 6 and 17 years. The institute's study found that injury rates increased among older players, particularly those between the ages of 12 and 15. As a result of the study, the New South Wales Rugby League made changes to the rules for junior players including delaying the exposure of players to 13-a-side competition.

Last year the institute received a gold medal at the Sports Safety 2000 Awards for its study. At this year's awards the New South Wales Junior Rugby League also won a gold medal for the introduction of rule changes as a result of the study. The institute's study is one of the many success stories of the scheme, supporting greater safety in sport. I am sure that all honourable members recognise the value of the scheme.

The Hon. M. R. Egan: Don't they have 13-a-side rugby league?

The Hon. J. J. DELLA BOSCA: Not for under-12s.

HOMEFUND CLASS ACTION TERMS OF SETTLEMENT

The Hon. P. J. BREEN: My question without notice is to the Special Minister of State, representing the Minister for Housing. Is the Minister aware that many HomeFund borrowers are unhappy with the proposed

terms of settlement of the class action proceeding against the Government and are seeking alternative legal advice with a view to continuing the case? Will the Minister indicate what is meant by the expression "any residual HomeFund debt owed by former HomeFund borrowers will be waived", as appearing in newspaper advertisements on 22 November?

Does that expression include mortgage assistance paid on behalf of HomeFund borrowers by the Home Purchase Assistance Authority and added to borrowers' loans? In view of the proposed settlement of the Federal Court proceedings on 19 December, will the Minister respond to this question before the end of the current session of Parliament?

The Hon. J. J. DELLA BOSCA: That is a very good question, but I do not have the capacity to interpret the form of the words that the honourable member was concerned about; nor do I have the ability to answer his detailed question. I will refer the question to the Minister and inform the honourable member of the Minister's response as soon as possible.

JUVENILE JUSTICE CENTRE VOLUNTEER FIREFIGHTERS

The Hon. PATRICIA FORSYTHE: My question without notice is to the Treasurer, representing the Minister for Emergency Services. Is the Government aware that a press release by the Rural Volunteer Firefighters Association has described the situation at Mount Penang Rural Fire Brigade as the subject of "one of the worst cases of rampant cronyism, blatant discrimination and denial of proper and natural justice", in part as a result of a lack of proper investigation of a number of incidents involving detainees of the Frank Baxter Juvenile Justice Centre in their role as members of the Mount Penang Rural Fire Brigade? Is it a fact that a memorandum of understanding between the Department of Juvenile Justice and Gosford council has been signed without any public scrutiny? Will the Government agree to an independent inquiry into the Gosford Rural Fire Brigade as requested by the Rural Volunteer Firefighters Association?

The Hon. M. R. EGAN: I am not familiar with matters raised by the Hon. Patricia Forsythe in her question.

The Hon. Patricia Forsythe: I have raised it before. You did not listen.

The Hon. M. R. EGAN: That is true. I do not sit here listening to all the questions, or even all the answers. Although I know that when I do listen to the answers I will learn something, but sometimes I have other things on my mind. Sometimes I just sit here and daydream. Sometimes I look at those opposite and wonder what on earth they are doing here. Lots of things go through my mind. I will refer the question to my colleague in the other place.

The Hon. J. F. Ryan: It is a good question.

The Hon. M. R. EGAN: It probably is a good question, but without knowing the facts I do not know whether it is a good question or a silly one. I generally assume that the questions I am asked are silly, unless they come from my side of the House.

The Hon. Jennifer Gardiner: That is a wrong assessment.

The Hon. M. R. EGAN: The Hon. Jennifer Gardiner thinks that that is a wrong assessment. I will cogitate upon that, because I put a great store on the views of the Hon. Jennifer Gardiner. I will obtain a response for the honourable member.

CENTRAL COAST DEVELOPMENT

The Hon. JAN BURNSWOODS: My question without notice is addressed 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. Will the Minister inform the House of measures taken by the Government to boost economic development on the Central Coast?

The Hon. J. J. DELLA BOSCA: Tomorrow I will be away from the House for the second Central Coast Moving Forward Forum at Tumbi Umbi. Some of the State's most senior Ministers and public servants, and some of its most successful business people, will address the gathering. SOCOG Chief Executive, Sandy

Hollway, will assist me to chair the forum, which is designed to accelerate local jobs growth while maintaining the coast's beautiful environment and lifestyle. This second forum will start an important conversation between the coast community, business and government.

The Hon. M. J. Gallacher: I didn't get an invitation.

The Hon. J. J. DELLA BOSCA: I am sorry. This is the sort of communication that has not been evident in the past, but I hope will continue into the future. About 200 local business and community leaders will hear from the Minister for Planning, Andrew Refshauge, and the Director-General of the Premier's Department, Col Gellatly. The Minister for Regional Development, Harry Woods, the Minister for Information Technology, and Minister for Energy, Kim Yeadon, and the Secretary of the Labor Council, Michael Costa, will be among those on the panel discussing solutions for the region. Business will be represented by Macquarie Bank's former Deputy Managing Director, John Caldon, and Allan Williams of the successful local software company, Tibco. Tomorrow's forum will form the basis of a report, which will guide the future direction of the Central Coast.

The Hon. Dr B. P. V. Pezzutti: What about the Treasurer?

The Hon. J. J. DELLA BOSCA: He would be there, but he has to be here. When the forum was planned he was the star turn.

The Hon. M. R. Egan: I was to give the keynote address.

The Hon. J. J. DELLA BOSCA: Yes, but because the Opposition is so obstructionist the Treasurer cannot be there.

The Hon. M. R. Egan: Because you are so slow and obstructionist, I have to be here. I cannot be in two places at once.

The Hon. J. J. DELLA BOSCA: That is right.

The Hon. Dr B. P. V. Pezzutti: No, you have only junior Ministers going.

The Hon. J. J. DELLA BOSCA: No. The Treasurer was the star turn. He was to be there, but now he has to be here. The moving forward process is about bringing together the collective skills, knowledge and commitment of all sectors and the general community so that we are all pulling in the same direction and all contributing to building a better place in which to live.

SILVERWATER PRISON NEEDLE SHARING

The Hon. Dr A. CHESTERFIELD-EVANS: My question is to the Treasurer, representing the Minister for Corrective Services. Further to the question asked by the Hon. P. J. Breen and a question I asked on Friday 1 December, is the Minister aware that after correctional officers at Silverwater gaol witnessed the sharing of a needle by a HIV-positive prisoner, 143 prisoners have come forward with serious health concerns arising from that event? Why did it take the correctional officers at Silverwater gaol two and a half days before notifying the Corrections Health Service? Is the Government concerned that prisoners infected during the delay may take legal action against the Department of Corrective Services for a breach of duty of care?

The Hon. M. R. EGAN: I will refer the question to my colleague the Minister for Corrective Services. When I obtain a response I will provide it to the House.

PUBLIC TRANSPORT FARE EVASION

The Hon. D. T. HARWIN: My question is to the Minister for Mineral Resources, representing the Minister for Transport. Is the Minister aware of today's report from the Auditor-General concerning fare evasion on public transport, which indicates that almost $30 million per year is lost through fare evasion? Is the Government concerned about that loss? What is the Government doing to stem losses?

The Hon. E. M. OBEID: I am advised that the State Rail Authority is already acting on the issues raised by the Auditor-General's report. State Rail is increasing the number of full-time ticket inspectors by 50

per cent over the next few months, from 100 to 150. Other initiatives to be introduced include hand-held electronic ticket checking machines to catch passengers who travel past their correct destination; court summonses rather than infringement notices for people repeatedly caught without a ticket; closer co-operation with other agencies such as the Infringement Processing Bureau and the State Debt Recovery Office to reduce fine defaults; and a public education campaign for stations and trains next year, including prominent signs warning of the penalties for fare evasion. While there is still more to do, CityRail has already taken steps to reduce fare evasion and to ensure that those who try to cheat the system are caught and fined.

HUNTER VALLEY COALMINES

The Hon. I. W. WEST: My question is to the Minister for Mineral Resources. Will the Minister advise the latest developments regarding new coalmines in the Singleton area of the Hunter Valley?

The Hon. E. M. OBEID: I thank the Hon. I. W. West for his very important question. I am pleased to advise the House that the Carr Government is committed to developing opportunities for new mines and creating vital jobs in regional New South Wales. Last Monday I visited the Singleton area to officially hand over two new mining leases. These leases are terrific news for families in the Hunter and the New South Wales community.

The new Ravensworth East mine and the new lease for the Carrington pit will help protect the security of 460 jobs. They represent a combined investment of $37.5 million into the Hunter region by Peabody Resources Ltd and Coal and Allied Operations Pty Ltd. Peabody Resources currently operates the Ravensworth South and Narama open-cut mines, 20 kilometres from Singleton. These collieries supply more than five million tonnes of coal a year to the Bayswater and Liddell power stations.

As coal reserves at the Ravensworth South mine decline, production from the new Ravensworth East mine will help the company maintain its position as a major supplier to Macquarie Generation. Ravensworth East is a redevelopment of the old Swamp Creek mine, which ceased operations in 1991. The new lease will guarantee jobs for 70 workers. Both leases will have a tremendous flow-on effect for the Hunter economy. Last year the region's 37 collieries produced almost $4 billion worth of coal. Hunter mines directly and indirectly provide jobs for nearly 30,000 workers, and about 40 per cent of Australia's coal exports come from this important region.

Last Monday I also visited Coal and Allied Operations Hunter Valley mine to hand over a new lease for a major extension, known as the Carrington pit. Resources at this mine are declining, but by opening up the Carrington pit, Coal and Allied will be able to continue operations for up to 10 years. The Carrington pit will produce high-quality thermal and coking coal, which will be exported to markets in Japan and other Asian countries. It is expected that up to six million tonnes of coal per year will be extracted from the new lease site. This new mine will provide jobs and security for the Hunter Valley mine's 390 workers and their families. That is very good news, not only for the people of the Hunter but also for New South Wales.

HOMEBUSH BAY WASTE DISPOSAL

The Hon. I. COHEN: My question is to the Minister for Fisheries, representing the Minister for Transport. In late August this year, the Minister for Transport said that the concentrated contaminants from Homebush Bay would be shipped to BCD Technologies Pty Ltd plant at Narangba in Queensland. Examination of BCD's licence reveals that the company is only licensed to treat PCB and organochlorine and organophosphate pesticide wastes, and not the whole range of organochlorine compounds likely to be extracted from the Homebush Bay site, and certainly not dioxins. Is the Minister aware that the BCD Technologies plant nominated for destruction of Homebush Bay wastes is not licensed to destroy the materials anticipated to be derived from that site? The Queensland Environment Protection Authority has not received any application from BCD Technologies Pty Ltd to revise its licence to accommodate these wastes. Does this threaten the viability of the proposal and credibility of the Minister? The Queensland Environment Protection Authority has not been approached by any New South Wales Government body, or any agent of the proponent to destroy these wastes. The Queensland Environment Protection Authority, as the regulator of the BCD facility, has indicated that it will not automatically approve the facility, especially given the facility's inability to treat wastes of this nature. If this is the case, what contingency plans does the Government have for destruction of these wastes in an environmentally acceptable manner, as repeatedly promised by the Minister?

The Hon. E. M. OBEID: I thank the Hon. I. Cohen for his question. In view of the length of it and the details sought in it, I will seek a detailed answer from my colleague in the other place.

GAMBLING TAVERNS

The Hon. J. M. SAMIOS: My question is directed to the Special Minister of State, representing the Minister for Gaming and Racing. Last Monday, in his regular *Newcastle Herald* column, the member for Wallsend, John Mills, referred to a Land and Environment Court decision to allow extended trading hours at the gambling tavern at Wallsend Plaza shopping centre. Does the Minister support the comments of the member for Wallsend that gambling taverns are now in existence in New South Wales? Can the Minister explain how the Land and Environment Court has gone against State Government policy, and against Newcastle City Council, by allowing gambling taverns to expand in shopping centres?

The Hon. J. J. DELLA BOSCA: The Hon. J. M. Samios asks a very good question. It is obviously a matter of importance as it has attracted the comment of John Mills, the member for Wallsend. Obviously the matter is fairly specialised and relates to a particular set of circumstances, so I will take the question on notice and refer it to the Minister for Gaming and Racing.

FORTUNE MAGAZINE SURVEY OF WORLD'S BEST BUSINESS CITIES

The Hon. J. R. JOHNSON: My question is to the Treasurer. Will the Minister inform the House of the results of the recent Arthur Andersen and *Fortune* magazine survey of the world's best business centres?

The Hon. M. R. EGAN: I thank the Hon. J. R. Johnson for his question. I am pleased to advise the House that the annual *Fortune* magazine survey of the world's best business cities was released last Friday. The survey is based on research by Arthur Andersen covering more than 160 cities around the world and interviews with almost 1,500 of the world's most senior business leaders.

Fortune magazine takes on board the Arthur Andersen survey results and analysis and then prepares its best cities listing. In this year's survey New York has been ranked the best business city in the United States of America and London has been ranked the best in Europe. I am delighted to report that Sydney has been ranked the second best city for business in the Asia-Pacific region—and, I might point out, higher than Singapore and Tokyo. The mass of statistical evidence compiled by Arthur Andersen reinforces this assessment.

Sydney—and, by inference, New South Wales—rates very highly in the categories for work force, business environment, cost of doing business, and quality of life for attracting talent. Significantly, these statistical findings are echoed by the comments of the senior executives questioned in the survey. Their top four concerns in deciding on the best business locations were: pro-business attitudes, government regulations, local availability of professionals, and technology and telecommunications infrastructure.

It is no accident that these are precisely the attributes that distinguish Sydney as the business capital of Australia and now, as recognised by *Fortune* magazine, as one of the world's business hot spots. The findings of the Arthur Andersen-*Fortune* survey cap what has been a vintage year for investment and new jobs for New South Wales. Our State and our economy have never been more competitive or more attractive to potential investors. And with more high-technology investment and new jobs in the pipeline, we can look forward to 2001 with a great deal of confidence.

CHILDREN MOBILE PHONE USE

The Hon. A. G. CORBETT: My question is addressed to the Treasurer, representing the Minister for Health. Does the Minister agree with the recent finding of the Independent Experts Group on Mobile Phones—the Stewart report—that children should be discouraged from making non-essential calls as they may be more vulnerable to unrecognised health risks? If so, what, if any, recommendations will the Minister make to parents and to his colleague the Minister for Education and Training about the use of mobile phones by children at school?

The Hon. M. R. EGAN: I thank the Hon. A. G. Corbett for his question. I have noticed many children using mobile phones, obviously given to them by their parents for good and proper reasons. It intrigues me that when one sees a person under the age of 20 in possession of a mobile phone it always seems to be operating. I do not know what young people use them for. It seems that very often friends ring one another to say, for example, that they are at the corner of Smith Street and Brown Street, and they ask, "Where are you?" I do not know whether mobile phones have any adverse health risks. I am not quite sure that I understand the term "unrecognised health risk".

The Hon. A. G. Corbett: It's a direct quote from the Stewart report.

The Hon. M. R. EGAN: I have not read the Stewart report. I do not know who Mr Stewart is. However, what is an unrecognised health risk?

The Hon. D. J. Gay: Did you smoke cigarettes at school?

The Hon. M. R. EGAN: No, I did not. In fact, I did not have my first cigarette until I was about 22.

The Hon. R. S. L. Jones: Why did you start that late?

The Hon. M. R. EGAN: Well, I went on a surfing trip with some mates.

The Hon. C. J. S. Lynn: Name them.

The Hon. M. R. EGAN: No, I will not name them. However, one or two of them were smokers. I used to become very annoyed that whilst they were driving they would light a cigarette. I thought that was dangerous driving.

The Hon. Patricia Forsythe: Like using a phone when you are driving.

The Hon. M. R. EGAN: Like using a mobile phone when you are driving. That is dangerous.

The Hon. Patricia Forsythe: And you have done that.

The Hon. M. R. EGAN: I do not do it. I have a hands-free mobile phone in my car with microphones in two corners of the car. I am intrigued and fascinated by modern technology. I can sit in my car apparently talking to myself but actually conversing with someone on the other side of the world. It is unbelievable.

The Hon. D. F. Moppett: There is not much difference in the quality of the conversation when you talk to yourself and when you talk to people on the telephone.

The Hon. M. R. EGAN: Some of the best conversations I have are with myself, and some of them are very heated.

The Hon. D. F. Moppett: You are a patient listener then.

The Hon. M. R. EGAN: I am a patient listener. I argue my point strongly on occasions. When I have differing points of view I can have a very spirited conversation with myself. I was on a surfing trip and I became concerned that my friends took their hands off the wheel to light cigarettes. If they were going to smoke I insisted that at least I would light the cigarette and hand it to the driver. One night around a camp fire on a beach, I think at Crescent Head, they lit up cigarettes and I thought I would try one. I found it very enjoyable and I decided that I would have one cigarette after dinner every night. It went from there and now I have seven or eight cigarettes before breakfast. In fact, they have taken the place of breakfast.

I would not recommend it as an ideal breakfast, but the only thing that gets me going of a morning is half a dozen cigarettes and four or five cups of coffee. By the time I have done that, I am ready to face the world. I do not recommend that to other people, nor do I recommend that people use mobile phones. I have read bits and pieces in newspapers that mobile phones are supposed to represent some sort of health risk. I do not know whether that is true. I will refer the honourable member's question to the Minister for Health, who, I am sure, will obtain some expert views. I am not a medical expert, like the Hon. Dr B. P. V. Pezzutti.

The Hon. Dr B. P. V. Pezzutti: Not on this issue.

The Hon. M. R. EGAN: Do you have any views on this issue?

The Hon. Dr B. P. V. Pezzutti: No.

The Hon. M. R. EGAN: I will refer the question to an expert to get an expert opinion.

BROKEN HILL EMPLOYMENT

The Hon. D. F. MOPPETT: My question is addressed to the Treasurer. Is the Treasurer aware of an undertaking given on behalf of the State Government in terms that could be equated to a guarantee that there would be no more losses of government jobs in Broken Hill and that within two years of that undertaking being given six jobs were lost from the National Parks and Wildlife Service and a further job from the Department of Land and Water Conservation? Has the Treasurer received any representations from the honourable member for Murray-Darling on this issue, considering three of the positions have been lost since he was elected? Will he, as Minister for State Development, commit the Government to a program of government employment development in Broken Hill considering the peculiar position Broken Hill faces with the foreshadowed mining industry closure?

The Hon. M. R. EGAN: The Hon. D. F. Moppett has asked an odd question because, after all, the Opposition has few policies. One of its policies was announced by an Opposition spokesperson before he got the sack—Mr Debnam, the shadow Treasurer. He promised that the Opposition would get rid of 5,000 public servants throughout New South Wales. Did he get the sack or did he resign?

The Hon. J. J. Della Bosca: He resigned.

The Hon. M. R. EGAN: That promise by the Opposition to sack 5,000 public servants throughout New South Wales still stands. I constantly get representations from the honourable member for Murray-Darling.

The Hon. E. M. Obeid: We all do.

The Hon. M. R. EGAN: We all do. He is one of the most diligent representatives of a local electorate that I have seen in almost 23 years in and around this place. Whilst I was in my office before question time doing some work, having meetings, I had the radio on listening to the proceedings in this House. This House passed legislation that the honourable member for Murray-Darling was responsible for and lobbied for. It provided for the amalgamation of the Broken Hill Water Board and Australian Inland Energy and the creation of a development corporation for Broken Hill. That is forward thinking. That legislation is a result of the hard work and intelligent representations of Mr Peter Black, the honourable member for Murray-Darling, who is a hero to the people of his electorate and to the people of Broken Hill. I do not know whether the Hon. D. F. Moppett has had the opportunity to meet Mr Black, but I will arrange a meeting and introduce the Hon. D. F. Moppett to him. I make that offer to any Opposition member who would like to meet him. He is one of the great personalities of this Parliament and does a fabulous job.

The Hon. E. M. Obeid: A real original.

The Hon. M. R. EGAN: He is a real original and he does a fabulous job. I am told that he was a good science teacher. He actually taught some members of this Parliament—Paul Crittenden, the honourable member for Wyong, for one. Mr Crittenden has told me that the honourable member for Murray-Darling was a first-class teacher, and we all know that he is a first-class member of Parliament.

WOMEN IN BUSINESS MENTOR PROGRAM

The Hon. AMANDA FAZIO: My question is to the Treasurer, and Minister for State Development. Will the Minister update the House on the latest outcomes from the Government's Women in Business Mentor program?

The Hon. M. R. EGAN: I am pleased to tell the House that women have never made a greater contribution to business in Australia than they do now.

The Hon. Patricia Forsythe: Do not claim credit for the origin of this program.

The Hon. M. R. EGAN: I believe that this program was commenced during the Greiner and Fahey years. It was one of the few programs of any worth that was introduced by that Government.

The Hon. Patricia Forsythe: It was my initiative.

The Hon. M. R. EGAN: Congratulations.

The Hon. Patricia Forsythe: I found it in British Columbia.

The Hon. M. R. EGAN: Some good ideas come from Canada, and a lot of good ideas come from Australia. During the Olympics many Canadians, people from Toronto, were out here looking for good ideas and learning how to bid for and run the Olympic Games.

The Hon. Dr B. P. V. Pezzutti: What about Canada Bay?

The Hon. M. R. EGAN: What about Canada Bay?

The Hon. M. J. Gallacher: Poor old Woodsie.

The Hon. D. J. Gay: Woodsie's gone.

The Hon. M. R. EGAN: Mr Peter Woods is not a member of my party. He has not been a member of my party since he was expelled during the general secretaryship of the Special Minister of State. He was expelled very early.

The Hon. J. J. Della Bosca: I was assistant secretary then.

The Hon. M. R. EGAN: His expulsion goes back a very long way, and he has not been a member of the party since that time.

The Hon. D. F. Moppett: One thing is for sure, he is not a member of the National Party.

The Hon. M. R. EGAN: No, he would have to draw the line somewhere. Women make up 40 per cent of the State's business community and play a leading role in 60 per cent of our small businesses. Between those two areas they create up to a quarter of all new jobs across New South Wales. By the year 2010—and I know that sounds a long way away, but it is not.

The Hon. E. M. Obeid: Not for you.

The Hon. M. R. EGAN: Not for any of us. I will still be here, but it is only a decade away. It is as far forward as 1990 is backward. That may come as a surprise to the Leader of the Opposition and Deputy Leader of the Opposition, but it is quite easy to work out. It is predicted that by 2010 half of all small businesses will be owned and operated by women. The Government is committed to equipping women in small business with the skills and opportunities that are necessary for them to succeed in a competitive marketplace.

One of the Government's key development programs is the Women in Business Mentor program which has proved to be one of the most effective ways of helping businesses that are owned and operated by women to grow and develop. Mentors in the program are experienced business people who give valuable advice and support to their charges. Graduates of the six-month program gain experience in a variety of business skills ranging from financial planning and marketing to development of a complete business plan. The success of the program is best measured by its increasing popularity. In 1995, 22 mentors and 22 mentorees, if there is such a word, were involved in the pilot program. This year—and the Hon. Patricia Forsythe will be very interested in this—there are 182 mentors and 180 mentorees.

The Hon. Patricia Forsythe: I am very interested in it.

The Hon. M. R. EGAN: What began as a small program has now blossomed into a much larger program with 180 women participating in 12 programs throughout the State. Seven of the programs were held in regional areas, including the Illawarra, Armidale, Albury, the Hunter, the Central Coast, Port Macquarie and Coffs Harbour. Of all participants in the 2000 program, more than half were from regional New South Wales. The Women in Business Mentor program will flex the Government's commitment to increase business opportunities throughout the State. I congratulate the latest group of graduates and wish them every success in their business enterprises.

WILDERNESS TOURS FOR DISABLED PEOPLE

The Hon. M. I. JONES: I direct my question to the Minister representing the Minister for the Environment. During 1996-97 the National Parks and Wildlife Service issued a booklet, "Access for All", using the Outdoor Recreation Party's slogan. The booklet announced wilderness tours for disabled people to counter the Outdoor Recreation Party's plans to take up the issue of the exclusion of disabled people from wilderness areas. Will the Treasurer advise the House if any of these wilderness tours have been conducted? If so, how many, and where?

The Hon. C. J. S. Lynn: Good question!

The Hon. M. R. EGAN: I thank the Hon. M. I. Jones for what some members opposite have described as a good question. I also find it to be an interesting question. I will certainly obtain a response from my colleague Mr Debus, the Minister for the Environment, who is responsible for the National Parks and Wildlife Service. I get on very well with Mr Debus. We often have conversations. I often ask him questions and I always get good answers from him. I will refer the question to him and obtain a response for the honourable member as soon as I can.

NURSES WORKPLACE ASSAULTS

The Hon. Dr B. P. V. PEZZUTTI: I direct my question to the Special Minister of State. On Thursday he said, "Sandra Moait is the secretary of the Nurses Federation of New South Wales. She is also someone for whom I would follow up any issue raised with me on any occasion." Has she raised with the Special Minister of State the serious matter of assaults against nurses in the workplace? If so, what was his response? If not, will he seek a meeting with her urgently to discuss the serious matter?

The Hon. J. J. DELLA BOSCA: I had a meeting with Ms Sandra Moait today as a matter of fact.

The Hon. M. R. Egan: So did I.

The Hon. J. J. DELLA BOSCA: And so did the Treasurer. It was a productive and successful meeting. I am not at liberty to state all the matters that Ms Moait raised with me at that meeting. I do not necessarily believe that question time should result in the disclosure of every aspect of every meeting and what was or was not discussed. I will undertake to ascertain a full answer to the honourable member's question about assaults against nurses in the workplace and advise him accordingly.

The Hon. M. R. Egan: This is an important issue.

The Hon. J. J. DELLA BOSCA: It is an important issue.

INFORMATION TECHNOLOGY AND FINANCE INDUSTRIES

The Hon. R. D. DYER: My question without notice is to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Will the Minister give the House details on the growth of the information technology industry and the finance industry in New South Wales over the last 12 months?

The Hon. M. R. EGAN: This has been a bumper year for investment in the New South Wales finance and information technology [IT] industries. In the last 12 months more than $1 billion in new investment in these two dynamic industries has created approximately 3,700 new high quality jobs in New South Wales. That is a phenomenal investment rate in those two industries: $1 billion in only one year. Those jobs are jobs for the future for programmers, analysts, call centre operators, web site designers and e-commerce specialists. The list of finance and IT companies that have established or that have expanded their operations in New South Wales during 2000 reads like a who's who in Australia of the new economy.

Three of the world's leading institutions—Deutsche Bank, the Royal Bank of Canada and ABN AMRO—have announced that Sydney will be a major focus of their foreign exchange processing operations. Their vote of confidence in Sydney places New South Wales in the front rank of international foreign exchange operations and is a major boost for Sydney's campaign to become an international finance centre. I must also, as I normally do, give credit where it is due and congratulate the Federal Minister for Financial Services and Regulation, Mr Joe Hockey, on spearheading the Federal Government's push to establish Australia as a major financial centre.

The Hon. Dr B. P. V. Pezzutti: What about John Fahey?

The Hon. M. R. EGAN: John Fahey is not directly involved.

The Hon. Dr B. P. V. Pezzutti: He is the Federal Minister for Finance and Administration, and he has been pushing this issue for a considerable time.

The Hon. M. R. EGAN: Yes, but not in the direct portfolio sense in which the Hon. Joe Hockey has been involved. This year New South Wales has also had great success with one of the world's premier broking operations, Charles Schwab, setting up in Sydney.

The Hon. Patricia Forsythe: They are going to open in Martin Place soon.

The Hon. M. R. EGAN: That is good. The World Bank will relocate its Pacific regional office from Washington to Sydney.

The Hon. M. I. Jones: Don't forget Zurich.

The Hon. M. R. EGAN: No, I will not forget Zurich. In the IT sector, the Canadian company Cognos has announced that New South Wales will be the focus of its $300 million expansion program in our region. Nortel Networks has announced initiatives valued at more than $300 million that will create more than 900 jobs, many of which will be associated with the companies' world-leading operations in Wollongong. Oracle has also officially opened its $48 million Australian regional headquarters at North Ryde. Last week IBM opened its new $23 million e-business innovation centre at Pyrmont which will create another 340 new jobs. I was honoured to visit the company together with Federal Minister Senator Alston.

The Hon. J. M. Samios: What about Morgan Stanley?

The Hon. M. R. EGAN: Yes, that is a very important company, too. The companies that I have mentioned and many other companies decided to set up or to expand in New South Wales during the year 2000. They could have gone somewhere else, but they did not. They chose Sydney and New South Wales, which attests to the strengths that Sydney and New South Wales have in these emerging industries.

SKIN-ONLY KANGAROO SHOOTING

The Hon. R. S. L. JONES: I ask the Special Minister of State, representing the Minister for the Environment, a question without notice. Is it a fact that there is a good deal of scientific evidence showing that skin-only shooting of kangaroos leads to a serious problem when feral animals feed on the carcasses? Will the Minister vehemently resist the pressure to resume skin-only shooting, which will leave hundreds of thousands of carcasses scattered around the countryside?

The Hon. J. J. DELLA BOSCA: It sounds like an horrific prospect. I will obtain an answer from the Minister as soon as possible and make it available to the House.

WORKCOVER BOOKSHOP CLOSURE

The Hon. J. F. RYAN: My question without notice is to the Special Minister of State. Why has WorkCover closed the only workers compensation resource available in the inner city, the WorkCover bookshop, when recent statistics he referred to in this House indicate that the inner-city region has the highest proportion of workers compensation claims in New South Wales?

The Hon. M. R. Egan: Did you say the WorkCover bookshop?

The Hon. J. F. RYAN: The WorkCover bookshop, yes.

The Hon. M. R. Egan: What does it run a bookshop for?

The Hon. J. F. RYAN: To provide information.

The Hon. M. R. Egan: A bookshop?

The Hon. Dr B. P. V. Pezzutti: Yes. It puts out a huge number of publications.

The Hon. J. J. DELLA BOSCA: I will have to take that question on notice because I am not in a position to give the honourable member an answer. The observation of the Hon. Dr B. P. V. Pezzutti that WorkCover produces a fine range of publications—

The Hon. M. R. Egan: That is no justification for its operating a bookshop.

The Hon. J. J. DELLA BOSCA: That is right. The Treasurer has pointed out that many things must be considered in determining whether an authority like WorkCover should operate a bookshop. Many WorkCover initiatives are communicated through publications. The other agency under my control, the Department of Industrial Relations, communicates many of these matters via its web site.

The Hon. Dr B. P. V. Pezzutti: It is very good, too.

The Hon. J. J. DELLA BOSCA: It is very good, and the department is doing a very good job of it. Nonetheless, I will take the honourable member's question on notice and provide him with a full answer in the future.

AMNIATABA PERCOIDES

The Hon. P. T. PRIMROSE: My question is to the Ministers for Fisheries. What action will the New South Wales Government take to prevent our aquaculture industry from being infected by new pest fish?

The Hon. E. M. OBEID: The New South Wales Government is committed to supporting the continuing growth of aquaculture in this State. That commitment includes the protection of the industry from the introduction of fish species that are not native to New South Wales. I am advised that New South Wales Fisheries recently confirmed it had found amniataba percoides, otherwise known as the banded grunter, in the Clarence River. The New South Wales Government is acting swiftly to prevent the spread of this pest. The species is a native of northern Queensland. It is a small fish of little value to anglers, but it has been reported as degrading recreational fisheries in Queensland.

I am pleased to advise the House that I have already listed this fish as a noxious species in New South Wales. The order was gazetted last Friday, which means that the sale and possession of this pest is now prohibited in New South Wales. Anyone found selling or possessing the fish could face fines of up to $11,000. Listing this species as noxious also gives New South Wales Fisheries officers the power to seize and destroy this fish if it is found, for example, in a dam. I am advised that the fish was probably introduced into the Clarence River as a result of contaminated hatchery stock supplied from Queensland. The Government is keen to stop the further spread of this pest, and to protect our aquaculture industry and native fish habitats. Advisory material is being developed to inform our aquaculture industry and the community about the potential impact of this introduced species. Education and prevention will be integral to the containment of this noxious pest.

BOWEL CANCER IN WOMEN

The Hon. ELAINE NILE: I direct my question without notice to the Treasurer, representing the Minister for Health. Is it a fact that for the first time deaths due to bowel cancer outnumber breast cancer deaths among women? Is it a fact that the incidence of bowel cancer is on the rise nationally? What action is the Health Department taking to address this concern? As it did with breast cancer screening, will the Government fund non-invasive faecal occult blood testing [FOBT] to screen for bowel cancer and to identify persons susceptible to bowel polyps and cancer?

The Hon. M. R. EGAN: I will refer the question of the Hon. Elaine Nile to my colleague the Minister for Health and obtain a response.

TREASURY DOCUMENTS ACCESS

The Hon. G. S. PEARCE: My question is to the Treasurer. Is it true that in 1999-2000 the Treasury, the Office of Financial Management, has refused 87.5 per cent of requests for documents under the Freedom of Information Act? In the light of that abysmal record, has the Treasurer instructed his department to decline to provide information to the public? What action has the Treasurer taken to address the concern of the Ombudsman in his annual report that over four years of auditing there has been a significant decrease in full disclosure of documents to the public?

The Hon. M. R. EGAN: My understanding is that in 1999-2000 Treasury completed some 63 freedom of information applications, of which 33 were granted in full, 13 were granted in part and 17 were refused. The Treasury advises me that refusal is related to requests for documents that are exempt under section 25 (1) (a) of the Freedom of Information Act.

CONSERVATORIUM OF MUSIC REDEVELOPMENT

Reverend the Hon. F. J. NILE: I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council a question without notice. What are the current estimated redevelopment costs for the Conservatorium of Music and former Government stables in Macquarie Street? What are the reasons for the reported cost blow-out? What has been the impact on the final cost of the discovery on the site of previously unknown, significant colonial heritage artefacts that are now being restored and incorporated into the overall project? How will the redevelopment increase our understanding of our early New South Wales colonial heritage? How will this redeveloped site ultimately benefit New South Wales school students to better understand the Australian heritage and colonial life?

The Hon. M. R. EGAN: My understanding is that the heritage costs of the project, which were certainly not anticipated at the time the project was commenced, total approximately $45 million.

The Hon. Dr B. P. V. Pezzutti: Reverend the Hon. F. J. Nile was led up the garden path big time on that.

The Hon. M. R. EGAN: Why is it that they are opposed to—

The Hon. Dr B. P. V. Pezzutti: We should have had a decent one out at Rozelle. It would have been a fraction of the cost.

The Hon. M. R. EGAN: Yes, under the flight path—a conservatorium of music under the flight path!

The Hon. Dr B. P. V. Pezzutti: What a lot of rubbish!

The PRESIDENT: Order! I cannot hear the Minister.

The Hon. M. R. EGAN: I think the Hon. Dr B. P. V. Pezzutti is having a fit.

The Hon. Dr B. P. V. Pezzutti: No. You led Fred Nile astray, and he swallowed it hook line and sinker, like a stupid fish.

The Hon. M. R. EGAN: I do not know what the Hon. Dr B. P. V. Pezzutti has swallowed, but he is coughing and coughing as though he has swallowed something. The redevelopment and the restoration of the conservatorium will provide Sydney with a first-class Conservatorium of Music. The Opposition wanted it to go out to Bullamakanka, but throughout my lifetime the Conservatorium of Music has been where it is. If that is not a heritage consideration, I do not know what is. Of course the conservatorium, as a conservatorium, has heritage value. I participated in eisteddfods at the Conservatorium of Music. I even participated in a solo effort on one occasion. When the lady started to play the piano I forgot the words. I turned to her and said, "Excuse me madam, but you are playing the wrong tune." By the time she recommenced playing the same tune I had remembered the words.

The Hon. Dr B. P. V. Pezzutti: So it is a civic hold out?

The Hon. M. R. EGAN: Does that not give it some heritage value? It would be absolutely crazy to think about locating the conservatorium anywhere other than at the present location. Significant initial costs were associated with heritage aspects uncovered during the redevelopment. I point out to honourable members that, if the Conservatorium of Music were used for that purpose or for any other purpose, heritage costs would still have been involved. However, that would not have happened if the conservatorium had been left to rot. If the Conservatorium of Music were to be adapted for any other use we would have to face up to the subsequent conservation costs involved in the project. So it is not as though those heritage aspects are unique to the building being used as a Conservatorium of Music. I have been informed that more than 10,000 artefacts have been recovered from the site, providing the basis for a heritage precinct within the project. Those artefacts have been assessed and preserved in accordance with the Heritage Act. Obviously, that has come at a significant cost, but those items will be preserved for future generations.

When future generations go to the Conservatorium of Music either to listen to a recital or to undergo some musical education they will remember that the Opposition in this State tried to put the kybosh on that project. They will remember the wise decision of Reverend the Hon. F. J. Nile: to ensure that the

Conservatorium of Music stays where it should be. When I was a young fellow and I was still in short pants I remember the predecessors of honourable members opposite complaining about the building of the Sydney Opera House. I was told by my mother that when the Sydney Harbour Bridge was being built the Liberals and the Nats—as they then called themselves—were against the building of the Sydney Harbour Bridge.

The Hon. J. R. Johnson: And Darling Harbour.

The Hon. M. R. EGAN: And Darling Harbour. What about all their complaints about the Olympics after we came to office? Opposition members are against everything. When these things turn out to be the great successes that they are they do not turn around and apologise; they simply forget that they ever opposed them in the first place. Future generations will not only thank this Government; they will also thank the parliamentary committee chaired by Reverend the Hon. F. J. Nile.

Reverend the Hon. F. J. NILE: I ask a supplementary question. Is there any truth in the rumour that the Liberal Party wants the conservatorium as its headquarters?

The Hon. M. R. EGAN: I would not be surprised. That is an interesting proposition. I am sure that Opposition members had some sleazy deal up their sleeves to make the Conservatorium of Music the headquarters of the Liberal Party of New South Wales. They are probably hoping for the day when they are returned to government and some future Liberal government gives it to them for nothing. The Conservatorium of Music has an important purpose.

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

NELSON BAY SLIMY MACKEREL POPULATION

The Hon. E. M. OBEID: On 5 December the Hon. J. S. Tingle asked me a question concerning Nelson Bay slimy mackerel population. I now provide the honourable member with the following additional information:

> It is illegal for trawlers to work inside the Port Stephens bay and estuary. Local Fisheries officers have recently investigated these claims, but have not found any evidence of either of these activities occurring. It is common for vessels using purse seine methods to work at night in ocean waters using lights, and taking among other species, slimy or blue mackerel. There are about 20 endorsed purse seine businesses in New South Wales, and they are based up and down the coast. These are predominantly small boats operating inside three nautical miles. Purse seining outside three nautical miles is managed by the Commonwealth and this is the fishery that is the subject of recent controversy in Eden. Some Commonwealth tuna operators also have State permits to use purse seine or lift nets in ocean waters to take slimy mackerel for use as bait in their tuna operations.
>
> I agree that the slimy mackerel fishery is fragile and I have written to the Federal Minister for Agriculture, Fisheries and Forestry, Mr Truss, to ask that a comprehensive resource assessment be carried out on this fishery. Mr Truss has replied to this request outlining that the slimy mackerel fishery will be included in the resource assessment of the jack mackerel fishery. Sustainable management of our State's fishery resources is very important to this Government. Environmental assessments of commercial fishery management plans will be undertaken in accordance with recently passed legislation. This will ensure that the best practice commercial fishing practices for slimy mackerel are used and that the fishery is managed sustainably.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. J. J. Della Bosca tabled the following papers:

HiTech Group Australia Ltd. document
Snowy Water Inquiry Agreement between the State of New South Wales and the State of Victoria, dated 5 December 2000

SNOWY WATER AGREEMENT

Ministerial Statement

The Hon. J. J. DELLA BOSCA (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) [5.07 p.m.]: Australia is the world's driest continent. As early explorers criss-crossed the land they assessed the country's potential by the amount of water available to support livestock and crops. When the Snowy Mountains were first explored by European settlers in 1835 it was realised that there was a huge potential supply of water, but most of it drained away to the ocean. Some of the nation's best-known rivers—the

Murray, the Murrumbidgee, the Tumut and the Snowy—rise in these mountains. Some of this water has always flowed westward feeding the Murray and Murrumbidgee system, but much went east and was largely unexploited.

Australians have an attachment to the Snowy River though literature. In 1892 Banjo Paterson wrote the famous ballad *The Man From Snowy River*, which epitomised the riders of the high country. Hardly an Australian would not know some of the lines from that poem. We picture the scenic and environmental beauty that leaps out of the ballad. It is ironic to recall that the story eulogises the riders of the high country, whose introduction of hoofed animals did a lot to damage the natural environment of the area. Another aspect of the Snowy played a profound part in the lives of many Australians—the great Snowy Mountains scheme built between 1949 and 1972. There is nothing more Australian than the Snowy River.

Farmers and politicians of New South Wales looked with envy at the Snowy country for decades. Its vast quantity of water was what the colony needed but most of it ran away to the sea. Droughts regularly crippled the colony of New South Wales. In 1884 the New South Wales Surveyor General, P. F. Adams, proposed a dam on about the site of today's Island Bend and advocated a massive canal across the range to the Murrumbidgee. Further schemes were discussed over the years. In 1941 William McKell led the Australian Labor Party to a stunning victory in the New South Wales election. Rural issues, including water, were high on the Government's agenda. People had talked about a Snowy scheme for generations and now McKell decided it was time to act. In December 1941 he commissioned the New South Wales Snowy Mountains Committee to investigate proposals for the utilisation of the waters of the Snowy. In 1944 it reported, recommending a Snowy project.

The New South Wales Government saw irrigation as the object of any such project not hydro-electric power. The Federal Government, however, saw the waters of the Snowy as primarily for power generation. Canberra saw a series of underground power stations, far inland, as being secure in the case of attack in war time. Victoria also took the view that power was the priority. In Canberra, Prime Minister Ben Chifley and Minister for Works, Nelson Lemmon, were enthusiastic about the proposal to harness the Snowy waters, although they too shared the Victorian view of the priority for hydro-electric power. However, it was no simple legislative matter in the complexities of a federated Australia to have three governments agree on the project. Thus, the Chifley Government passed Federal legislation, using its emergency powers under the Defence Act, declaring the project necessary for defence purposes. A compromise was reached on utilising the waters for both power and irrigation.

The Snowy Mountains scheme changed Australia forever. A nation, founded on solid British stock, almost overnight became one of the world's great pancultures. A hundred thousand workers from some 33 countries toiled in this new southern outback—miners, riggers, sparkies, chippies, engineers, surveyors, drivers, cooks, clerks—the list is endless. Tough individuals built the Snowy through sheer hard work and sometimes at the cost of their lives. For many there was a story of courage and adventure in even reaching Australia from war-ravaged Europe. Today many Australian families owe the gift of this country to their dads and grandads who came to work on the Snowy, and stayed. Those of us who grew up in the 1950s and 1960s were familiar with the Snowy names. There was a mystique about the old towns of Adaminaby and Jindabyne that were swallowed up by the great dam waters. There was a magic in the names of Snowy towns that sprung up such as Khancoban, Cabramurra, Happy Jacks and Island Bend. Fifty years on, the Snowy remains a great engineering achievement.

The Snowy scheme impressed the national consciousness like no other project has done before or since. There are endless tales told of the Snowy. From the Snowy came hydro-electric power and irrigation. The Snowy relied on multiculturalism, innovation, brilliant organisation, and world's best practice in technology combined with an awesome vision. Through co-operation with management, unions and workers disputes were settled quickly before they escalated. Snowy Mountains Commissioner Sir William Hudson and the Australian Workers Union used on-the-spot mediation to settle disputes. It was not only a multicultural engineering success; it was an industrial success. If ever there was a national monument from which people could draw pride and confidence it was the Snowy. I recommend to honourable members who are interested in the Snowy Mountains scheme a visit to the photographic exhibition on the first floor of the State Library. I recently had the great pleasure of opening this display and it is well worth a visit.

In their day those who proposed and developed the Snowy scheme had a high regard for the environment but they did not foresee what would happen. One of the effects of the development of the Snowy scheme was the diminishing flow of the Snowy River. The reduced flow is quite dramatic. This was brought

home to me when I visited Dalgety on the Snowy downstream from Jindabyne Dam. To solve such a problem, to reverse a process, is not easy. Apart from cost factors there are the obvious impacts on other communities west of the Snowy that have come to rely on the Snowy scheme for irrigation water. Negotiations between the three governments of New South Wales, Victoria and the Commonwealth have been undertaken to try to solve this problem. I am pleased to report the success of negotiations between governments on this issue. In October 1998, the final report of the Snowy Water Inquiry was presented to the New South Wales and Victorian governments by the Commissioner, the Hon. Robert Webster. Completion of the inquiry is a precondition for the corporatisation of the Snowy Mountains Hydro-Electric Authority.

The inquiry was set up to develop fully costed options to address environmental issues arising from the current pattern of water flows in rivers affected by the Snowy Mountains Hydro-Electric Scheme. Water flows are determined by the requirements for both electricity generation and supply of water for irrigation farming to the Murray and Murrumbidgee valleys west of the Great Dividing Range. The inquiry received wide-ranging submissions from interested parties. These included the three major groups which have substantial interests in the flows of water from the Snowy scheme: environmentalists, irrigation farmers from west of the Great Dividing Range and the electricity generation interests. Extensive negotiations on an outcome from the Snowy Water Inquiry have been carried out between New South Wales, Victoria and the Commonwealth. The results of these negotiations were announced on 6 October 2000 in Jindabyne by Premier Carr and Premier Bracks.

The Premiers outlined an agreement on increased water releases from the Snowy Mountains scheme to the Snowy River; the upper Murrumbidgee River; and the Snowy region alpine rivers. This package has been designed to deliver environmental benefits for the rivers whilst at the same time protecting the environment of the Murray-Darling Basin, safeguarding the interests of irrigation farmers, maintaining the quality and quantity of South Australia's water supply and preserving the viability of the Snowy scheme. The key to this solution is the achievement of water savings in the western rivers which are then used to offset increased flows in the Snowy River. The outcome can be summarised as follows: in implementing increased flows in the Snowy River below Jindabyne, in the River Murray and in the Snowy montane rivers, the three governments will aim for no adverse impacts on water entitlements for irrigation in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems; water flows for environmental purposes in the River Murray and in the Murrumbidgee and Goulburn-Murray river systems; and South Australian water security or water quality consistent with water sharing arrangements in the Murray-Darling Basin Agreement.

The three governments will establish a jointly owned enterprise which will be charged with acquiring up to 282 gigalitres of water at least cost. This is irrespective of whether the water is sourced from New South Wales or Victoria. The water acquired by the enterprise will be used to offset increased flows in the Snowy River of up to 21 per cent of average natural flow—212 gigalitres. The target is to achieve these increased flows within 10 years. The flow level in the Snowy River above which compensation will be paid to Snowy Hydro Ltd will be set at 21 per cent of average natural flows. This is the substance of the agreement which I have tabled in the House today as required under the Snowy Hydro Corporatisation Act 1997. However, the three governments were able to agree on additional benefits to the minimum ones required by the legislation. First, 70 gigalitres per annum of dedicated environmental flows will be provided to the River Murray. Second, increased water flows will also be provided in the Snowy montane rivers. Many of the Snowy montane rivers, such as the upper Murrumbidgee and the Snowy above Jindabyne, have high environmental value. This applies to threatened and endangered species and rare upper montane ecosystems.

The agreed outcome for the Snowy Water Inquiry will achieve significant improvements in the environmental conditions of these rivers. The joint government-owned enterprise will acquire water primarily through investing in water-saving measures and if necessary through purchase of water entitlements in New South Wales and water rights in Victoria. It is anticipated that the majority of water will be acquired through water-saving measures rather than purchases. The enterprise will be required to manage any purchases of water very carefully so as not to inflate the prices paid in the water market. The enterprise will be funded by the three governments during 10 years. New South Wales and Victoria will each contribute up to $150 million and the Commonwealth will contribute $75 million in that period. The Commonwealth's contribution of $75 million will be used primarily to fund the 70 gigalitres per annum of dedicated environmental flows in the River Murray. Those familiar with the story of the Snowy will recognise this agreement as a major intergovernmental initiative. It is a determined move by the three governments to address a major problem. This is an example of governments acting responsibly and collectively on environmental issues of concern to the broader community. I seek leave to incorporate in *Hansard* the Heads of Agreement for the agreed outcomes from the Snowy Water Inquiry. This document outlines arrangements to implement the outcomes and will enable honourable members to understand more fully the details of the matter.

Leave granted.

HEADS OF AGREEMENT

THE AGREED OUTCOME FROM THE SNOWY WATER INQUIRY

6 December 2000

This Heads of Agreement has been prepared to outline arrangements to implement the outcome from the Snowy Water Inquiry which has been agreed between the NSW, Victorian and Commonwealth Governments.

Legislative Basis of An Agreed Outcome

The *Snowy Hydro Corporatisation Act* 1997 (NSW) requires that, following the completion of the Snowy Water Inquiry, NSW is to reach agreement with Victoria on:

- the initial release of water to the Snowy River for environmental reasons on the issue of the Snowy water licence; and
- the increased amount of such releases of water following the first review of the Snowy water licence that will not give Snowy Hydro an entitlement to compensation.

The Act requires a review of the provisions of the Snowy water licence relating to the initial release of water to the Snowy River for environmental reasons five years after the licence is issued. The Act also requires reviews of all obligations under the Snowy water licence 15 years after the licence is issued and every 10 years thereafter.

The *Snowy Hydro Corporatisation Act* 1997 *(Cth)* requires the relevant Commonwealth Minister to be satisfied with the adequacy, conduct, outcome and planned implementation of the Snowy Water Inquiry, having regard to the continued viability of the Snowy Scheme.

Environmental Objectives

The environmental objectives for the Snowy River and the Snowy upper montane rivers are to improve the habitat for a diverse range of plant and animal species by a combination of:

- improving the temperature regime of river water;
- achieving channel maintenance and flushing flows within rivers;
- restoring connectivity within rivers for migratory species and for dispersion;
- improving triggers for fish spawning; and
- improving the aesthetics of currently degraded riverine environments.

These objectives are complemented by an objective to maintain and improve environmental flows for the River Murray.

1. INTRODUCTION

This Introduction sets out the principles adopted by the three Governments in reaching agreement on the Snowy Water Inquiry outcome. The body of the document repeats the principles and provides more information about the implementation of the agreed outcome.

1.1 In implementing increased flows in the Snowy River below Jindabyne, in the River Murray and in the Snowy montane rivers, there will be no adverse impacts on:

- ♦ water entitlements for irrigation in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems;
- ♦ water flows for environmental purposes in the River Murray and in the Murrumbidgee and Goulburn-Murray river systems;
- ♦ South Australian water security or water quality consistent with water sharing arrangements in the *Murray-Darling Basin Agreement.*

1.2 The three Governments have adopted the following target levels of water flows to be achieved progressively within 10 years:

- ♦ total flows equivalent to 21% of average natural flow (ANF) in the Snowy River;
- ♦ increased flows equivalent to 150 gigawatt-hours per annum of foregone electricity generation in the Snowy montane rivers, including the upper Murrumbidgee River;
- ♦ dedicated environmental flows allocated to the River Murray of 70 gigalitres per annum.

1.3 The additional 7% of further flows in the Snowy River up to a total of 28% ANF may be achieved following the implementation of an additional major capital works program to achieve water savings in the southern Murray-Darling Basin beyond those required to offset the 21 % ANF flows in the Snowy River. This program will be undertaken

through public private partnerships in which the water saved is shared between the governments and private sector partners. Water savings allocated to the governments will be used to offset increased flows in the Snowy River and to provide further dedicated environmental flows in the River Murray.

1.4 All increased flows in the Snowy River and dedicated environmental flows allocated to the River Murray will be offset with water acquired primarily through prior verified water savings in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems and, if necessary, through purchases of water from these areas.

1.5 Once a flow of 15% ANF is achieved in the Snowy River, the security of the further offset water required to achieve a 21 % ANF flow in the Snowy River will be at the level of reliability measured at the point of acquisition or purchase, not at the reliability level for annual inflows to the Snowy River.

1.6 Compensation for all net foregone revenue resulting from reduced availability of water flows will be paid to Snowy Hydro Ltd, by arrangement between NSW and Victoria, for any flows in the Snowy River above 21% ANF.

1.7 A joint government enterprise will be established by the NSW, Victorian and Commonwealth Governments with a charter to acquire water at least cost, irrespective of whether it is sourced in NSW or Victoria. The enterprise will acquire water primarily through investing in water savings projects and, if necessary, through purchasing water entitlements and water rights. Any of the three Governments may provide the enterprise with costed water savings projects to be investigated by the enterprise.

1.8 The purpose of the enterprise will be expressed in its founding documents as being to:

- acquire sufficient water to offset up to 21% ANF flows in the Snowy River and to provide for dedicated environmental flows of 70 gigalitres per annum allocated to the River Murray; and
- commission necessary environmental and riverine works, in addition to works commissioned by Snowy Hydro Ltd, in the Snowy River, the Snowy montane rivers and the River Murray as nominated and agreed by the three Governments.

1.9 The enterprise will be funded as follows:

- New South Wales Government: $150 million;
- Victorian Government: $150 million,
- Commonwealth Government: $75 million.

These are the total financial contributions which will be made by the Governments towards achieving the target levels of water flows specified in Clause 1.2. All financial contributions will be provided in the first ten years. The Commonwealth financial contribution will be provided, in particular, to secure environmental releases to the River Murray.

Commitment of funds can only be varied by agreement between the three Governments.

1.10 All increased flows in the Snowy River and the River Murray are to be for environmental purposes and are not to be used for irrigated agriculture or any other consumptive purpose.

2. COMMITMENTS BY THE GOVERNMENTS

2.1 The NSW, Victorian and Commonwealth Governments agree that in implementing increased flows in the Snowy River below Jindabyne, in the River Murray and in the Snowy montane rivers, there will be no adverse impacts on:

- water entitlements for irrigation in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems;
- water flows for environmental purposes in the River Murray and in the Murrumbidgee and Goulburn-Murray river systems;
- South Australian water security or water quality consistent with water sharing arrangements in the *Murray-Darling Basin Agreement.*

2.2 The three Governments agree that flows in the Snowy River below Jindabyne will not be increased and dedicated environmental flows allocated to the River Murray will not be implemented unless they are first offset by water acquired through:

- primarily undertaking water saving, environmental improvement and regional development projects in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems; and
- if necessary, purchasing water entitlements and water rights from holders in a manner which promotes the water trading market.

2.3 The three Governments agree that, at any given time, the total volume of water releases from the Snowy Scheme to the Snowy River below Jindabyne cannot exceed the total verified volume of water acquired through the processes outlined in Clause 2.2.

2.4 The three Governments agree that water to offset increased flows to the Snowy River below Jindabyne or dedicated environmental flows to the River Murray will not be acquired from the Darling River system except by agreement between NSW, Victoria, the Commonwealth and South Australia.

2.5 All increased flows in the Snowy River and the River Murray are to be for environmental purposes and are not to be used for irrigated agriculture or any other consumptive purpose.

3. ESTABLISHMENT OF A JOINT GOVERNMENT ENTERPRISE

3.1 A joint government enterprise will be established by the NSW, Victorian and Commonwealth Governments with a charter to acquire water at least cost, irrespective of whether it is sourced in NSW or Victoria. The enterprise will acquire water primarily through investing in water savings projects and, if necessary, through purchasing water entitlements and water rights.

3.2 The enterprise will acquire water in order of least cost in diversions from the River Murray and in the Murrumbidgee and Goulburn-Murray river systems, treating the water available as a single pool.

3.3 Any of the three Governments may provide the enterprise with a costed water savings project or package of projects to be investigated by the enterprise or provide water from savings projects initiated by the relevant Government at the lesser of the cost of the project(s) or the prevailing market price in the market from which the savings were drawn.

3.4 The purpose of the enterprise will be expressed in its founding documents as being to

- acquire sufficient water to offset up to 21% ANF flows in the Snowy River and to provide for dedicated environmental flows of 70 gigalitres per annum allocated to the River Murray; and
- commission necessary environmental and riverine works, in addition to works commissioned by Snowy Hydro Ltd, in the Snowy River, the Snowy montane rivers and the River Murray as nominated and agreed by the three Governments.

3.5 The enterprise will be funded as follows:

- New South Wales Government: $150 million;
- Victorian Government: $150 million;
- Commonwealth Government: $75 million.

These are the total financial contributions which will be made by the Governments towards achieving the target levels of water flows specified in Clause 1.2. All financial contributions will be provided in the first ten years. The Commonwealth financial contribution will be provided, in particular, to secure environmental releases to the River Murray.

Commitment of funds and the allocation of water savings for environmental purposes can only be varied by agreement between the three Governments.

3.6 The enterprise will be non-profit. It will have a defined annual cash flow and a limited capacity to carry out short-term investment, carry over of funds between financial years, and borrowing. The annual business plan of the enterprise including the proposed savings projects or package of projects will require the approval of the three Governments.

3.7 The parties recognise that NSW and Victoria are moving to establish fully functioning water markets consistent with COAG principles and MDBC resolutions and the parties also note that NSW is currently in a program of active water policy reform and that these initiatives will underpin the operation of the enterprise.

3.8 Pending the establishment of fully operating water markets, the State Governments will take all reasonable steps to promote access by the enterprise to water entitlement and water rights holders (including individuals) in both States for the acquisition of water for the purposes of this agreement.

4. STAGES FOR INCREASED FLOWS

First Stage (Initial release)

4.1.1 An initial increased release of water to the Snowy River below Jindabyne will be made from the Mowamba River and Cobbon Creek aqueducts at a time agreed by all three Governments following the proclamation of the Snowy corporatisation legislation.

4.1.2 Water to offset the increased flows in the Snowy River resulting from releases from the Mowamba River and Cobbon Creek aqueducts will be sourced for up to the first three years from Snowy Scheme storages. These borrowings will be paid back over a time scale which does not affect water allocations for irrigation farming. The repayment schedule will be part of the agreed annual business plan of the joint government enterprise. Within three years, inflows to the Snowy River from the Mowamba River and Cobbon Creek will be offset by verified water savings from the enterprise. Reductions in assured releases to the west made by Snowy Hydro Limited equal to these verified water savings will be implemented when this offsetting commences.

4.2 Second Stage (2 to 7 years)

4.2.1 Water releases from the Snowy Scheme to the Snowy River below Jindabyne will be progressively increased in tandem with increases in the verified volume of water acquired by the joint government enterprise. For this stage, the target flow

in the Snowy River below Jindabyne is 15% ANF. To enable these releases to be made, within three years of corporatisation Snowy Hydro Ltd will build an outlet at Jindabyne Dam to enable a flow in the Snowy River of at least 28% ANF.

4.2.2 Dedicated environmental flows allocated to the River Murray of up to 70 gigalitres per annum will be progressively implemented in tandem with increases in the verified volume of water acquired by the joint government enterprise. The River Murray flows will be matched to the allocation to the Snowy River on the basis of one gigalitre allocated to the River Murray per two gigalitres allocated to the Snowy River over the Second Stage (2 to 7 years).

4.2.3 The MDBC will be responsible for managing a variable inflow regime, including above-target water from the Snowy Scheme to provide dedicated environmental flows to the River Murray downstream from the Hume Dam.

4.2.4 NSW will develop schedules for increased water releases to the Snowy montane rivers, including the upper Murrumbidgee River, of a total volume of water equivalent to foregone Snowy electricity generation of 100 gigawatt hours per annum. If necessary to enable releases to the upper Murrumbidgee River, within three years of corporatisation Snowy Hydro Ltd will build an outlet at Tantangara Dam.

4.2.5 Water releases to the Snowy River below Jindabyne and to the Snowy montane rivers will mimic natural flows under prevailing climatic conditions to the extent possible, depending on the availability and reliability of offset water and the capacity of constructed outlet works at Jindabyne and Tantangara Dams.

4.3 Third Stage (8 to 10 years)

4.3.1 Water releases from the Snowy Scheme to the Snowy River below Jindabyne will be progressively increased in tandem with increases in the verified volume of water acquired by the joint government enterprise. For this stage, the target flow in the Snowy River below Jindabyne is 21% ANF.

4.3.2 In this stage, the security of the further offset water required to achieve a 21% ANF flow in the Snowy River will be at the level of reliability measured at the point of acquisition or purchase, not at the reliability level for annual inflows to the Snowy River.

4.3.3 Water allocated from the Snowy Scheme to the River Murray for dedicated environmental flows will continue to be matched to the allocation to the Snowy River on the basis of one gigalitre allocated to the River Murray per two gigalitres allocated to the Snowy River up to a maximum allocation of 70 gigalitres per annum to the River Murray within 10 years.

4.3.4 Water releases from the Snowy Scheme to the Snowy montane rivers will be increased to a total volume of water equivalent to 150 gigawatthours per annum of foregone electricity generation.

4.3.5 The target is to complete this stage in 10 years.

4.4 FOURTH STAGE (BEYOND 10 YEARS)

4.4.1 The additional 7% of further flows in the Snowy River up to a total of 28% ANF may be achieved following the implementation of an additional major capital works program to achieve water savings in the southern Murray-Darling Basin beyond those required to offset the 21% ANF flows in the Snowy River. This program will be undertaken through public private partnerships in which the water saved is shared between the governments and private sector partners. Water savings allocated to the governments will be used to offset increased flows in the Snowy River and to provide further dedicated environmental flows in the River Murray.

5. COMPENSATION PAYABLE TO SNOWY HYDRO LTD

5.1 The three Governments agree that compensation for all net foregone revenue resulting from reduced availability of water flows will be paid to Snowy Hydro Ltd, by arrangement between NSW and Victoria, for any flows in the Snowy River above 21 % ANF.

5.2 No flows in excess of 21% ANF will be implemented before arrangements for sharing the cost of the compensation are agreed between the NSW and Victorian Governments.

6. WATER ACCOUNTING ARRANGEMENTS

6.1 The measuring point for all Snowy River flows will be immediately below the confluence between the Snowy and Mowamba rivers.

6.2 The three Governments will present each water savings project or package of projects proposed by the joint government enterprise or by the Governments themselves to the Murray Darling Basin Commission for comment under clause 46 of the *Murray Darling Basin Agreement.*

6.3 A methodology for verifying the water savings actually acquired through each project for the purposes of offsetting increased flows to the Snowy River below Jindabyne and dedicated environmental flows to the River Murray will be developed for comment by the MDBC and approval by the three Governments.

6.4 An auditor appointed by the three Governments in consultation with the MDBC will review the calculation of prospective water savings from each project, certify that the calculations are reasonable and verify the actual water savings achieved by each project.

6.5 Victoria and NSW will create specific environmental water entitlements for the Snowy and Murray Rivers. The water contained in these entitlements will represent the water savings and purchases made by the joint government enterprise.

6.6 The allocation of water to the Snowy Scheme for increased flows in the Snowy River below Jindabyne and for dedicated environmental flows in the River Murray will be made when the offsetting water savings actually acquired have been verified by the auditor. However, the initial release of water from the Mowamba River and Cobbon Creek aqueducts will be in accordance with clause 4.1.2 of this agreement.

6.7 The joint government enterprise will be required to maintain a continuous and audited record of water acquired for the purpose of offsetting increased releases to the Snowy River below Jindabyne and dedicated environmental flows to the River Murray and the relationship of these acquisitions to the Murray and Tumut developments of the Snowy Scheme. The enterprise will advise the respective responsible Ministers of the volumes of offset water acquired.

6.8 Assured releases from the Murray and Tumut developments of the Snowy Scheme will be reduced by the increased volumes of water released to Snowy montane rivers external to the Scheme, including the upper Murrumbidgee River, according to the catchment into which each of these rivers flows.

6.9 Each State will reduce its MDBC Cap by the audited total volume of water advised by the enterprise as having been acquired within that State for the purpose of offsetting increased releases to the Snowy River below Jindabyne and dedicated environmental **flows** to the River Murray.

6.10 The water allocated to the Snowy Scheme as dedicated environmental **flows** to the River Murray will be held in Snowy Scheme storages and will be available to Snowy Hydro Ltd as above-target water.

6.11 Following agreement between the three Governments, the NSW Water Administration Ministerial Corporation, as the licensor, will direct Snowy Hydro Ltd prior to the development of the annual Snowy Hydro Operating Plan on the volume of water to be deducted from assured releases to, and from the guaranteed minimum for, the west from each development to offset increased releases to the Snowy River below Jindabyne and dedicated environmental **flows** to the River Murray during the currency of the Operating Plan. The deductions from assured releases and the guaranteed minimum are to be equal to the total verified water savings acquired by the joint government enterprise.

6.12 Following agreement between the three Governments, the NSW Water Administration Ministerial Corporation, as the licensor, will direct Snowy Hydro Ltd on the monthly schedule of releases to the Snowy River below Jindabyne to be achieved which corresponds to the increased release volume. This direction will be provided in time to be included in the Snowy Hydro annual Operating Plan.

6.13 Following agreement between the three Governments, the NSW Water Administration Ministerial Corporation, as the licensor, will direct Snowy Hydro Ltd on the monthly schedule of releases to the Snowy montane rivers to be achieved which corresponds to the volume of water equivalent to foregone Snowy electricity generation of 150 gigawatt-hours per annum, or the agreed component thereof within the first ten years. This direction will be provided in time to be included in the Snowy Hydro annual Operating Plan.

7. ENVIRONMENT AND RIVERINE WORKS

7.1 The joint government enterprise will be responsible for funding environment and riverine works in the Snowy River, the Snowy montane rivers and the River Murray as nominated and agreed by the three Governments and in accordance with its approved business plan.

8. RESPONSIBILITIES OF SNOWY HYDRO LTD

8.1 The three Governments will, as appropriate, indemnify Snowy Hydro Ltd from any liability for downstream environmental or property damage resulting from release of water from the Snowy Scheme for increased flows in the Snowy River below Jindabyne and in the Snowy montane rivers or for dedicated environmental flows in the River Murray made in accordance with the Snowy water 1icence.

8.2 Within three years of corporatisation, Snowy Hydro Ltd will build an outlet at Jindabyne Dam to enable a flow in the Snowy River of at least 28% ANF.

8.3 If necessary to enable releases to the upper Murrumbidgee River, within three years of corporatisation, Snowy Hydro Ltd will build an outlet at Tantangara Dam.

Reverend the Hon. F. J. NILE [5.18 p.m.], by leave: The Christian Democratic Party is pleased, as I am sure all honourable members are, that this agreement has been reached between the Commonwealth, New South Wales and Victorian governments. There has been much agitation in the House particularly in regard to the Snowy River. Not only will the Snowy River benefit from this agreement but also the Murray River. I commend the leaders of the three respective governments for their energy in bringing about this agreement.

Notice of Motion

The Hon. J. J. DELLA BOSCA: I seek the leave of the House to give notice of a motion with respect to the agreement between New South Wales and Victoria on the outcomes of the Snowy water inquiry.

The Hon. D. J. GAY: The House should be aware that if one member of the Opposition were to say no, leave would not be granted and the Special Minister of State would not be able to proceed to give notice. We acknowledge that the Special Minister of State just made a ministerial statement, but I point out that very short notice was given of it. Overnight, the Opposition will be reviewing its position on this matter. However, the Opposition will not use, as it could have used, this opportunity to stop the Government proceeding with this matter.

Leave granted.

The Hon. J. J. DELLA BOSCA (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) [5.22 p.m.]: For the benefit of the House I acknowledge that I am aware of the difficulties posed to the House by these circumstances. I attempted to brief members of the Coalition and crossbench members earlier. Largely, this has been brought about by circumstances outside the immediate control of the New South Wales Government. Those circumstances can be fully ventilated tomorrow during debate on the substantive motion that I will move. I give notice that on the next sitting day I will move:

> That, under section 3 of the Snowy Hydro Corporatisation Act 1997, this House does not propose to disapprove of the agreement on the outcomes of the Snowy Water Inquiry, dated 5 December 2000, between the State of New South Wales and the State of Victoria, and tabled in this House on 6 December 2000.

ASSENT TO BILLS

Assent to the following bills reported:

Fisheries Management and Environmental Assessment Legislation Amendment Bill
Workers Compensation Legislation Amendment Bill
Electricity Legislation Amendment (TransGrid) Bill
Transport Administration Amendment (Rail Management) Bill

TABLING OF PAPERS

The Hon E. M. Obeid tabled the following reports for the year ended 30 June 2000:

Advance Energy
Central Coast Waste Planning and Management Board
Delta Electricity
EnergyAustralia
Great Southern Energy
Hunter Waste Planning and Management Board
Integral Energy
Macquarie Generation
Marine Parks Authority
NorthPower
Pacific Power, Volumes 1 and 2
Southern Sydney Waste Planning and Management Board
Sydney Catchment Authority
TransGrid
Waste Service New South Wales
Western Sydney Waste Board

Ordered to be printed.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL

In Committee

Consideration resumed from an earlier hour.

Schedule 3

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.24 p.m.]: I would like to add to the comments I made intimating that the Government would oppose the amendment proposed by the Hon. R. S. L. Jones. Issues were raised about properties that were affected by the Government's amendment proposed in the bill and whether an audit had been done of the impacts of that amendment. I inform

the House that the Office of State Revenue is not aware of any parcels of land owned by individuals who have been granted exemption. Until the Supreme Court decision, the Office of State Revenue believed that to qualify for the exemption the owner had to be a non-profit body. Therefore, exemptions were not granted to individuals unless the land was owned in trust for a non-profit body.

In the Supreme Court case the court did not grant the exemption, but only because that part of the land being used as a garden was not fenced off from an adjacent house also located on the land. Land used as a public garden is usually owned by local councils, which are exempt from land tax, or exempt statutory authorities. The fact that vacant land may be open to the public and used by the public for recreation purposes, such as walking their dogs, does not mean that the land tax is not currently being paid. No existing public gardens are considered to be at risk. The Government will happily review the effect of the legislation or provide relief in particular cases if any public gardens are put at risk by the imposition of a new land tax liability as a result of this legislation.

The Hon. J. H. JOBLING [5.26 p.m.]: Before question time the Opposition indicated that in general terms the amendment proposed by the Hon. R. S. L. Jones appeared to be worthy of support. The Opposition also indicated that it was examining the issue. Having heard the comments made at that time by the Minister, we sought an adjournment and in the meantime we have received a briefing from the Office of State Revenue. That office drew our attention to the 1999 Supreme Court decision, which indicated that the concept of using such land for profit was limited to day-to-day operations and did not extend to the consideration of whether the owner of the land could profit from the sale of the land or from the winding up of a body that owned the land.

As was pointed out in general terms at the briefing, the Supreme Court decision potentially opened up a loophole that may be of quite large proportions. The question, therefore, was one of opening up a land tax avoidance loophole which could be obtained simply by allowing the public access to the land. The Opposition has taken advice on the information that was given to it. I indicated to the Hon. R. S. L. Jones that, whilst the Opposition supported the intent of the amendment that he proposed, quite clearly the Opposition could not place itself in the position of being party to opening up a tax loophole. Therefore, we are unable to support the amendment.

The question was put to Opposition members that because of the tax loophole, and because the Opposition now cannot support the amendment, there may be a way to achieve the aim that the honourable member proposes. It would seem from the advising we received that a way to do that may be to place the land in the hands of a non-profit organisation. I have advised the Hon. R. S. L. Jones of the reasons that the Opposition regrettably will not be able to support his amendment.

The Hon. R. S. L. JONES [5.28 p.m.]: It would have been good if the Office of State Revenue had briefed the Opposition before this afternoon. The amendment had been mooted some time before. Some communication in advance would have helped overcome this problem beforehand. I understand the Opposition will not support my amendment, and therefore I will not call for a division on it.

The Hon. J. F. RYAN [5.29 p.m.]: I would like to provide some further information on where the Opposition was with regard to the amendment. People from Treasury take the view, I suppose, that Treasury bills tend to go through this House with limited debate and little scrutiny. Therefore Treasury bills tend to be put before this Chamber at a very late stage. I recall the shadow Treasurer pointing out that he had less than 24 hours notice of this legislation before it went to the other place. Frankly, that is not appropriate. Nor does it show due respect for the responsibility that both this Chamber and the other place have with regard to scrutinising legislation.

It is just not good enough to dump complicated legislation—particularly Treasury legislation, which frequently is complicated—before this Chamber and expect, because it is a tradition of this Parliament to simply accept the Government's bills, that the legislation will not undergo the appropriate level of scrutiny. I hope that people from Treasury and the Treasurer will understand from this lesson that they cannot take it for granted that their legislation will just rocket through this Chamber with limited scrutiny.

The questions and issues raised by the Hon. R. S. L. Jones were worth raising and the Opposition gave them due consideration. Apparently, a couple of pages of briefing could have been given to the Opposition. When we showed interest, suddenly the briefings—they must have been around for a time; they would not have been prepared with five minutes notice—were made available. The Treasury might take the lesson that if briefings are available on crossbench amendments they should be made available to the Opposition a little

earlier than the moment at which the Opposition indicates that it will give some of those amendments serious consideration. The Opposition's attitude should not be presumed. Had the briefings been given to us a little earlier, the bill may have gone through with a great deal less debate, as Treasury might have anticipated in the first place. We are concerned about the possibility of opening loopholes for tax avoidance and on this occasion, having considered the amendment and the issues raised, we find ourselves unable to support it.

Amendment negatived.

Schedule 3 agreed to.

Schedules 4 to 6 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

CRIMINAL PROCEDURE AMENDMENT (PRE-TRIAL DISCLOSURE) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. I. COHEN [5.33 p.m.]: I continue my contribution on the bill. It is fair to say that, for the High Court of Australia, pre-trial silence is a fundamental common law right, the key elements of which have found statutory expression in the New South Wales Evidence Act 1995. One issue which the Greens wish to raise is how the new legislation will impact on vulnerable people and people who are unrepresented. Trevor Nyman, spokesperson for the Law Society on criminal law, addressed this issue eloquently in an article published in the *Sydney Morning Herald* on 12 January 1999. He argued:

> In an ideal world, a defence strategy would be developed over months. But in reality many accused do not get legal aid until days, or at best weeks, before the trial. The underfunded legal aid system (which provides assistance in the vast majority of trials today) allocates a lawyer in just enough time to get ready but without sufficient time to enjoy the luxury of giving substantial notice of the names and details of witnesses and evidence.
>
> Now that committal proceedings have been virtually abolished in NSW, both sides are left in the dark as to the strengths and weaknesses of the case before the trial. The defence must be flexible about strategy and tactics until the prosecution finishes its evidence. To make a commitment to confine the defence case to a particular issue, and then find that the prosecution is strong on that issue but very weak on another, would make the accused's position almost untenable.
>
> Yet that is what the NSW Government is proposing to do. Because of the existing right to silence, the defence case is not fixed in concrete until the accused opens his or her defence at the end of the prosecution case.
>
> The new proposals ... will force the accused to reveal chapter and verse his or her strategy before the trial and will disentitle an accused to the flexibility available in every other jurisdiction in Australia and most of the English-speaking world. This is a massive shift in the delicate balance of the criminal trial.

In summary, the Law Society's view is that it is fundamental to our system of justice that an accused is not to be compelled to answer questions or assist the prosecution in proving its case. The society does not accept that it is appropriate or necessary to introduce such a regime when it will so significantly impact on the rights of accused people in defending themselves. The Law Society argues that events have overtaken this bill. In a letter to Ms Chrissa Loukas, Director of the Criminal Law Review Division of the Attorney General's Department, the Law Society pointed out:

> There has been a dramatic downturn in District Court trial registrations and a reduction in District Court trial delays, particularly in Sydney and Sydney West. Figures released by the Court indicate that, as at 30th April 1999, there were 2,183 trials pending in NSW. By 30th June 2000, that figure had been reduced to 1,611 trials pending.

As a result of the reduced caseload the criminal jurisdiction of the District Court no longer sits at Liverpool. The Greens agree entirely with a statement of Dr Corns quoted in the Law Society letter. He said:

> Whilst it has been recognised that some trials must take longer than others, the central challenge has been, and remains, to prevent unnecessary waste of time in hearing and determination of long criminal trials without any unjustified diminution of the rights of accused persons.

The question needs to be asked: In light of the revelation that there has been a dramatic downturn in District Court trial registrations and delays, is it necessary to proceed with a bill that may reduce delays in criminal trials

while at the same time significantly reducing defendants' rights? The Criminal Law Committee of New South Wales Young Lawyers has also looked at the bill, and opposes it. In a submission on the bill it argued:

> The provisions of the Bill, if enacted, will infringe and undermine fundamental principles of the accusatorial system and the rights and protections afforded to accused persons. It will radically change the way indictable matters are tried in this State.

The committee argues that disadvantaged accused persons and those without legal representation will be particularly vulnerable. Sydney Regional Aboriginal Corporation Legal Service has looked at the bill. Firstly, it opposes the bill in principle as it would infringe on an accused person's right to silence. Secondly, it raises the issue of resources. The bill will increase the workload of the service. That service, other community legal centres and legal aid are already overstretched to the maximum. It is unfair to bring in legislation which will put further pressure on these overstretched organisations. The bill will take valuable resources away from organisations that defend accused persons' rights. In a letter to the Criminal Law Division of the Attorney General's Department dated 21 November 2000 the service states:

> The proposal has serious funding implications for Sydney Regional Aboriginal Corporation Legal Service and Aboriginal Legal Services throughout NSW.
>
> We estimate that the proposed regime would require SRACLS to devote at least two advocate positions solely to trial work and at least two solicitors solely to trial matters in an instructing capacity. In short, the proposed statutory regime of disclosure would be unworkable under the current funding arrangements.

The Bar Association opposes the bill, particularly as to efficiency and resources. In a submission the association said:

> The Bill and Regulations introduce substantial amendments to the criminal justice system with the stated aim of increasing efficiency and reducing the delays in complex criminal trials. In fact, the proposals are likely to complicate criminal trial procedure, thereby lengthening trials and increasing costs to accused persons on the one hand, and the state in the prosecution of criminal matters and the administration of the court system on the other.

Further in its submission the Bar Association said:

> The bill places a substantial and never before seen burden on the accused persons and their legal representatives and will impose unprecedented workloads on both counsel and solicitor working for the accused.

According to the Bar Association, the bill will significantly shift the balance of a trial in favour of the prosecution. Finally, while the Greens oppose the bill, we are pleased the Government moved amendments in the lower House that address many of the concerns raised by the Law Society, the Bar Association and Young Lawyers. We will support further amendments that will ameliorate the negative impacts of the bill. I understand a number are to be moved by the Hon. P. J. Breen in Committee.

The Hon. M. J. GALLACHER (Leader of the Opposition) [5.40 p.m.]: I support the position put by the Deputy Leader of Liberal Party—well put, I might add—with regard to the Criminal Procedure Amendment (Pre-trial Disclosure) Bill. I would like to draw a couple of matters to the attention of honourable members, especially those who are concerned about the denial of civil liberties, which has been raised by a number of speakers. The Opposition does not believe that this legislation will result in such a denial, as we believe the bill has safeguards that protect the rights of individuals as they proceed through the court system.

The first thing to realise is that the provisions in the bill will be imposed on a case-by-case basis, with the decision to be made by the presiding judicial officer. It is not a blanket rule that will apply in every case. One need only read the legislation to see that the court "may", not "must", order pre-trial disclosures. The bill provides that the presiding judicial officer may order a pre-trial disclosure only if the court is satisfied, having regard to the likely length of trial, the nature of the evidence to be adduced, and the legal issues likely to arise, that there will be a complex criminal trial. The court will make that determination after the Local Court hearing.

Honourable members should keep in mind the process by which this legislation will be applied. An accused person has a hearing at a Local Court before a magistrate, at which the accused has the right not to answer any questions. The prosecution must prove a prima facie case before the accused is committed for trial. The accused does not have to put forward a case at the Local Court. After the police have put their case in the Local Court hearing, the judicial officer makes a determination, having regard to the complexities and the likely length of the case.

It is also important to realise that the Local Court hearing is not the first time that the defendant—as he is known at Local Court level—has access to or hears the police case. I understand that the practice is that four

weeks after the arrest the police must give their complete brief of evidence to the legal practitioner representing the defendant. The defendant then has the complete police brief for his or her legal representative to read and work out the defence case. One of the problems that this legislation addresses is the delay in trials coming on for hearing. This problem is regularly reported in the media, and I suspect that many honourable members receive complaints from people who are victims of the system.

In one matter I was involved in as a police officer there has been a preliminary hearing but the matter is still to go to trial. In 1994 I arrested five offenders for what would have been one of the largest robberies in Australia's history and, as I say, it is yet to go to trial. As far as I am aware the offenders have not been let off the conspiracy charges they were later charged with, and this matter has been pending since 1994. I do not know, and the other police officers will not know, what the defence case is until it eventually reaches court. It is close to seven years since the arrest was made in 1994.

This is a very sensible piece of legislation. It is one that the Opposition spoke about quite openly around the State prior to the last State election and it is one we believe will work. I was interested to hear one of the crossbench members say that there is nothing like this legislation anywhere in Australia. The concept may not have gone beyond the shores of Australia to the rest of the western world, but my understanding is there is no such legislation elsewhere.

It is also important to recognise that our system of justice comes from the United Kingdom. Currently, the United Kingdom has legislation that has removed the right to silence under very stringent conditions. This legislation goes nowhere near the removal of the right to silence. It is designed to expedite the backlog of cases in the courts system, and in a fair way so no surprise witnesses and no surprise alibis are produced at the last minute, which has happened time and again in the past. In my many years of policing I was confronted with surprise witnesses, and it is extremely frustrating when someone, who just happened to be there at the time, appears at the Local Court and gives alibi evidence that the prosecution cannot dispute, and the accused person walks. It is extremely frustrating for our system of justice. This legislation is a step in the right direction.

Some honourable members are concerned about denial of justice. The Government has greatly extended the period within which a defendant or an accused can supply the name of individuals who can give alibi testimony at the trial. The time for a section 48 notice of alibi has been extended quite dramatically by removing the period of 10 days commencing at the accused person's committal for trial—that is, after the Local Court hearing, at which the defendant has heard the prosecution case—and commencing at the time of the accused's committal for trial and ending 21 days before the trial is listed for hearing. I refer honourable members back to the point I made earlier with regard to the people I arrested in 1994. Under this legislation they will not have to give notice of their alibi testimony until 21 days before the trial is set down for hearing. It is a fair piece of legislation.

The Opposition is conscious that a number of amendments relating to regulations will be moved, and it will support them. The Government has circulated the amendments to many people, but for some unfortunate reason I have not seen them. I recognise the concerns of the Hon. P. J. Breen to ensure that the amendments are correct and proper. I adopt the comments by the Deputy Leader of the Liberal Party, who led for the Opposition on this bill, that we support the proposal by the Hon. P. J. Breen that the amendments should be embodied in the legislation and not left for the regulations.

The Hon. R. S. L. JONES [5.49 p.m.]: According to the Attorney General's office this bill is intended to reduce court delays and complexities in the District Court and Supreme Court by imposing disclosure requirements on both the defence and the prosecution. The Government has argued that this will occur on a case-by-case basis and that it will be up to the discretion of the court, which will impose disclosure requirements depending on the anticipated complexity and length of the case. The bill is said to originate from the working party—including representatives from the Office of Public Prosecutions, the Legal Aid Commission, the New South Wales Bar Association, the Law Society of New South Wales, Crown solicitors, and police—set up to review the options for reform of the legal system. In his second reading speech the Attorney General claimed:

> These reforms follow extensive work undertaken by the working party established under the auspices of the Criminal Law Review Division of the Attorney General's Department set up by my predecessor.

The inference to be drawn is that the working party approved the bill and the draft regulations we have before us today. In fact, several agencies have advised that this is not an accurate depiction. As the Law Society's letter of 27 October reveals, the working party's report clearly shows that the group could not reach a consensus on the bill. It stated that in reality "the participants on the Committee did not agree on fundamental aspects of the

proposal". I understand that the source of the split was a fundamental difference of philosophy. Some agencies took the view that pre-trial disclosure was necessary. Not surprisingly, the Police Service was heavily in favour of pre-trial defence disclosure.

Other bodies argued strongly that the bill was fundamentally flawed. In essence, bodies such as the Law Association, the Bar Association and the Public Defenders Office, all of whom were represented on the Attorney General's working party and made their opposition to the bill very clear, argued that the bill is based on unsound legal principles and amounts to an attack on the right to silence and presumption of innocence. The New South Wales Bar Association quoted High Court Justice Kirby in *Cassell v The Queen* as follows:

> Furthermore, it is unclear whether the Bill proposes to allow for less than proof beyond reasonable doubt of the elements of an offence through this provision. To do so would be to dismiss proper legal analysis of the evidence and essentially shift the burden of proof. As Kirby J stated in *Cassell v The Queen* (2000) 74ALJR 535 at [24]-[25]:
>
> [24] It is a fundamental principle of the criminal law in Australia that, save for those rare exceptions where a legislature has provided otherwise, the burden rests on the prosecution to prove beyond reasonable doubt every element necessary to establish the criminal offence charged. No authority is required for this proposition. This Court has a duty to safeguard the principle against attempted erosion.
>
> [25] From time to time, application of the principle, sometimes called the golden thread of the criminal law, causes inconvenience to prosecutors, irritation to decision makers and puzzlement in the general community. But the principle is fundamental. It stands for the liberty of the individual in a contest with the concerted power of the state. Other legal systems have adopted different institutions, rules and procedures for the conduct of criminal trials. These may sometimes appear more rational, effective and efficient. But the high measure of individual liberty which is enjoyed in Australia is, in part, attributable to the stringent limits which the law places upon the state when it prosecutes an individual for a crime. It must then prove every fact necessary to support the legal elements of the offence. If it fails in that endeavour, whether by error or oversight, the prosecution must fail. The charge must be dismissed. The prosecution cannot repair an absence of evidence to establish an essential ingredient of the offence by appealing to assumptions concerning the presumed rectitude of the conduct of the prosecution and its witnesses. Nor may it rely on the failure of the accused to disprove the missing ingredients, for that would shift the onus from the prosecution to the accused and this is impermissible.

I would also like to read part of a letter from the Public Defenders Office, which was also represented on the Attorney General's working party, because it encapsulates key arguments against the bill. It states:

> It is wrong in principle for citizens to be forced to provide information to the prosecuting authorities under threat of punishment (namely, rejection of defence evidence) if they failed to do so. Any accused citizen should have the unfettered right to remain silent and call upon the Crown to prove its case. If, at the end of the Crown case, the judge determines that there is prosecution evidence to go to a jury, then the accused should be able to call such admissible evidence as he or she sees fit, confident that only inadmissible evidence will be rejected. The right of an accused person to make full and proper answer to a criminal charge should not be subject to fetter based upon whether or not the accused has previously disclosed his or her case.
>
> The new Bill does not merely change the law in some neutral, administrative way, solely to the advantage of the Court's listing system. Mandatory defence disclosure will unquestionably permit the Crown to investigate the matters disclosed, in an effort to damage the defence case even before the trial has begun. I say "unquestionably", because it has been the confirmed experience of the last twenty-five years that that is the result whenever an accused puts on an alibi notice in accordance with the current disclosure regime. Not infrequently, alibi witnesses lose their enthusiasm for supporting an alibi after they have been interviewed by police.
>
> The compelled disclosure of the defence case, along with the inevitable result that the prosecuting authorities will use that disclosure in an effort to damage or destroy the defence case, is inconsistent with our traditional notions of fair trial, the onus of proof, and the right to silence. It is objectionable as a matter of principle.
>
> The second reason concerns consistency in the administration of criminal justice. To the extent that the new regime is intended to apply only to those trials identified as "complex", there will be two divergent standards for obtaining justice in New South Wales for those accused of serious crimes: Principled for those whose trials are not classified as complex, and less principled [to the extent they are fitted with disclosure requirements] for those whose trials are classified complex.
>
> As for the third reason, the procedure in envisaged by the Draft Bill is quite impractical. It may lead to some saving of jury time in trials, although I am by no means convinced that it will have that result. However, it will lead to greater demands on judge time. It will lead to the expenditure of a great deal of time and money in pre-trial arguments, all to do with the question of whether or not mandatory defence disclosure has been complied with. Any jury time saved at trial will be far outweighed by judge time expended before trial.
>
> I do not accept that there is any great problem of trial delay arising from lack of defence disclosure. In fact, the marked improvement in disposal of matters in the District Court as a result of the administrative changes brought about by its Chief Judge demonstrates that the real answer to delay in criminal matters is better management of trial lists.
>
> Furthermore, it is well-known that informal disclosure, in the interests of both parties, takes place everyday in countless criminal proceedings.
>
> It can and should be said [hopefully without giving offence] that the legislation as drafted, if enacted, would be using a sledge-hammer to crack a walnut.
>
> In summary, I submit that the Bill is contrary to principle and will prove to be impractical.

The Australian Law Reform Commission has commented—and I paraphrase—that justice itself, which many believe to be a fair, open, dignified and careful process, may be compromised by a system that emphasises matters of cost, speed and efficiency. The Criminal Law Committee of Young Lawyers stated:

> The provisions of the Bill will … undermine fundamental principles of the accusatorial system and the rights and protections afforded to accused persons.
>
> Contrary to the claims of the Attorney General, the effect of the Bill … will be to undermine the fundamental principle that it is for the prosecution to prove an offence beyond a reasonable doubt.

The Public Interest Advocacy Centre expressed very strong views about the effects of pre-trial disclosure. Its letter of 21 November states:

> Whilst PIAC appreciates the time and cost that lengthy criminal trials cause, we feel that this is a necessary factor in ensuring the continued operation of a fair and just legal system. Any attempt to reduce the cost of criminal proceedings should not occur through the erosion of legal rights.
>
> We consider that the notion of pre-trial disclosure is completely contrary to the operation of a fair legal system and is an erosion of legal rights. This Bill is nothing more than a failed attempt at the abolition of the presumption of innocence and right to silence. These basic rights require the Crown to put its case, before the accused says something or anything in defence. It is the jury that assesses whether or not the Crown has established the accused's guilt beyond reasonable doubt. Any pre-trial disclosure order allows the Crown to in effect "tailor" its case to what the accused will raise in his or her defence. Thus the presumption of innocence and the right to silence are abolished.

It further states:

> We also note that section 47C and 47D allow Regulations to make provision for criteria to be considered before a Court may make a pre-trial disclosure order. It is our view that this criteria should be the subject of the Act and not of the Regulations. This is because the task of a judge in a trial is to facilitate the presentation of evidence according to law. Orders for pre-trial disclosure could be viewed by a jury as the favouring by the presiding judge of one case over another. Such a result would have an obvious negative impact on an accused person. Neither an assessment of the relative strength of a case, nor the determination according to criteria of the need for pre-trial disclosure of the case for the accused, are functions of a judge in a criminal trial. Any criteria by which such an order is made should, in our view, be determined in the light of full Parliamentary consideration, and not simply by way of Regulations.
>
> PIAC is strongly opposed to this Bill in its entirety.

Marsdens the Attorneys also made an impassioned plea against the bill, expressing its disgust and imploring the House to reject the bill. Significantly, the letter was signed by all the solicitors in this extensive law firm. When a similar scheme was introduced in Victoria by the Kennett Government there were strong objections from the then Labor Opposition. I am very surprised that this bill has been introduced by the Labor Government in this State, especially given the opposition it received in Victoria. The Victorian Criminal Bar Association submitted that:

> In determining what reforms, if any, are necessary it is essential that the right balance be struck between the rights of the accused, the victim, the community and efficiency. That balance is not achieved by making a trial fundamentally unfair because of legislated requirements that make the defendant assist the prosecution in his or her own conviction.
>
> It would be extremely efficient if we had no trials at all—that is, if persons charged with offences were simply locked up, beheaded or placed in the electric chair. Although such a system would be extremely efficient, I hope not too many government members think it would be appropriate. There is a need to look at more than just efficiency and money-saving measures when considering the process of criminal justice because people's liberty and lives are involved. It is not satisfactory to have a system under which matters are rammed through courts to satisfy efficiency targets.

The Criminal Bar Association stated:

> The most "efficient" way to maintain this acceptance is by ensuring the system has the flexibility to do its work thoroughly and fairly rather than just quickly. The risk is that the system of timetables, with sanctions for variation or delay will create a culture that values speed above those things that hold the system together.

New South Wales Young Lawyers argued that:

> … any significant change involving radical departures from fundamental principles should be based on empirical data.

The Government should agree with them. In September of this year the then Attorney General, Jeff Shaw, in response to a question from the Hon. D. T. Harwin, stressed the importance of the data when he answered:

> I am a little more interested in empirical data that might explain these considerations and in scientific methods.

Despite this avowed interest in empirical data, however, the Government seems to have paid no consideration to any studies into reducing court delays. What studies exist do not put forward pre-trial disclosure as a panacea for

the ills affecting the court system. We have been told by the Government that pre-trial defence disclosure already exists in other jurisdictions, notably Victoria and the United Kingdom. However, the position and the history of New South Wales are completely different from those of the United Kingdom in one very important aspect—pre-trial defence disclosure was initiated in the United Kingdom because of the Northern Ireland terrorist threat.

The United Kingdom laws came about because there was seen to be a need, justified or otherwise, to use whatever means possible to eliminate terrorist activity. Incursions on the accused's right to silence and the other common law tenet of the right to have the prosecution prove its case against the accused, without any assistance from the accused or the defence team, came about soon after. The result of such practices ought to stand us in good stead and serve as a warning against any such incursions in our own State. Remember the Birmingham six and the Guildford four!

We do not have, and have never had, any need to compensate for such a threat in New South Wales. That has never been a need for an erosion of the commonly accepted laws of right to silence which we are seeing here, and which started when the Government introduced the Crimes Legislation Amendment (Police and Public Safety) Act and the Crimes Amendment (Detention after Arrest) Act. Are we saying that the citizens of New South Wales are living in a state of emergency similar to that which gave rise to the United Kingdom laws? New South Wales now has a criminal code that basically gives us Northern Ireland's anti-terrorist Act. But why? At least that piece of legislation must be reviewed annually by a committee of the British Parliament, such is the recognition of the grave and fundamental attack it places on civil liberties. What is our excuse?

As the Government indicated that this bill was based on what was happening in other Australian jurisdictions, I approached the Victorian courts to ascertain what effect pre-trial disclosure has had in that State and whether there were any foreseeable problems with the proposed legislation compared to the scheme operating in Victoria. In relation to the Crimes (Criminal Trials) Act, which was introduced in Victoria in 1999, Justice Mark Weinberg said that its provisions:

> … placed unduly heavy obligations on the defence. These requirements ignore difficulties defence counsel often face—eg, inability to gain meaningful instructions early on. They may also infringe the principle that an accused should not be required to assist the prosecution in procuring a conviction.

According to Justice Vincent of the Victorian Supreme Court, who is very familiar with the scheme that operates in that State, there has been no evaluation of the pre-trial disclosure scheme to date. My discussions with people at the County Court and Criminal Registry indicate that there is at least anecdotal evidence that cases are getting jammed in the higher courts—at the Court of Criminal Appeal for instance—rather than the County Court, District Court or Supreme Court level. So it may actually be replacing the problems with court waiting times and backlogs rather than addressing them as the legislation promised. It would have been interesting to wait until a review of the Victorian legislation was carried out because then we would at least have had empirical evidence on which to decide whether we need this bill in New South Wales.

If we consider other specific claims that the Government has made regarding the bill, we can easily see that other measures could be undertaken before pre-trial defence disclosure is needed. Young Lawyers pointed out that empirical evidence on ambush defences, used by the Government as justification for the bill, are rare. This was supported by the New South Wales Law Reform Commission, which found that ambush defences "arise infrequently". I agree with Young Lawyers that:

> The Government's argument that the pre-trial defence disclosure obligations in the bill will combat "ambush" defences raised by accused persons at trial is therefore fundamentally flawed.

The Government's claim that pre-trial disclosure will help manage delay in the courts is extremely limited. The Bureau of Crime Statistics and Research [BOCSAR] report entitled "Managing Trial Court Delay: An Analysis of Trial Case Processing in the NSW District Court", published in May this year, revealed that there was a plethora of ways in which delays in courts could be addressed. My office spoke to one of the authors of the BOCSAR report, who confirmed that BOCSAR had not suggested that the delay in trial courts could be remedied by introducing pre-trial disclosure requirements for accused persons. However, there are numerous ways the court process could be sped up if the Government really was serious about addressing perceptions that New South Wales courts are slow. BOCSAR recommended:

- setting targets for the not-reached rate to ensure that the percentage of matters not reached is kept very low,
- holding judges in reserve to deal with matters which are not reached or adjourned,
- mechanisms to ensure early consultation between Defence and Crown on the scope for a guilty plea,

- continuity of senior Defence and Crown representatives from case commencement to finalisation,
- greater and consistent sentence discounts for early pleas of guilty,
- more thorough checking by the Crown of witness availability,
- guarantee of legal aid Act committal and use of seamless grants of aid from committal to finalisation.

Information from the Bar Association and the Law Society shows that court delays are not as bad as we might believe, having regard to the recent Auditor-General's report, as the courts have already taken steps to reduce delays and more trial judges have been appointed. So the Government's argument that we need pre-trial disclosure to reduce court delays is a furphy. While the Bar Association and the Law Society oppose the fundamental principle of pre-trial defence disclosure, both the Legal Aid Commission and the Director of Public Prosecutions [DPP]—represented on the working party—have argued that it is unworkable without additional funding to cover the extra paperwork required under the Act.

According to the Government in debate in the lower House, Treasury is currently considering the respective funding requests of these bodies. I am interested in exactly how much these bodies want. After all, it is these bodies which must practise in the area and they will be the ones to pick up the pieces if the legislation proves unworkable. When I asked the Director of Public Prosecutions and the Legal Aid Commission for copies of their submissions to the Attorney General both bodies stated that they could not provide a copy to individual members of Parliament, but said that they had requested increased funding to enable them to cope with the increased workload that the bill would cause. Although they would not provide it directly, both bodies stated that they had no objection to having their submission accessed via the Attorney General's Department.

I have asked the Attorney General's office on several occasions for a copy of the submissions. Like the draft regulations—which took several phone calls before members of the crossbench received a copy of them, integral as they are to the bill—the Attorney General has not been exactly eager to let us know what these bodies need to make implementation of the legislation workable. It appears to me that members should know what submissions the Legal Aid Commission and the Director of Public Prosecutions have made so that we can properly assess what impact this bill will have both in cost to the public purse and, if the funds are not enough, in cost on the administration of justice in this State.

I note that in the lower House the Government indicated that Treasury had received applications for funds but we have not received any information about whether these funds are guaranteed or whether they will be provided in the full amount requested. It only takes a brief look at the provisions of the bill to realise that it will be unworkable without the necessary infrastructure to enable the Legal Aid Commission and the DPP to do their job. How much are we talking about? What are these bodies asking for? We simply do not know. Perhaps the Minister could advise us during the debate so that honourable members are properly apprised of the situation before deciding whether to support the provisions of the bill. The Victorian Crimes (Criminal Trial) Bill was opposed by the Victorian Criminal Bar Association when it was introduced. The Victorian Criminal Bar Association argued that it would disadvantage defendants on legal aid because:

> … appropriate legal aid is not provided to people in the criminal trial process at the moment, let alone the sort of assistance that will be required should this legislation be passed.

The Victorian Labor Opposition, which is now in Government, vigorously opposed the bill, arguing that:

> You cannot just introduce a new system that changes the way criminal trials are conducted in this State and basically requires the disclosure of the defence to a large degree prior to the trial taking place without ensuring that the accused has appropriate legal assistance. Under the current system there are not enough legal aid funds available.

According to the New South Wales Auditor-General's office, the Legal Aid Commission has turned away approximately 7 per cent of all criminal cases each year due to lack of funds. The Legal Aid Commission has requested additional funds to meet the expected dramatic increase in work as a result of the bill's provisions—it remains to be seen how much the commission will be offered. In Victoria $4 million was provided, but that was grossly inadequate to meet the need.

As Marsdens argued in a submission to the Attorney General in September, this bill will create a great deal of work before the trial, with huge amounts of paper and procedural work being required. As that law firm argued, the new procedure of pre-trial disclosure "will add to the cost in criminal matters … anything that adds to the cost in criminal matters disadvantages those who can least afford it, those who should be least disadvantaged." I also have grave concerns that other agencies which will play a crucial role in the success of this legislation have been overlooked with regard to funding. The Government's comments regarding the Sydney Regional Aboriginal Corporation Legal Service, for instance, reveal how little the Government

understands about how the provisions of pre-trial disclosure will affect indigenous people and their legal services. The organisation points out that:

> … the proposal has "serious funding implications for SRACLS (ALSs throughout NSW) … Under current funding arrangements this Service is not able to have a devoted Indictable section to work on trial matters, and often relies on volunteer support to assist Counsel at trial … The in-house advocates … have heavy workloads in other Courts and jurisdictions.

Those concerns were raised by the Opposition in the lower House. The Government's response was inadequate, to say the least. To simply state that as the Aboriginal and Torres Strait Islander Commission (ATSIC) funds Aboriginal legal services [ALSs], the problem is one for ATSIC to redress is buck passing, and does not address the real problems that the service will encounter. I appreciate that the Attorney General proposes to write to the Federal Attorney General to advise him of the effect that this bill, if passed in its current form, will have on the operations of ALSs. But how much confidence can we have that the Government really appreciates the position of the ALSs? Very little, I expect, given the dismissive statement by the honourable member for Wyong:

> … the pre-trial disclosure regime will not require a great deal more work in a matter over the length of the case: it will however require reallocation of resources and priorities to ensure that matters are prepared before getting to court.

Not according to the Sydney Regional Aboriginal Corporation Legal Service, which has advised that the regime proposed by this bill will require that agency:

> … to devote at least two advocate positions solely to trial work and at least two solicitors solely to trial matters in an instructing capacity. In short, the proposed statutory regime of disclosure would be unworkable under current funding arrangements.

The Government's response would suggest that it simply does not comprehend the full extent of the resources needed to implement the pre-trial disclosure scheme. Moreover, there is certainly an argument that as the State has moved to implement legislation that requires compliance with onerous provisions, thus increasing the workload of those services, the State should bear some of the responsibility for funding those bodies so that they can perform the work to an acceptable level.

That is the argument that the State has put forward when arguing for increases in legal aid funding for Federal matters. The argument should apply equally with respect to federally funded bodies being required to comply with additional State obligations. It is not only the indigenous legal service provider that has expressed reservations over the amount of funding required to ensure that the various legal bodies that may be required to comply with pre-trial disclosure are adequately resourced. The Legal Aid Commission has estimated that its workload would be substantially increased. In order to fulfil the disclosure requirements, the commission has estimated that each case will result in an additional two mentions and one to five days of additional preparation.

It is believed that this will apply to all trials in the Supreme and District Courts with an estimate of 10 days or more, and to approximately 50 per cent of trials with an estimate of five days. Obviously this will require a number of additional staff. The Office of the Public Defender has also expressed grave concerns at the increase in the workload, both with respect to Aboriginal legal services, for whom that office principally acts, and the other cases with which it is involved. At least two additional Public Defenders will be required to enable the office to fulfil its obligations under the bill's proposed regime. A conservative estimate of the additional cost involved would be $500,000. I would hope that we will one day get complete details of how much this legislation is costing us, in the name of saving costs and time in the court system.

I conclude by referring to the submission of Dr Tim Anderson, who was wrongly convicted of the 1970s Hilton Hotel bombing and then exonerated. As most honourable members would be aware, Dr Anderson is in the position of having experienced at first hand the effect of laws developed in the United Kingdom to deal with terrorism, and applied here without adequate consideration of their suitability or the effect they will have on New South Wales citizens. Having spent many years in prison chiefly because of police misconduct and contamination of evidence, Dr Anderson is also far too aware of the problems legislation such as this will create. Dr Anderson's submission states in part:

> My attitude … is that this is a thoroughly bad piece of legislation … [it is] fundamentally bad law and policy.

I am aware that the Government has adopted amendments to the bill, suggested in particular by the Law Society and the Bar Association, and that the bill before us today is significantly different to that originally introduced in the lower House. I congratulate those members of this House who have put forward amendments designed to minimise the damage that the bill, once implemented, will have. I acknowledge the work of my researcher, Kath McFarlane, in that respect.

However, having regard to the arguments of the New South Wales Bar Association, the Law Society, the Sydney Regional Aboriginal Corporation Legal Service, the Public Interest Advocacy Centre, Victorian

Supreme Court Justice Vincent, the Victorian Bar Committee, Marsdens, the Criminal Law Committee of Young Lawyers, the Public Defenders' Office and Dr Tim Anderson, to name but a few of those who have written to me about this legislation, I do not believe that amendments alone can go far enough. I am of the view that the bill poses a monumental change to the criminal justice system and a significant erosion of fundamental rights. If practitioners before the courts ignore this legislation in a campaign of civil disobedience, no-one can blame them and the Government should not be surprised.

Reverend the Hon. F. J. NILE [6.15 p.m.]: The Christian Democratic Party supports the bill. I will not analyse the previous speaker's lengthy contribution, which included a great deal of criticism of the bill. Our proposition would be—as applies to any other legislation—that quite often one does not know what the reaction to the bill will be until it has been tested. I believe it should be tested.

The Hon. R. S. L. Jones: Knee-jerk support from you.

Reverend the Hon. F. J. NILE: It is not a knee-jerk reaction from me. If I had been the Government, I would have introduced this bill 10 years ago.

The Hon. R. S. L. Jones: Knee-jerk support from you, I said.

Reverend the Hon. F. J. NILE: No, it is not knee-jerk support. As I said, I would have introduced this bill 10 years ago. The honourable member made reference to some accused people who had been discharged as not guilty. A lot of people in the community believe they were in fact guilty.

The Hon. R. S. L. Jones: What do you think?

Reverend the Hon. F. J. NILE: I believe they were guilty.

Ms Lee Rhiannon: What about the innocent people in gaol?

Reverend the Hon. F. J. NILE: We do not want to see innocent people in gaol. I believe the bill should be passed. It will establish a regime requiring parties in criminal trials to disclose certain information prior to the commencement of, and during, complex trials, by way of a judicially case-managed regime. Even though the previous speaker indicated that a lot of people oppose the legislation, it arose from a working party chaired by the Criminal Law Review Division of the Attorney General's Department, comprising representatives of the Director of Public Prosecutions, the Law Society, the Legal Aid Commission, the Police Service, the Bar Association and both Crown Prosecutors and Public Defenders. They all contributed significantly to the development of this proposal.

The bill was introduced in August and there were some amendments in the Legislative Assembly. No-one would suggest that the Director of Public Prosecutions would be introducing difficult legislation because, in my opinion, he is frequently too soft. Let me make that clear. Quite often he will not prosecute cases in respect of which there has been a lot of information and a lot of evidence—I may mention some of those cases in debate tomorrow if the opportunity presents itself. The Director of Public Prosecutions does not have to give a reason, but the indication is that if he were to prosecute the case would be lost; and that he is saving money. I would rather the case proceed, and if it is lost, so be it.

In the public interest and in the interest of natural justice sometimes these cases should proceed so that the public can see justice being performed in this State, and can actually see a case proceeding through the court. If there is a weakness in the prosecution's case and the accused person is found not guilty, so be it. However, to do nothing causes a tremendous amount of frustration. If no action is taken by the Director of Public Prosecutions, that merely encourages vigilante action by relatives of the victims. A case has been mentioned in the media today about relatives of a victim who believe a particular person guilty of murder. If the Director of Public Prosecutions will not act, there is a danger that those people may take the law into their own hands and impose their own form of justice. That is not in the interests of justice in this State.

The Director of Public Prosecutions has often erred on the side of caution. Although the Law Society was involved in the preparation of this legislation, after hearing what the Hon. R. S. L. Jones said, one would wonder whether it had been consulted at all. The Christian Democratic Party supports the bill and, as with other bills, believes it can be monitored. I believe that it is reasonable that the Standing Committee on Law and Justice monitor the operation of the bill. When the result of that monitoring is available we will be able to further finetune the bill.

The Hon. A. G. CORBETT [6.20 p.m.]: When the Minister for Corrective Services introduced this bill on 16 August he said:

> The purpose of the bill is to introduce a process … to reduce delays and complexities in criminal trials.

It is laudable to save money on inefficiencies and spend it where it is needed—education, health, welfare and the environment, to name a few. However, such a statement must immediately raise the issue of whether the cost of trials is more important than achieving justice. I understand that there was no public consultation or contribution in regard to pre-trial disclosure in the New South Wales Law Reform Commission's report on the right to silence, yet that report was utilised by the Government in drafting this legislation.

The Director of Public Prosecutions, Mr Nicholas Cowdery, QC—who usually appears to take a strong stand about the societal ills and side effects of the justice system and legislation—was reported to have supported the idea of pre-trial disclosure because of the possibility of ambush by the defence; that is, where the prosecution cannot rebut an argument produced by the defendant because of the surprise nature of the evidence. He also pointed out that defendants could benefit from pre-trial disclosure particularly where early disclosure, to use his words, "of their evidence revealed a major flaw in the Crown case". Presumably that would result in the case not proceeding.

Yet there is absolutely no reason that pre-trial disclosure, as referred to in the bill, could not be made if the defendant's legal advice, after assessing the prosecution's evidence, was that the Crown case was weak and it was possible that the case would be dismissed. They could approach the prosecution. While the bill allows for voluntary disclosure, encouraged by a reward system of sentence discounting, it also contains provisions for the court to impose harsh penalties for non-disclosure, such as refusing to admit evidence related to non-disclosed items, and thus negates the supposed voluntary aspect of the bill.

Elements of the evidence must already be provided to the defence, hence section 2E is redundant. The bill asks for similar fairness to the prosecution in order to speed the court process, not for any higher purpose of justice. In the current judicial system there is no parity in a criminal case for the defence. The prosecution is paid out of the public purse, with no limit imposed upon the use of police resources to investigate evidence or the Director of Public Prosecutions' legal expertise. The defence is paid for by the defendant, unless the defendant qualifies for legal aid; that is, in a state of poverty, with a lower income than someone on the dole. Legal aid is also capped at levels which are unequal to adequate defence in any but the simplest case.

As 95 per cent of accused plead guilty, those who go to trial and who would require pre-trial disclosure are not the simplest cases. The only advantage that the defendant has over the prosecution is that the defendant can remain silent on an issue, and is not forced to provide elements of the trial evidence to the prosecution—that is, the right to silence. Instead, the enactment of the provisions of this bill and its accompanying regulations are likely to create a large increase in the bureaucratic paperwork, which will in turn involve many hours of extra work by the legal representative of the accused, eating into either the capped sum available on legal aid or the personal finances of the accused.

The cost of legal defence, estimated to be at least $5,000 per day, will potentially blow out and the accused will be even more disadvantaged. If the bill is enacted, apart from the risk to true justice for the accused, a number of alternatives other than the possibility of faster and cheaper trials could occur. First, funding would need to be transferred from the court system to the pre-trial bureaucratic system, where the detailed and time-consuming paperwork is processed. In Victoria a specialist panel of three judges conducts pre-trial directions hearings. If that became a model for the system in New South Wales, would it really be a cost saving? Second, there will be another opportunity for the accused who is judged guilty to appeal to the Court of Criminal Appeal. The defence could argue that there was a failure in the disclosure system. That could lead to top-heavy delays in the court system, with the higher courts rather than the lower courts being delayed.

The Government has foreshadowed a number of amendments to the original bill, and they are certainly an improvement. However, they still do not allay my fears about the virtual removal of the right to silence and the change in approach in trials from the prosecution having to prove guilt to the accused having to prove innocence. The amendments foreshadowed by the Hon. P. J. Breen do far more to reduce the detrimental side-effects of the bill. In all, the bill has too many potential inequities and assumptions without empirical evidence for my support. Justice must be preserved to maintain the fair-go society Australians have revered, and the bill strikes at two of the pillars of that justice system—the right to silence of the accused and the requirement of the prosecution to prove guilt, the so-called presumption of innocence.

The Hon. Dr P. WONG [6.25 p.m.]: I support the Government's intention in introducing the Criminal Procedure (Pre-Trial Disclosure) Bill. It is in the best interests of both defendants and the courts for criminal

trials to proceed without undue delay and, therefore, it is desirable for complex criminal trials to take no longer than necessary. I understand that the proposals for pre-trial disclosure in complex criminal trials is intended to bring about that end. However, I am concerned that the legislation, when put into practice, will not reduce the length of delays in the District Court or Supreme Court. Further, I fear that the legislation may have serious unintended and negative effects on the rights of the accused in criminal matters.

There are real implications for the cost of trials, as pre-trial disclosure may require significantly more pre-trial preparation by the defence counsel, which in most cases must be funded through legal aid. I assume that in introducing the bill the Government is not committing itself to increasing funding for legal aid. The Treasurer will support this legislation, but I am sure that if asked to increase legal aid funding he will have very deep pockets and very short arms. I have examined the views of the Law Society of New South Wales, the Aboriginal Legal Service and New South Wales Young Lawyers. I believe that amendments are required to the bill to preserve rights to due process, the right to silence, the presumption of innocence, and the onus of proof on the prosecution. I will support amendments which will be moved by the Hon. P. J. Breen. In our desire to introduce justice without delay, we must be careful not to introduce summary justice.

Debate adjourned on motion by the Hon. P. T. Primrose.

[*The Deputy-President (The Hon. Janelle Saffin) left the chair at 6.27 p.m. The House resumed at 8.00 p.m.*]

TABLING OF PAPERS

The Hon. M. R. Egan tabled the following paper:

Report on Review of the Sydney Water Act 1994, dated December 2000.

Ordered to be printed.

RURAL FIRES AMENDMENT BILL

Second Reading

The Hon. I. M. MACDONALD (Parliamentary Secretary) [8.03 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.

Members will recall that just over three years ago the Rural Fires Act passed through the Parliament. This comprehensively overhauled an Act that was almost 50 years old. The major thrust of the new Act was to reform the management and command structure of bush fire fighting. One impetus for these reforms was the recommendations of the two-year coronial inquiry into the 1994 bushfire emergency.

Among other things, the Rural Fires Act integrated 142 local council bushfire services into a single service; established a clear chain of command from volunteer firefighters to the commissioner, while maintaining local autonomy over local issues; provided for statewide standards for training, safety, planning, and communications;upgraded the role of bushfire management committees in preparing bushfire risk management plans; and recognised the need for proper consideration of environmental issues.

These reforms have been matched by record funding by this Government. During the past six years the Government has allocated $437 million to the Rural Fire Service. In the Government's two terms, $180 million will have been allocated for the acquisition of 2,250 new and reconditioned tankers.

As was made clear at the time the legislation was debated in 1997, the Government is committed to continually reviewing the effectiveness of this important legislation. One area which requires further reform is the accountability arrangements for fire control staff. There are approximately 300 fire control staff employed by local government, with almost half being fire control officers [FCOs].

FCOs occupy a pivotal position. They are responsible, on behalf of local council general managers, for the day-to-day management of rural fire brigades. At the same time, they are the most important operational link between the Rural Fire Service Commissioner and volunteers firefighters. Unfortunately, this dual line of accountability has been the source of tension between some smaller rural councils and Rural Fire Service management.

Some councils claim that the dual accountability arrangements have led to conflicts because FCOs allegedly put the interests of the service before councils' interests. The reality, however, is that the Rural Fire Service must have clear lines of command, in line with the Coroner’s recommendation.

The Rural Fire Service Association [RFSA], the peak body representing both volunteer and salaried rural firefighters, agrees with this. Other stakeholders have also raised concerns about the current situation, but not necessarily for the same reasons. These include the Nature Conservation Council, the Municipal Employees Union and the New South Wales Farmers Association.

In response to these concerns and representations from Country Labor I established a working party to review accountability arrangements for FCOs. The working party included the President of the Shires Association, Chris Vardon; the Vice-President of the Local Government Association, Ken Gallen; the President of the RFSA, Don Luscombe; and Commissioner Koperberg.

The working party recommended a new management model for the Rural Fire Service to streamline the accountability of fire control staff so they are solely accountable to the Rural Fire Service Commissioner as State employees; and to provide for the establishment of service agreements between councils and the service for the management of rural fire brigades and the delivery of appropriate levels of fire protection to local communities. The working party developed a number of principles that have been endorsed by the Local Government and Shires Associations. The Rural Fire Service Association has also endorsed the model.

Last June the inquiry into the Rural Fire Service by the Legislative Council's General Purpose Standing Committee No. 5 also recommended employment of fire control staff by the Rural Fire Service. The primary thrust of the bill is to amend the relevant provisions of the Rural Fires Act to provide for the employment of fire control staff by the service.

Savings and transitional provisions have been inserted into schedule 3 of the principal Act to enable the transfer of existing fire control staff from Local Councils to the Rural Fire Service. This part preserves certain employment conditions and accrued leave, including annual, long service and sick leave as well as other entitlements of the transferred officers in accordance with the Public Sector Management Act. These conditions will continue until agreement is reached on a new industrial award for fire control staff. The part also provides for the funding of entitlements accrued from employment by their former councils.

The superannuation rights of the transferred officers will, in general, be covered by the Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997. This provides for a degree of mobility to and from the local government superannuation scheme and the public sector superannuation schemes as envisaged by the Superannuation Administration Act. The bill contains a consequential amendment to that Act to enable those officers not covered to be given the option of remaining in the Local Government Superannuation Scheme.

While most fire control staff are expected to transfer to State employment, they will continue to be based locally and councils will continue to provide facilities and accommodation for these staff. Fire control staff will have a choice about transferring to State employment. Those who do not transfer will need to negotiate ongoing employment with their respective councils. However, all fire control staff will be offered employment with the Rural Fire Service. No-one will be out of a job.

For administrative and financial convenience the transfer arrangements will take effect from 1 July 2001. The principal Act will also be amended to include a new subsection 12A to enable the commissioner to enter into service agreements with any local council or councils responsible for a rural fire district or districts.

The Government thinks it desirable for local councils to enter into service agreements. They will not, however, be compulsory. The agreements will in effect be contracts between the service and councils to carry out functions imposed on councils by the Rural Fires Act. For example, a local council could request the commissioner to fulfil its responsibilities for forming or disbanding brigades, determining the area in which brigades are to operate, and performing administrative functions.

The service agreement could establish certain performance targets to be met and provide for an appropriate evaluation of results. Where a service agreement is in place, the commissioner must report the performance results within three months of the end of the financial year. Service agreements will be flexible and will be developed to suit local needs.

The bill also makes a slight adjustment to the formula of the Rural Fire Fighting Fund. Currently the salaries of fire control staff are paid from the fund, while local councils meet all on-costs. Following the transfer of staff the fund will meet all costs, resulting in savings to individual local councils.

It is therefore not unreasonable for local councils to make a small additional contribution to the fund to partially offset additional costs to the State. For this reason, the bill increases local government's contribution to the fund from 12.3 per cent to 13.3 per cent, and reduces the Government's contribution from 14 per cent to 13 per cent. The insurance industry's contribution will remain at 73.7 per cent.

Commissioner Koperberg will consult fully to ensure that no council is financially disadvantaged by the new arrangements. The commissioner has also put in place a consultative framework to ensure there is a smooth transition to the new arrangements. A steering committee has been established to oversight implementation. This is comprised of representatives of Rural Fire Service management, the Rural Fire Service Association, the Local Government and Shires Associations, New South Wales Farmers Association, the Municipal Employees Union and the Public Service Association.

In introducing these amendments to streamline accountability arrangements for fire control staff, the opportunity has been taken to make a number of other relatively minor amendments to the Rural Fires Act. The wording of section 22 (1) of the Act has been improved to ensure that officers can take any action authorised by the Act in order to control or suppress a fire or protect persons or property in a fire or other emergency. A new section 22A makes it clear that the Rural Fire Service Commissioner may also exercise those powers.

Legal advice indicates that the provisions of the Act have created an unintended requirement for a permit to be obtained in order to undertake back-burning during the bushfire season. Back-burns are frequently lit by firefighting agencies in order to suppress bushfires and it is neither feasible nor appropriate to require a permit before back-burns can be lit. In this regard, sections 86 to 88 of the Act have been amended to make it clear that a permit is not required for the purpose of back-burning or to give notice of such operations.

For a number of years the Rural Fire Service has provided advisory services to a number of countries, including Indonesia, Malaysia, Brunei, China, Greece and Croatia. The income derived from these activities has been used to purchase additional

equipment for rural fire brigades. Legal advice indicates that while the Rural Fires Act broadly authorises the service to engage in this activity it would be preferable to have a specific provision in the Act. Accordingly, the bill amends section 9 of the Act to make it clear that such services can be provided outside of the State.

Section 7 of the Act presently requires local councils to seek the Minister's approval before they can combine responsibility for their rural fire districts or transfer responsibility to another council. The requirement for ministerial approval is an unnecessary administrative burden. Furthermore, where councils choose to combine responsibility for their rural fire districts they will now be allowed to exercise that responsibility jointly. Finally, the bill makes other minor amendments by way of statute law revision. I commend the bill to the House.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [8.03 p.m.]: The Opposition supports the Rural Fires Amendment Bill. The bill is a huge step which has attracted a large degree of support in many areas of New South Wales. In fact, the legislation was supported by the parliamentary committee that investigated the issues addressed in the bill, and it has also been supported by the Local Government and Shires Associations and by New South Wales Farmers. I must say that I do not share the enthusiasm of those bodies with regard to the legislation. I suppose that inherent difference of opinion is understandable given the make-up of the various volunteer groups across the State. What works for some sectors of the community is not necessarily favoured by or ideal for others. Many members would be aware, as I am, of extensive disquiet west of the ranges about many of the recommendations reflected in the provisions of the bill. However, we understand that the will of the majority prevails, and that certain recommendations have been agreed to and should be supported.

I understand that the Hon. Dr P. Wong will move an amendment to the bill. I indicate that the Opposition has been persuaded in relation to that amendment on the basis that it reflects the concerns of many local government areas in regional New South Wales. I will speak to the amendment at length when the time arises. However, the bottom line is that the amendment does not interfere with the amount of money that will go to the Rural Fire Service. In fact, the amount would remain the same. The amendment would simply protect the burden that applies to local government, particularly local government ratepayers.

The Hon. R. S. L. Jones: Nothing changes.

The Hon. D. J. GAY: The Hon. R. S. L. Jones says that nothing changes. That is not quite true. In this instance we would be looking to lift some of the burden from local government ratepayers because they are the ones who own land and property. The people who own land and property in this State are basically the people who pay the insurance. They are being hit with the insurance levy, the GST, and a State Government tax on top of the GST, and they are also being hit with an extra local government fee. It is an extra burden on a very small and discrete sector within our community. I notice that many members have bemused smiles on their faces as they ponder their last insurance premiums and the local rates they paid.

Whilst I have not been persuaded by the amending bill, the amendment reflects a majority view within the Coalition. We gave an undertaking in the other place that we would support the amendment, and it is supported also by the Local Government and Shires Associations, by the shadow Minister and by the Coalition. With those few remarks, I indicate the Opposition's support for the bill, and for what I regard as a proper amendment to be moved in the Committee stage by the Hon. Dr P. Wong.

The Hon. Dr P. WONG [8.08 p.m.]: I support the Government's bill, which aims to streamline accountability arrangements for fire control staff, including fire control officers. The amendments to the Rural Fires Act address the dual accountability problems that currently exist. Under the present arrangement, fire control officers report to council general managers in some instances and in others to the Rural Fire Service Commissioner. This issue was examined by a ministerial working party which consisted of key stakeholders, including the President of the Shires Association and the Vice-President of the Local Government Association, the President of the Rural Fire Service Association and the Commissioner of the Rural Fires Service.

Two key recommendations of the working party were: to streamline the accountability of fire control officer and associated staff so that they are solely accountable to the Commissioner of the Rural Fire Service as employees of the State; and to provide for the establishment of service agreements between councils and the Rural Fire Service to manage rural fire brigades and deliver an appropriate level of fire protection to local communities. The Legislative Council General Purpose Standing Committee No. 5 inquiry into the New South Wales Rural Fire Service, chaired by the Hon. R. S. L. Jones, also looked at this issue. One of the committee's terms of reference included the appropriateness of command and control system in the suppression of bushfires and other fires. The committee's report, which was tabled on 23 June, made similar recommendations to the recommendations of the ministerial committee.

Unity welcomes these recommendations, as we also agree they will increase the effectiveness of this very important service to the rural community in New South Wales. We accept that the two committees have

made their recommendations based on exhaustive consultation with key stakeholders, and we support these recommendations. In practical terms, the streamlining of accountability means transferring fire control officers to the employment of the State. As a result, the bill proposes changes to the financial contribution arrangements to the Rural Fire Fighting Fund. The most significant financial changes are that councils will no longer need to pay on-costs, such as superannuation and long service leave entitlements, from their general revenue, which is estimated to be $3.9 million. This will now be paid from the Rural Fire Fighting Fund.

By absorbing this and other additional staff costs, such as salary increases which are necessary to maintain wage consistency between the fire control staff and other New South Wales government staff, the total size of the Rural Fire Fighting Fund will grow on the current $91 million to about $100.2 million. The $3.9 million on-cost no longer borne by councils is a direct saving for the councils. We do not question these figures, which have been provided by the Minister's office as a result of the financial modelling. The other significant financial change is the reduction of contribution by the New South Wales Government to this fund by 1 per cent to 13 per cent and a corresponding increase by rural councils of 1 per cent to 13.3 per cent. The contribution percentage for insurance companies remains unchanged at 73.7 per cent.

Unity supports this bill and its principles. However, we have concerns about the fairness of the proposed change in contribution to the fund. This bill is about the wellbeing of residents in rural New South Wales and their perception of whether this Government supports them and understands their needs. In this way, it is a real test for Country Labor—and I emphasise the word "real". It is our belief that the change in the percentage contribution does not go far enough to help people in regional New South Wales. While a 1 per cent increase in contribution is small, it is significant for many struggling country councils. That has certainly been our feedback. The use of 1 per cent is deceptive. According to our figures, after taking into account the increase in the size of the fund to $100.2 million, in effect, a 1 per cent increase is an increase in contribution of 19 per cent on the current payment. That is a very different figure to a 1 per cent increase.

The bill has the support of the Local Government and Shires Association. However, support from rural councils for the increase in contribution is far from unanimous. Unity has received representations from many rural councils who are opposed to the increase in contribution to the Rural Fire Fighting Fund. Mr Shane Godbee, General Manager of Cootamundra Shire Council, stated in a memorandum:

> It is my understanding that the Local Government and Shires Association very reluctantly agreed, with grave misgivings, to the proposed 1% increase based on some assurances from the Commissioner. However, a survey of councils would show that almost all would be opposed to the increase.

Corowa Shire Council was even more concise in its presentation. It stated:

> Corowa Shire Council is totally opposed to the proposed increase in Local Government contribution to the NSW Rural Fire Fighting Fund from 12.3% to 13.3% …
>
> Local Government has for many years been restricted through rate-pegging and during this time have seen many State responsibilities transferred to Local Government without financial assistance …

Consequently, Unity will move an amendment which seeks to make contributions to the Rural Fire Fighting Fund fairer for all parties by maintaining the current contribution percentages. Our amendment does not seek to change the intent of this bill, which was based on extensive community consultation. We seek to ensure that the contribution to the Rural Fire Fighting Fund is made on a more equitable basis. Deletion of the clauses, as suggested by Unity, would in no way be a back-door approach. The Government wants to decrease its contribution and asks local government to increase its contribution, as provided in the bill, and that will be an indirect increase in taxation on local government.

The Hon. M. I. JONES [8.15 p.m.]: As one of the main instigators of the inquiry into the Rural Fire Service, I am very gratified that the recommendations of the report have been read, understood and acted upon. I compliment the Minister for Emergency Services on this bill. During the course of the inquiry into the Rural Fire Service it became apparent that many of the complaints that honourable members had received from volunteers were brought about because of communication problems up and down the chain of command. Such was the problem that, very responsibly, Commissioner Koperberg moved to introduce a communications protocol during the term of the inquiry. Hopefully, many of the problems that caused the inquiry to be established will be resolved if this communications protocol is successful.

I urge honourable members to read the full report of the committee, which received many submissions. I am critical of the preceding two speakers. Inappropriately, both members used the second reading debate to

address amendments. Amendments should be addressed at the Committee stage. I suspect that they are trying to have two bites of the cherry. I do not believe that the Deputy Leader of the Opposition could make such a mistake. I cannot say the same of the Hon. Dr P. Wong. I will address the amendments at the appropriate time, and I urge other members to similarly do so. I am pleased to see this bill in the House. I give it my support and urge other honourable members to do the same.

The Hon. R. S. L. JONES [8.17 p.m.]: The main purpose of this bill is to streamline the accountability arrangements for fire control staff, including fire control officers, so that they are solely accountable to the Rural Fire Service as employees of the State. However, the bill also adjusts the contributions of councils and the State to the Rural Fire Fighting Fund; allows the commissioner to enter service agreements with councils; clarifies the powers of rural fire brigade officers in controlling or suppressing fires; ensures that a permit is not required by firefighting agencies to light back-burns; ensures the Rural Fire Service can provide advice outside New South Wales; and removes the requirement for councils to obtain the Minister's approval before combining rural fire districts.

I am happy to support the provision that fire control officers and related staff are to be employed by the Rural Fire Service rather than by local government. In my introduction to the inquiry report I said that I preferred the local employment of fire control officers, except where that was causing a problem, and to gradually transfer those officers to central control. However, the majority of committee members favoured the immediate employment of the fire control officers by the Rural Fire Service, and I am happy to support that.

I invite honourable members to read the very substantial report on the inquiry into the New South Wales Rural Fire Service by General Purpose Standing Committee No. 5. All people who had problems with the Rural Fire Service were able to have their say. They were mentioned in the report and their submissions were quoted in the report. I hope that everybody who had problems was able to have their problems well and truly aired. I believe that the report is balanced very fairly and contains input from all interested groups.

I draw the attention of honourable members to an interesting chart, "Wildfire ignition sources for NPWS Reserves 1993-99", which appears on page 111 of the report. National parks are often blamed by land-holders who say that fires spread to private property from national parks. The table indicates that in fact twice the number of fires occurring inside national parks actually start outside national parks and then move onto national parks. The chart shows that over a period of six years, 120 fires started on a national park and moved off the park, but 273 started off a national park and moved onto the national park. The majority of fires actually move onto a national park and sometimes continue for months on end, wiping out many endangered species.

The report also deals with insurance. A number of properties are not insured. The burden of property owners who do not insure their property is reflected in the high cost of premiums which fall on land-holders who carry insurance. The Minister for the Environment, Bob Debus, indicated that he will adopt all the recommendations of the report. He asked me to carefully examine recommendation No. 1 which deals with insurance. This important issue must be addressed to ensure that the burden of responsibility does not fall on some land-holders on behalf of land-holders who do not insure. A number of recommendations relate to this issue but I will not canvass them during this debate. They were canvassed on an earlier occasion and the debate on this legislation does not necessarily turn on debate of the report.

The new model for accountability arrangements for fire control officers has also been recommended by a ministerial working party and is strongly supported by the Nature Conservation Council of New South Wales. I, like the Nature Conservation Council and other environmental groups, am gravely concerned about the range of issues relating to inappropriate back-burning activities and the issuing of permits. We would welcome a tightening-up of these matters. Back-burning is a technique that is meant to be used in emergency wildfire situations or when a prescribed burn gets away and turns into a wildfire. The term "back-burning" is often used inappropriately. I often hear the term used in the wrong context, especially on the radio.

Clearing of vegetation is often labelled "back-burning", but that is an inappropriate use of the term. It is important to ensure that the term is well defined. The term "back-burning" should apply only to the application of fire by burning backwards towards an existing bushfire to provide a firebreak to control or suppress the fire. Back-burning should also be done only to protect persons, property or environmental assets from an existing or imminent danger which arises out of a fire when the fire cannot be controlled by any other means. In the Royal National Park, back-burning took place and many of the animals and wildlife creatures were wiped out because they were unable to escape the walls of fire that were moving towards each other. Sometimes back-burning can have a devastating impact and it must be carried out with extreme care.

For a number of years concern has been expressed on the North Coast regarding the present permit system. Under normal climatic conditions in the North Coast region, by early August it often becomes risky to burn in heavily timbered areas without increasing the risk of reignition during dry and windy weather. This occurrence is usually more frequent from September until about December. Typically the present system of permits required after 1 October has resulted in a large number of land-holders lighting fires in the fortnight before permits become necessary. Many of the wildfires in the North Coast area that occur in the spring are actually the result of legal fires that have got away. In the Guy Fawkes River National Park recently, one of those fires got away and burned down half of the national park. That seems to happen every year in Guy Fawkes River National Park.

Most statistics reveal that a large proportion of those fires escape due to reignition, that is, through heavy timber smouldering for weeks—long enough to lead well into unpredictable weather conditions. For example, the State forest addition to section 3.4.1 of the Kyogle bushfire risk management plan is typical of all forest areas of the North Coast. Page 111 of the report shows that the majority of wildfires within 10 kilometres of State forests originate from fires that have been lit for pastoral, agricultural or other rural purposes. These fires, or their later reignition, accounted for nearly 60 per cent of all wildfires within 10 kilometres of State forests in Urbenville. That information comes from chapter 8 of the National Conservation Council guidelines for bushfire risk management, which illustrates similar statistics for most other State forest management areas. Invariably the fire permit requirements are brought forward as a result of fires—usually many of them across several shires, which was the case this year. It would therefore be preferable for the Rural Fire Service to be able to be more proactive in requiring permits before this situation arises, rather than being reactive after the horse has bolted, as is currently the case.

Despite the fact that the primary objective of the risk management plans is to reduce the risk of bushfire damage to life, property and the environment, statistics show that in the period from October to March a large proportion of wildfires began from legal burns that did not require a permit, as well as from permitted fires. The risk plans have not even attempted to deal with this significant and fundamental cause of wildfire. Although the risk plans have listed a regulated system of permits as a hazard-reduction strategy, there have been significant changes in the permit system as a result of the risk-management process. Data shows clearly that the present permit system is not working. Permits should therefore be required at all times in all areas that are zoned as being of moderate to high risk or extreme risk in the bushfire risk management plans.

The permits issued in these zones should also require an on-site inspection by a suitably trained, qualified and authorised person to ensure that all necessary skills, resources and contingencies are in place, or are provided by the Rural Fire Service prior to the fire being lit, to ensure that a fire will be contained. This arrangement will go some of the way toward getting the land-holders to plan their activities on an annual basis rather than on the criterion of doing a burn before the need to obtain a permit is required in those zones. I had intended to move amendments at the Committee stage that would have addressed these concerns, but as the Minister for the Environment has been able to provide written assurances, there is no need to move the amendments. I wish to cite the letter written by the Minister for the Environment on 24 November:

> I write in relation to the suggested amendments from the Nature Conservation Council to the Rural Fires Amendment Bill.
>
> Commissioner Koperberg has undertaken to establish a working party in early 2001 comprising all the relevant stakeholders including the Rural Fire Service, the Nature Conservation Council and the Local Government and Shires Association to consider these proposals.
>
> I have consistently ensured that all stakeholders are fully consulted when any amendments to the Rural Fires Act are proposed and in accordance with this stance I support the Commissioner's proposal and confirm that these amendments will be seriously considered.

I commend the Minister and his staff for their willingness to meet with my office and representatives of the Nature Conservation Council to discuss these issues and come to an arrangement that is acceptable to all parties. I support the legislation.

The Hon. I. COHEN [8.26 p.m.]: As the first speaker of the Greens, I wish to address some of the issues associated with this extremely important bill. The legislation has been developed over a period. I acknowledge that a parliamentary committee which was chaired by the Hon. R. S. L. Jones has examined the issues that are associated with the bill. An examination of the way in which the Rural Fire Services staff operate is a slow and evolutionary process, as is a study of the relationship between local councils and the Rural Fire Service. The main purpose of the bill is to transfer rural firefighting staff from local government authorities to the Rural Fire Service [RFS]. At present there is a dual line of accountability for fire control officers who are employed by local government but who have operational responsibilities in the RFS.

The Greens support the bill and hope that it will result in improved support and training for fire control officers. Those officers have a very important role in protecting the community during bushfires. Those officers make commendable efforts. Commissioner Koperberg, who is present in the lobby, also deserves praise from all sectors of the public for a community service that is performed well. It is important to recognise that rural brigades are being brought under the auspices of one controlling authority so that there will be less confusion as more modern approaches are adopted, such as the incorporation of occupational health and safety requirements. Under this bill, those matters will be well attended to and there will be a greater recognition of the need for environmental awareness. Gradually the older methods of dealing with bushfires are being replaced by far more modern and scientifically based approaches. For those reasons, I commend Commissioner Koperberg and others who have been involved in a shift in the culture of environmental management to bring about an appropriate response to bushfires which will result in an ecologically sustainable and balanced attitude.

The bill certainly has been gratifying for many conservationists in this State, because so far as bushfire management in concerned both in the area from which I come in the north of the State and in many other areas around the State we often see old-style environmentally destructive measures being used. But the bill provides for education of fire control officers [FCOs], and that will result in greater awareness of other values and conditions and of improvements in technology. Environmental impact studies will be done prior to burn-off so that fires will be managed much differently from the way they were managed under the old methods. The bill is supported by the Municipal Employees Union and the Local Government Association. The Greens are aware that a number of rural councils have expressed concerns about the bill. They have not accepted the Government's assurances that they will not suffer financially as a result of the passage of the bill. I understand those concerns. However, I am advised that this matter was discussed at the recent Shires Association Conference, and although there was dissent the conference agreed to support the bill.

It is important that we recognise and understand the extent of resistance to change, but I hope that the additional facilities offered as part of an overall package—be it in the form of computers or safety equipment—will outweigh the concerns that some councils and regions have about the transition to a more modern, better equipped, and far more effective firefighting force in the Bush Fire Brigades. Local control officers have an important role to play in local communities, and the bill will not change that. They will continue to be based locally. Local government will continue to be responsible for providing officers and administrative support. The bill will ensure that Rural Fire Service staff are responsible for local circumstances and that they retain the necessary degree of local autonomy.

The Greens are satisfied that better co-ordination requires some changes in the financial arrangements that apply to the Rural Fire Fighting Fund. We will not, therefore, support the amendment proposed by the Hon. Dr P. Wong, which aims to increase the State Government's contribution to the New South Wales Rural Fire Fighting Fund, although I can commend the ideal behind the amendment put forward by the honourable member as something that has developed over time as a result of a series of meetings with many parties. I can understand the argument put forward by various government advisers that the amendment has been locked in the negotiation process over a period of time. We acknowledge the good intentions of the amendment, which are motivated by the desire to assist small rural councils.

We also agree that the State Government frequently increases the responsibility of local government while reducing the available funds. However, this bill does not place an unreasonable burden on local government. The Government has given assurances that no council will be worse off as a result of the passage of the bill. I accept that assurance. We hope that, as a result of the bill, the Rural Fire Service in co-operation with local government will be better able to perform the important social and environmental responsibilities that the committee has entrusted to it and, most importantly, that it will be able to maintain the safety of the community and workers within the occupational health and safety requirements that the new regime will put in place. It is absolutely vital that these firefighters are given adequate safety equipment and are acknowledged by the community for the wonderful work they have been doing and will continue to do. The parameters that have been set in place, the environmental understanding and appropriate training and constraints will significantly improve the effectiveness of the appropriate action taken by our Rural Fire Service and the safety of all those involved across the State. I commend the bill.

The Hon. J. S. TINGLE [8.34 p.m.]: The Hon. I. Cohen has quite properly said that the Rural Fire Service and its commissioner deserve praise. I come not to praise them, but to ensure they get the support to which they are entitled and which we owe them, by supporting the bill. There has been some discussion about what level of support the bill has received. As late as 3 o'clock this afternoon I received a letter signed by the presidents of the Local Government Association and the Shires Association asking that this bill be passed as

drafted, that is without amendment. Although I will address their amendment properly at the Committee stage, I believe that it is very important to understand that this bill is inevitable. It is a logical sequel to the bill we passed in 1997, which created the Rural Fire Service as we know it today. This is the bill that streamlined the service, that which makes it a cohesive and effective arm of protection against bushfires. We have to take the global view of it.

Various questions have been raised, by the Hon. R. S. L. Jones and other members, about back-burning. I accept and agree with all those sorts of things, but this is a global bill that essentially sets up something more streamlined, more effective and more cohesive than anything that has gone before it. It has been the subject of a ministerial working party. It has been the subject of an excellent inquiry and it is the subject of a very good report by General Purpose Standing Committee No. 5, which ought to be commended. Therefore I believe that every member of this House should understand the importance of the bill and ought to be prepared to support it. It is a very important bill.

The Hon. R. H. COLLESS [8.36 p.m.]: I do not intend to take up too much time, but I would like to make a few comments on this very important bill. The amendments to the Rural Fires Act 1997 address the problems associated with the dual accountability arrangements for fire control officers [FCOs]. Under the Rural Fires Act 1997, FCOs are expected to report general matters to local councils and report operational matters to the New South Wales Rural Fire Service Commissioner. These dual accountability arrangements have caused much conflict between FCOs and local councils. They have created a somewhat negative atmosphere within the New South Wales Rural Fire Service. A ministerial working party, the Shires Association, the Local Government Association and the Commissioner of the Rural Fire Service examined the accountability arrangements of FCOs and recommended a new model to streamline the accountability of FCOs and fire control staff so that they are solely accountable to the commissioner as employees of the State. It also recommended the establishment of service agreements between councils and the Rural Fire Service to manage the Rural Fire Brigades and deliver the appropriate level of fire protection to local communities.

The bill allows for the transfer of existing FCOs and related staff from local council to the Rural Fire Service employment in the public service, with the transfer to take effect from 1 July. The salaries and certain employment conditions of these officers will be preserved until a new award is negotiated. The bill also adjusts the percentage of contributions between local councils and the State Rural Fire Fighting Fund to increase local government's contribution by 1 per cent, and to reduce the State's contribution by 1 per cent, as councils will no longer have to pay the employment costs of FCOs. The concern that everyone is aware of is that the amendment provides for the employment of temporary FCOs to be made by the commissioner, and not by the local authority. However, I understand that councils and division commanders will be consulted before the commissioner signs off. There is a lot of concern among local government bodies in relation to the bill, and some aspects of it.

The bill has a lot of support in principle, but many councils are opposed to the proposal to increase a council's contribution to the Bush Fire Fund for a number of reasons. Firstly, over recent years the autonomy of councils in regard to bushfire matters has been continually eroded by legislation introduced by the Rural Fire Service. This has resulted in a greater proportion of bush fire fighting funding directed into administration costs, and some councils have reported that in some instances these contributions have increased by as much as 40 per cent. It is interesting to note that that figure was given to us by the Young Shire Council. An honourable member from Young sits in this Chamber. The transferring of all fire control staff to—

The Hon. I. M. Macdonald: I ask the Hon. R. H. Colless to withdraw that remark. I am in fact a humble ratepayer of Harden shire.

The Hon. D. J. Gay: On a point of order: If the honourable member asks for a remark to be withdrawn, he should state why the remark should be withdrawn. The Hon. R. H. Colless made a comment about Young and that is all.

The Hon. I. M. Macdonald: No, he said I was a ratepayer of Young.

The Hon. D. J. Gay: Yes.

The Hon. I. M. Macdonald: The Deputy Leader of the Opposition must know that I come from Harden. I would like the Hon. R. H. Colless to withdraw his comment and correct his statement.

The DEPUTY-PRESIDENT (Reverend the Hon. F. J. Nile): Order! I ask the Hon. R. H. Colless to simply correct the statement.

The Hon. I. M. Macdonald: It sort of ruins his letter.

The Hon. R. H. COLLESS: No it does not.

The Hon. M. R. Egan: What have you got against Harden? Harden is a lovely place.

The Hon. R. H. COLLESS: I have nothing against Harden. I will withdraw the statement that the Hon. I. M. Macdonald comes from Young. The issue of transferring all fire control staff to State employment is a further example of increasing the administration of the Rural Fire Service and reducing council autonomy. To suggest that councils should increase their contributions as a result of this decision is strongly rejected by many councils. I will speak more about that matter in Committee.

The Hon. J. H. JOBLING [8.42 p.m.]: My contribution to this debate will be brief. I was a member of General Purpose Standing Committee No. 5, which conducted an inquiry into and reported on the New South Wales Rural Fire Service. As honourable members will recall the inquiry was announced on 1 December 1999 and eventually reported to the House on 23 June. During that period the committee travelled throughout Sydney and country areas, where it took advice and evidence from many people. The committee also received 607 submissions, which argued the cases for and against. There was a great diversity of opinion simply because of the different conditions relating to fires in the Blue Mountains, on the North Coast, and in the Pilliga and the south west. The committee considered the submissions at great length. Its report was comprehensive and accurate, and this bill in general terms reflects the committee's findings. Recommendation 10, which might be said to be the genesis of the bill, states:

> (a) The Committee recommends that further detailed protocols should be developed by the Rural Fire Service, in conjunction with Fire Control Officers and the Local Government and Shires Associations, to clearly define and delineate Fire Control Officer duties.
>
> (b) The Committee recommends that Fire Control Officers and other Rural Fire Service staff be employed by the Rural Fire Service.
>
> (c) The Committee recommends that local councils be involved in the selection process for Fire Control Officers.
>
> (d) The Committee recommends that local performance agreements be entered into between the Rural Fire Service and local councils regarding management and responsibilities under the *Rural Fires Act* 1997.

I will not read out the other 12 recommendations of the committee. I travelled to the north-west of New South Wales to look at the effect of the 1997 fire in the Pilliga area. I am also familiar with the 1998 Wingecarribee fire. The findings of Senior Deputy Coroner, Mr John Hiatt, into the cause of the 1993-94 fires and the deaths of a number of people—initially it was thought that four people had died as a result of the fires; subsequently, it was found that one of the four had died from natural causes—were telling. The inquiry was conducted from August 1994 to February 1996 and produced a comprehensive, detailed report of 400-odd pages containing 125 findings and recommendations. It should be noted that one of the key findings with respect to the management of Bushfire Services, as it was then called, related to problems caused by the dual control of the service by local authorities and the Department of Bushfire Services. The Deputy Coroner reported:

> … what is required is a structured full-time organisation, such as the Department of Bush Fire Services, to administer these organisations in respect of their District Fire Committee duties, unfettered from the interference of local Councils.

There must be single, not dual, control. I commend all bushfire captains, who work on a voluntary basis, know their areas and turn out whenever they are required, irrespective of conditions. They do an absolutely sterling and yeomanly job. If you want to know what is likely to happen in their areas, they can tell you. In relation to dual control the Deputy State Coroner noted:

> The dual control—Councils and Department of Bush Fire Services—in the Court's opinion, has given rise to many of the problems and concerns encountered during the hearing of evidence in these proceedings and others heard by the Court. Coincidentally, such problems to a major degree, arise in respect … of the provisions of the Bush Fire Act relating to the activities, in the main, of the Fire Control Officers, their staff and volunteer Bush Fire Brigades. These organisations where their bushfire activities are concerned, are wanting in respect of command structure and accountability …

There was a divergence of views put forward by the many witnesses who appeared before the committee. Some agreed with Deputy State Coroner Hiatt; others thought the Deputy Coroner was incorrect. The Deputy State Coroner continued:

> Witnesses of standing have put forward a very compelling case why Fire Control Officers should be employed by the Department of Bush Fire Services … In the Court's opinion, the authorities should consider these issues seriously …
>
> In this Inquiry, the Court is of the opinion that the major problems which arose were brought about because of dual control between the Department of Bush Fire Services and the Local Council.

He said also that fire control officers should be employed permanently in the new Rural Fire Service and should keep in contact and liaise with their local areas through councils under the supervision and control of the local volunteer bushfire brigades. The Deputy Coroner then stated, with respect to the need for a single rural fire service, that the evidence demonstrated a need for a single rural fire service, an organisation permanently in place with a commander and a permanent structure and accountability. It would seem that the Deputy Coroner summed this up very nicely. The fact that the committee took evidence from such a wide range of people across the State and considered a cross-section of views makes the bill highly supportable. I concur with the concerns expressed by my colleagues; I am sure they will be dealt with appropriately in Committee. I am happy to support the bill at this stage.

The Hon. A. B. KELLY [8.50 p.m.]: I had not intended to make a comment but, obviously, I support the bill and, along with other members of General Purpose Standing Committee No. 5, I support the report that recommended that the bill be drafted in this way. Missing from the comments of members who have already contributed to the debate, however, is praise for the contribution to that committee of a former member of this place, the Hon. Rick Bull. He undertook some excellent work as a member of that committee.

The Hon. M. R. Egan: Good man he is.

The Hon. A. B. KELLY: He is a good man. He did a lot of work. He put the needs of people in country communities before politics—not that that was a diversion of politics; it was just his number one aim. He did an excellent job.

The Hon. M. R. Egan: He was a real countryman.

The Hon. A. B. KELLY: He is a real countryman. Reference has been made to the administration of the service. I have been associated with bushfire management for some 10 years as an accountant, two years as deputy clerk and four years as a general manager. During that time it was my responsibility to pay the bills, and I took particular note of the so-called administration charges—which are not just administration charges; they fund a whole host of things. The increases referred to in the bill are valid. For example, funding was charged back through what was called an administration charge—I believe it is now called a program charge or some such thing—for a number of statewide projects, including the purchase of aircraft for utilisation by councils during firefighting operations and associated functions. Other projects included a statewide database for fire reporting and asset management, a statewide accident prevention program as well as significant enhancements to existing public education, but importantly training and welfare programs.

The Hon. D. J. Gay: Will you make the same speech when we get to the Committee stage?

The Hon. A. B. KELLY: I am making it now because I will not be able to speak in Committee. It is important to note that the $3 million for workers compensation insurance for members comes from the same fund. I am sure that no-one would suggest that that should not be paid. In addition, three-quarters of a million dollars is set aside for public liability. One major concern of bush fire fighters these days is that they will be subject to a public liability claim. Therefore, $3.75 million of the so-called administration fund goes towards funding such items. People who have suggested that that administration charge should not be paid have no idea what the money is being spent on. Those who knew how things operated, including the members of the committee, did not complain, and once things were explained those who originally complained did not continue to complain. I commend the bill as it is to the House.

The Hon. Dr A. CHESTERFIELD-EVANS [8.53 p.m.]: I understood that because General Purpose Standing Committee No. 5 had worked hard and long the matter was resolved. I was quite shocked, therefore, by the extraordinarily negative response I have received from a number of councils about this bill.

The Hon. I. M. Macdonald: Will you name them all?

The Hon. Dr A. CHESTERFIELD-EVANS: I will name them if you let me finish my speech. The object of the bill is to amend the Rural Fires Act 1997 to provide that fire control officers [FCOs], deputy fire control officers and certain other ancillary staff will become employees of the New South Wales Rural Fire Service. There will be other consequential amendments. Several aspects of these reflect recommendations made by General Purpose Standing Committee No. 5 in its inquiry into Rural Fire Services. The New South Wales Rural Fire Service provides the backbone of emergency services in rural and regional New South Wales. It is staffed by approximately 70,000 volunteers and almost 130 permanent staff, which makes it a vital asset to

many New South Wales communities. Around 2,400 brigades operate within 142 rural fire districts, which are grouped into eight regional bush fire regions protecting some 1,200 towns and villages throughout New South Wales. The men and women who volunteer their services have a strong commitment to their duties and exercise a great deal of bravery and professionalism. The Australian Democrats acknowledge their vital contribution to the greater benefit of New South Wales. Parents of one of my staff members were volunteers of the Coffs Harbour headquarters brigade for three years, so any changes to the Act will undergo close scrutiny by my office.

The Democrats have received correspondence from a number of rural councils about this bill, most of it quite negative. A respected former member of this House, Miss Elisabeth Kirkby, who is now a councillor on Temora Shire Council, has also contacted my office about concerns she and fellow councillors have about this bill. Schedule 1 [3] will amend section 7 (2) of the Act and will enable local authorities to combine responsibility for their rural fire districts to either exercise joint responsibility for the districts or nominate one of them to be the responsible authority. Schedule 1 [30] will transfer the employment of FCOs, deputy FCOs and other fire control ancillary staff from councils to the Rural Fire Service. The amendment complies with recommendation 10 (b) of the General Purpose Standing Committee No. 5 report into the New South Wales Rural Fire Service. The committee found:

> That there is a difference of opinion amongst stakeholders about the optimum relationship for FCOs. The evidence received by the Committee shows that individual local government areas have different experiences and expectations which have impacted on their desire for more or less local responsibility.

Mr Taylor from the Local Government and Shires Associations [LGSA] indicated to the committee:

> ... that only 10% of the 80% of local councils who responded to a survey undertaken by the LGSA wanted to hand control over to the RFS which suggested that a majority of councils would prefer to retain the current structure or favour increase in local responsibility.

However, after Mr Taylor gave evidence the committee received a letter from the LGSA indicating it had changed its position with respect to dual accountability. My office has received letters from Hume, Corowa, Cootamundra, Culcairn, and Young councils, a fax from Elisabeth Kirkby at Temora and a phone call from Maurice Simpson of Weddin Shire Council, expressing outrage that the LGSA had largely ignored their concerns and cynicism about the expanded role of the commissioner. The letters also expressed support for the amendments of the Hon. Dr P. Wong.

The Hon. I. M. Macdonald: That's a bit like the percentage the Democrats get in a vote in this State—about 1½ per cent.

The Hon. Dr A. CHESTERFIELD-EVANS: Not everybody who is unhappy complains. I have simply found that a lot of people feel bullied by this Government. I must confess that I take the contacts I have in the bush quite seriously when they make serious complaints, which is more than can be said for the Parliamentary Secretary at the moment. Schedule 1 [3] will amend section 7 (2) of the Act. This new provision has the potential for creating confusion and even disaster. If responsibility is to be exercised jointly by local authorities, it could cause confusion in an emergency. If there is a serious emergency, communications may be difficult between different local government authorities, possibly many kilometres apart. I am aware that it is the intention to have all FCOs linked by pagers or two-way radios and mobile phones, but communication problems may still arise. For example, if an extremely hazardous fire occurs within one rural fire district where the local authorities have decided to nominate responsibility to just one authority, it would be difficult to make an accurate assessment of the situation in an area tens of kilometres away.

Circumstances such as distances between rural towns, topography and seasonal conditions may affect the effectiveness of such an arrangement between local authorities. It may work well in some situations, particularly along coastal areas where the distance between authorities is generally smaller and the concentration of brigades is higher than further inland of the State. However, in areas where one local government believes it should be the controlling authority it has the potential to cause antagonisms. It may also foster a tendency to rationalise services to authorities that currently have the most equipment and most volunteers instead of maintaining the viability and capabilities of smaller but equally dedicated and experienced volunteer firefighters.

Item [9] will insert new section 12A into the Act. The new section will enable the Commissioner for Rural Fire Services to enter into service agreements with local councils. The amendment reflects the move towards centralised control by the commissioner. The commissioner will define and allocate duties to the local

authority. Will volunteers have the flexibility to exercise their discretion under the guidelines imposed from above? New section 12A (2) provides that the service agreements "may specify any obligations to be imposed on the local authority as a consequence of the commissioner agreeing to exercise those functions". Under section 12A (2) (c) the agreement "may set performance targets for the exercise of those functions". Under section 12A (2) (d) the agreement "may provide for the evaluation and review of results in relation to those targets".

To even implement the subsections that I have noted will necessitate an increase in the commissioner's bureaucracy. On the face of it, it appears to be taking a lot of sovereignty away from fire control officers and local councils and giving added power to the commissioner. From a reading of this section, it appears it is a one-way delegation by the commissioner. A visit to the Rural Fire Service web site, *www.bushfires.nsw.gov.au*, reveals a position paper on the fire control staff transfer, outlining aspects of changes proposed by the bill. The web site deals with performance management and assessment of service agreements between local authorities and the Rural Fire Service, and states that "the details of the service agreements are yet to be determined". Is this still the case? I ask the Minister in reply to give more detail on what can be expected in those service agreements imposed by the commissioner.

The Democrats oppose items [22] to [24] proposed by schedule 1. A fire control officer should inform land-holders who may be directly affected by back-burning operations. The bill will amend the amount of annual contributions payable to the Rural Fire Fighting Fund by Treasury and local councils under part 5 of the Act. Treasury contributions will decrease from 14 per cent to 13 per cent under the amendment proposed by item [25] of the schedule, and contributions made by local councils will be increased from 12.3 per cent to 13.3 per cent under the amendment proposed by item [26]. This is yet another example of the State Government, supported by token Country Labor, shirking its commitment to regional and rural New South Wales. Councils not only will have to contribute more money but will need to employ another person to conduct fire hazard inspections for development applications to council and perform other tasks that were normally performed by the fire control officer. One of the findings of the General Purpose Standing Committee No. 5 inquiry into the Rural Fire Service was:

> The funding system is complex and poorly understood. The Committee finds that the Rural Fire Service should make the funding process more transparent—particularly with respect to insurance company contributions.

On my understanding, an inquiry into the Rural Fire Fighting Fund will be held next year, so I find that making local government pay more when questions about funding are still unresolved an unusual way to go about things. New section 18 will make it mandatory for councils to be responsible for the funding of leave entitlements for officers' transfers to the employment of the Rural Fire Service. Has the Treasurer or the commissioner considered how local councils are supposed to budget for this expense? This bill is weak. It does rectify many of the problems that General Purpose Standing Committee No. 5 highlighted in its report. Given that the Opposition has been supporting Government bills of late, for reasons that we do not quite understand, and that the Government apparently has threatened to withdraw the bill if it is amended, the Democrats will not move any amendments. We do, however, ask the Government to withdraw the bill until next year, preferably until after the inquiry into funding of the service. We do not support the bill in its current form, and we will support the amendments foreshadowed by the Hon. Dr P. Wong.

Reverend the Hon. F. J. NILE [9.03 p.m.]: The Christian Democratic Party supports the Rural Fire Amendment Bill. The bill will streamline accountability arrangements for the fire control staff, including fire control officers. Those officers have a pivotal role within the structure of the Rural Fire Service, they have dual accountability in the management of the day-to-day affairs of the rural fire brigades on behalf of local council general managers, and they report operationally to the commissioner. Those dual accountabilities have caused significant tension between some smaller rural councils and the Rural Fire Service and have caused concern to the Rural Fire Service Association and the New South Wales Farmers Association. As a result of those concerns, the bill has been brought before the House to streamline the accountability of fire control officers and fire control staff so that they are solely accountable to the Commissioner of the Rural Fire Service, as employees of the State.

The bill will also provide for the establishment of service agreements between councils and the Rural Fire Service to manage rural fire brigades and deliver the appropriate level of fire protection to local community. This is in line with a recommendation of General Purpose Standing Committee No. 5. To save taking up more time of the House, I seek leave to incorporate a copy of a letter from the Local Government and Shires Associations of New South Wales, indicating the support of those two associations for the bill as drafted. I seek leave to incorporate also a letter from the Commissioner of the New South Wales Rural Fire Service,

making a strong argument that if the bill is delayed or the proposed amendment passed, rather than saving $1.53 million it may cost local government an additional $3.35 million, thus denying local government a potential global saving of some $5 million.

Leave granted.

The Hon Dr Peter Wong AM MLC
Legislative Council
Parliament House, Macquarie Street
SYDNEY NSW 2000

Dear Dr Wong

The Associations have noted your letter of 1 December 2000 supporting an amendment to the Rural Fires Amendment Bill 2000 that the contribution rate for Local Government remain at its current level.

The Associations have been fully consulted throughout the development of the Bill and councils have been informed of implications as details have been developed.

The Associations have had full access to financial modelling exercises conducted by the Rural Fire Service which clearly indicate that the net effect of elimination of Local Government's payment of salary on costs for fire staff will more than compensate an increase in contribution.

Local Government has accepted the Commissioner's assurance that no council will be worse off through the transfer of FCOs to the employment of the RFS, and the Fund will recognise net gains to Local Government.

The Associations are currently acting on behalf of Local Government to resist or minimise industrial claims for a dramatic increase in salaries or conditions for fire control staff. In the event of the legislation being delayed, the potential increases could be significant and the prospect of councils being saddled with these increased costs is unacceptable.

The Associations urge that the Bill proceed as drafted.

Yours faithfully

Cr Peter Woods OAM
President
Local Government Association of NSW

Chris Vardon
President
Shires Association of NSW

The Hon J. Tingle MLC
Parliament House
Sydney NSW 2000

5 December 2000

Dear John

Confirming our earlier discussions, I advise as follows:

- Currently Local Government meet the on-costs (35 per cent) of the salaries for some 300 District staff to be transferred to the State under the provisions of the Bill.
- The effect of the Bill will be that whilst the Local Government contribution to the overall Fund will increase from 12.3% to 13.3% with a commensurate reduction of the Treasury contribution, because the sum total of the 1% is less than overheads they are currently meeting, Local Government will in fact save $1.53 million.
- A handful of councils have been claiming the on-costs from the State, contrary to policy and they of course will not save anything, and nor will it cost them any more. But I stress that I suspect it is probably no more than half a dozen western councils, if that.
- The attached schedules (in the last column of each page) estimate the savings to individual councils. Those in brackets indicate an increase, but we have agreed to reimburse them.
- Moreover, however, if the Bill is not passed and the Municipal Employees' Union Award for District staff succeeds before the Industrial Relations Commission, rather than saving $1.53 million it may cost Local Government an additional $3.35 million, thus denying Local Government of a potential global saving of some $5 million.

Yours sincerely
Phil Koperberg

Reverend the Hon. F. J. NILE: With those few remarks, we support the bill.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [9.07 p.m.], in reply: I thank all honourable members who have made contributions to this debate. In Committee, I will deal with the amendments foreshadowed by the Hon. Dr P. Wong, taking on board the wise comments of the Hon. M. I. Jones in his contributions to this debate. Reverend the Hon. F. J. Nile, in his contribution, delivered what I would call a Brett Lee yorker at the No. 11 batsman. The Hon. Dr P. Wong's potential amendments were bowled out by those incorporations. I now turn to the comments made by the Hon. Dr A. Chesterfield-Evans in relation to service agreements. He normally serves a double fault, and he did so again. I quote from the second reading speech delivered in the other place in relation to service agreements:

> The principal Act will also be amended to include a new subsection 12A to enable the commissioner to enter into service agreements with any local council or councils responsible for a rural fire district or districts. The Government thinks it desirable for local councils to enter into service agreements. They will not, however, be compulsory. The agreements will in effect be contracts between the service and councils to carry out functions imposed on councils by the Rural Fires Act.

That implies the considerable ability of councils to determine the shape of those service agreements. I commend to the Hon. Dr A. Chesterfield-Evans that he read that second reading speech. If he did, he would be a lot wiser than he is at the moment.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. Dr P. WONG [9.10 p.m.], by leave: I move my amendments Nos 1 and 2 in globo:

No. 1 Page 7, schedule 1 [25] and [26], lines 20-23. Omit all words on those lines.

No. 2 Page 11, schedule 1 [30], lines 13-16. Omit all words on those lines.

As I said during the second reading debate, the Unity Party supports the intent of the bill. We are seeking changes to be implemented in a fair manner, given that many rural councils are doing it hard at the moment. Interestingly, the whole debate on the amendment involves about $1 million a year that the Government will contribute to the rural community of New South Wales. Let us not deviate from the argument that that is what it is all about. We support the bill. To understand the financial implications of the bill we need to understand how the changes will be funded. In order to implement the changes fire control staff need to be transferred to the Rural Fire Service and become employees of the State instead of councils. These fire control staff have always been paid from the Rural Fire Fighting Fund. The fund has three contributors: the local councils contribute 12.3 per cent, the State Government contributes 14 per cent and insurance companies contribute 73.7 per cent. However, on-costs such as superannuation and long service leave have been borne by councils and paid out of councils' general revenue.

Under the Government's modelling, transferring the fire control staff to State employment will save councils about $ 3.9 million per annum. Under the bill the on-costs will now be borne by the Rural Fire Fighting Fund. In addition, transferring fire control staff to State employment will incur higher salary costs as many will receive a pay rise as part of the new award. These and other additional associated costs will also be borne by the Rural Fire Fighting Fund. They are estimated to be around $5.3 million. Therefore, the Rural Fire Fighting Fund, which currently holds $91 million, will grow by $9.2 million to take into account on-costs and additional salary costs, making a total of $100.2 million. So basically the bill is saying that we need to increase the current $91 million to $100.2 million. At the same time the bill is proposing that the contribution by rural councils increase by 1 per cent; that is, from 12.3 per cent to 13.3 per cent. At the same time the Government's contribution will be reduced from 14 per cent to 13 per cent.

One per cent sounds very small but in dollar terms it will require an increase in contributions by rural councils of $2.13 million annually. Under the current scheme councils contribute $11.19 million; under this bill they will pay $13.33. Because of the growth in the size of the fund to $100.2 million, the 1 per cent increase is actually a 19 per cent increase in the contributions that rural councils have to make to the fund. The Government would argue that this $2.13 million increase can be easily accommodated by councils that no longer need to pay

around $3.9 million on-costs. The Government's modelling shows that the majority of rural councils will be better off and perhaps only five or six will be worse off, and the Government has given an undertaking to compensate them. But this is only one side of the equation: in addition to the fund absorbing the $3.9 million on-costs, which is a saving to the councils, the fund is also absorbing some $5.3 million in additional pay increases and allowances that are the Government's liability. One may argue that the Government, not just councils, will save millions. So while there are significant savings to councils, there are at least equally significant savings to the New South Wales Government.

Having put the savings part aside, let us now look at contributions to the fund by rural councils versus the Government. I have said that the councils will contribute an additional $2.13 million. Under the bill councils will have on-cost savings. What is the additional amount that the Government will make from these significant savings? Currently, the Government is contributing some $12.74 million to the Rural Fire Fighting Fund—14 per cent of the total $91 million. Under the bill the fund will grow to $100.2 million. The Government's contribution reduces by 13 per cent, meaning that the Government will contribute around $13.03 million. This means effectively that the Government is contributing an additional $290,000—yes, just $290,000—whereas struggling rural councils are expected to contribute $2.13 million to the fund. This $290,000 increase in contributions to the fund is a mere 2 per cent increase compared with the massive 19 per cent hike for rural councils. That fact goes to the heart of our argument in moving the amendments. Unity believes that the Government can do more for rural councils and the residents. In our opinion, it is simply not good enough for the Government to contribute an additional $290,000 to the fund while the contribution of councils will increase by $2.13 million.

The Hon. M. I. Jones: That is not right.

The Hon. Dr P. WONG: These are the exact figures. I have checked with the Government advisers.

The Hon. M. I. Jones: What you have forgotten to admit—

The Hon. Dr P. WONG: I mentioned earlier in my speech that there were savings of allegedly $3 million or $4 million.

The Hon. M. I. Jones: You are doing the same as you did before.

The Hon. Dr P. WONG: I mentioned the figures earlier. I have already accepted the Government's argument that there will be savings for councils. By the way, some councils debate whether there will be such savings. I accept the Government's figures on face value. I have said that many times. If the Hon. M. I. Jones paid attention to my speech he would understand that I mentioned that many times.

The Hon. M. I. Jones: If you accept it, why did you move the amendment?

The Hon. Dr P. WONG: Maybe you were not listening.

The Hon. M. I. Jones: Would you like to repeat the whole thing again, please?

The Hon. Dr P. WONG: It is not up to you—

The Hon. I. M. Macdonald: Do not put us through that.

The Hon. M. I. Jones: No!

The Hon. J. R. Johnson: There is a unanimous vote of support.

The Hon. Dr P. WONG: That is right. I understand that the bill has the support of the Shires Association and the Local Government Association.

Reverend the Hon. F. J. Nile: They do not support the amendments.

The Hon. Dr P. WONG: Certainly, the councils support the streamlining—I did say that the bill has support in total—

Reverend the Hon. F. J. Nile: But they do not support the amendments.

The Hon. Dr P. WONG: I understand. I am not talking about my amendments; I am saying that the bill as printed is supported by the Shires Association.

Reverend the Hon. F. J. Nile: But it does not support the amendments.

The Hon. Dr P. WONG: I have mentioned that already.

The Hon. D. J. Gay: You are a slow learner, Fred.

The Hon. Dr P. WONG: You are a slow learner. That is right. The letter was tabled only 10 minutes ago. I am sure that honourable members can remember the letter very well. You know me: I do not twist the truth.

The Hon. I. M. Macdonald: He cannot remember it.

The Hon. Dr P. WONG: Yes, this is the problem. It took me only a few hours in the last two days to find out what the rural councils really felt. This may not represent—

The Hon. M. I. Jones: What about—

The Hon. Dr P. WONG: If the honourable member listened he would not argue. Then we could finish much faster. I have received representations from CENTROC, the Central Regional Organisation of Councils, representing 16 councils, including the shires of Blayney, Cabonne, Cowra, Evans, Forbes, Lachlan, Mudgee, Oberon, Parkes, Rylestone, Weddin, Wellington, the cities of Bathurst, greater Lithgow and Orange and the Central Tablelands county council as well as 10 other rural councils. Before I met with a Government adviser this afternoon I took the liberty to check with Tony Windsor, MP, to make sure that the amendments make sense. He assured me that they make a lot of sense. I know that it is getting late so instead of reading the letters from councils that I have received I will spare the Committee the misery by seeking leave to have the letters incorporated in *Hansard*.

The Hon. I. M. Macdonald: They all support the bill.

The Hon. Dr P. WONG: So do I.

Leave not granted.

The Hon. Dr P. WONG: I will read them. If the Parliamentary Secretary will hand back the letters I will read parts of them.

Reverend the Hon. F. J. Nile: Are they commenting on your amendments?

The Hon. Dr P. WONG: Yes.

The Hon. I. M. Macdonald: May I have them afterwards? There are some things in them that I would like to deal with.

The Hon. Dr P. WONG: You have denied me leave to have them incorporated in *Hansard* so I am not sure. I will consider your request. The letter from CENTROC states:

> I write this letter on behalf of the Central West Regional Organisation of Councils (CENTROC) in support of your amendment to prevent the increase of Rural Fire Service Contributions of local government by the proposed 1%.
>
> Clearly the added cost, collectively, is another impost on the financial position of rural Councils.

The letter from Boorowa Council says in part:

> Council does have concern with the reduction of contributions by the State Government decreasing from 14% down to 13% and Council requests that this be argued strongly that there be no reduction here.
>
> There needs to be obtained from the State Government a written guarantee that there will collectively be a 1.8 million dollars worth of savings to Councils across the state.

As I mentioned earlier, some councils do not believe the $3.9 million saving is possible. Furthermore, the letter says in part:

> The State Government is producing publicity which the media is picking up on that there will be a significant increase in funding to the Rural Fire Service but in the overall scheme … the State Government is a very minor contributor to the Service. This is particularly evident when you take into consideration that the contributions from the insurance companies are over 70% of total funding to the Rural Fire Service.
>
> Council is very appreciative of your actions in representing Council's interest in this matter.

The letter from Cootamundra Shire Council says:

> It is my understanding that Local Government and Shires' Associations very reluctantly agreed, with grave misgivings, to the proposed 1% increase based on some assurances from the Commissioner. However, a survey of councils would show that almost all would be opposed to the increase.

The letter continues:

> If the Department fails to gain the 1% increase, there is a real fear that the Department will simply raise the extra funds by again unilaterally increasing the "Other Programs" impositions. This is something that needs to be fought with vigour.

Again I quote a letter from Corowa Shire Council:

> Corowa Shire Council is totally opposed to the proposal to increase Local Government contribution to the NSW Rural Fighting Fund from 12.3% to 13.3%. …
>
> Local Government has for many years been restricted through ratepegging and during this time have seen many State responsibilities transferred to Local Government without financial assistance. This is the reverse situation.

The letter from Culcairn Shire Council expresses a similar sentiment. In part it says:

> Section 109—Clause 1 Council is totally opposed to any increase in the level of contribution by local government. This has far-reaching effects and whilst Council recognises that there may be some short term savings to individual Councils due to the transfer of employee entitlements to the State, the long term implications of a 1% increase in contribution to the overall Fire Fighting fund are horrendous. For example the 2000/2001 RFS budget shows an increase of about $10 million from the previous year which was used as the basis for the increase in contributions.
>
> Any savings from the transfer of FCO employment have been negated by the costs of providing additional administrative support and in addition "other programs" costs that form part of Councils allocation have increased by more than 100% from 1996/1997 to 2000/2001 (In dollar terms from $55,677 in 1996/1997 to $120,315.30 in 2000/2001.
>
> In the long term Councils will be paying an increased contribution on all fire prevention expenditure (not just FCO related expenditure) which will have a compounding increase on local governments contribution to the benefit of the State government.

Holbrook Shire Council sent a similar letter. I believe the Hon. Dr A. Chesterfield-Evans read a letter from the Hume Shire Council, and I have received a similar letter from the Temora Shire Council. Another letter, from the Urana Shire Council, says in part:

> Indeed Councils were not advised of the increase of its contributions until well into the debate.
>
> Increasingly Councils are being called upon to provide additional financial contributions to services but are not receiving additional funding.

There is a similar letter from Weddin Shire Council—and I will not mention any more the letter from Young because the Hon. I. M. Macdonald prefers not to identify himself with Young. Honourable members will see from these letters that the argument that somehow rural councils do not support centralised fire control officers is simply not true. They support them; they simply do not support the increase in contribution by 1 per cent which, in reality, is a 19 per cent increase. I urge honourable members to support Unity's amendments, which seek to maintain the percentage contribution that exists at the moment. Our modelling shows that if we keep the same percentage, that is 12 per cent for the council and 14 per cent for the Government, it will cost the Government only an additional $1 million. This will mean a reduction of $1 million in contributions for struggling rural councils. Unity is not attacking the principle of this bill. Time and again we have said we support it. All we are asking for is the Government and Country Labor to give back a little more than the additional $290,000 they intend to contribute to regional New South Wales via the Rural Fire Fighting Fund.

The Government's record in supporting rural councils could be better. The New South Wales Government has received payments from the Federal Government in recognition of costs involving State and local government for implementing the national competition policy for the past three years. This funding is expected to rise to $114 million in 2000-01, yet not one single cent has flowed back to the councils. The Government stands in stark contrast to other State governments, such as Queensland, which has passed on 20 per cent of the payment to its local councils. The Unity amendments give the Government, and especially

Country Labor, a chance to go some way towards supporting the rural community. One million dollars is not much for a government that has a huge budget surplus, but it is a lot for a small struggling council and its constituents. Finally, I do not need to remind the Committee that local councils' finances are limited when rural New South Wales in general is struggling. If ever the rural community needs Country Labor, it is right now.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [9.23 p.m.]: The Opposition supports the amendments of the Hon. Dr P. Wong, but not for some of the reasons outlined by him. We think that the Government's arithmetic—which the Hon. I. M. Macdonald and the Hon. A. B. Kelly, both Country Labor members, went to a great deal of trouble to defend—is accurate. We do not believe that councils will be worse off. We would like to believe that those figures are accurate. We want to stop local government having to put extra money in. We want to get some of the Treasurer's money, because he struts around this place like a chook escaping a hippie cooking jar, telling us that he has a billion dollar surplus, but he will not give it to anyone. He thinks it is his money. He is talking about a one billion dollar surplus, and this will not mean one cent less to the Rural Fire Service.

What the Hon. Dr P. Wong said in part was accurate. Local government in this State has been hit hard by the Labor Party. The Labor Party in this State will not pass back the national competition payments that burden it with red tape and green tape, it pulled the water and sewerage grants off them, and imposed the septic tank tax on them.

I cannot imagine any member of this House voting against local government keeping some of its money. That is what the amendments are about. These amendments are about local government staying at the same rate. They are not about cutting money to the Rural Fire Service because the money would still come from the Treasurer. What is this huge sum of money that Country Labor has brought in the king of the Rural Fire Service to menace crossbenchers about? It is $1 million in the whole of the budget, but it is $1 million that should remain with country councils. These are simple amendments and the Opposition agrees with the figures. The Opposition does not believe that the Government has tried to diddle councils out of the money in this instance. It was a fair deal, but councils should not be burdened with an extra percentage whilst the Government's percentage goes down. The people who will pay are the ratepayers.

The Treasurer owns property in this State so he is a ratepayer, and I know he insures his property because he is a careful man. He is paying more than anyone from his own pocket, not from the Treasury Fund or other areas over which he has discretion. If he supports the bill he will disadvantage himself. He is a careful man and he would be hurting. I know he is a loyal man and supports the Government, but given the opportunity by Country Labor to leave some of the money with country councils, it is incredible that they have resisted the opportunity and have supported the Government. Much has been made of the letter from the Local Government and Shires Associations. They were part of the agreement and they are sticking to it. One would not expect anything less from them. That is what they should say because they were party to the negotiations, as was the Hon. M. I. Jones.

However, the Opposition is talking about extra money. It is not a sum of money that will be taken from the Rural Fire Service; it is a sum of money that will be taken away from local councils, which means they will not be able to fund community land projects, provide local services or look after children in the local communities. That is what Country Labor and the Treasurer want. Councils will not be able to look after their churches or recreational groups. It is mean, tough and vicious. The Opposition seeks support to leave that particular part of the legislation as it is. We commend the amendments of the Hon. Dr P. Wong. They are proper amendments and I cannot believe that the convener of Country Labor and Country Labor's head kicker in this place would not support them.

The Hon. I. M. MACDONALD (Parliamentary Secretary) [9.33 p.m.]: The Government opposes the amendments. For the first time in the 10 years that I have had the misfortune to sit opposite the Deputy Leader of the Opposition he has said that the Opposition supports the arithmetic of the Government and has, in effect, expressed concern about the arithmetic of the Hon. Dr P. Wong. I thank him for that because arithmetic is an important issue that needs to be discussed. The Hon. Dr P. Wong has claimed that rural councils will lose money. In the end they will not lose money. The Deputy Leader of the Opposition glossed over the letter from Boorowa Council and the Hon. Dr P. Wong ignored some of it. However, the words are important because all honourable members should be concerned about this issue.

The Government met with peak interest groups and stakeholders before coming to an agreement. That is an important statement of process, and the outcome should be considered more seriously than has been put by

the Hon. Dr P. Wong. The Local Government Association and the Shires Association have made it clear that they were fully consulted, had full access to the financial modelling and have accepted the commissioner's assurances. Both those associations have made it clear that they are on board with the Government. The Deputy Leader of the Opposition has ignored that statement. In the end this debate comes down to the figures.

About 300 fire control staff will be transferred and in the year 2000-01 the expenditure of the Rural Fire Fighting Fund [RFFF] will be $91 million. The estimated cost of transfer of staff is $9.2 million, bringing the total to $100.2 million. Council contributions at 12.3 per cent amount to $11.19 million. Council contributions at 13.3 per cent amount to $13.3 million. Therefore, the increase in contributions by councils is $2.1 million. When one evaluates the nett cost to councils in this State by subtracting the on-costs—which include superannuation, overtime, long service leave, meal allowances and other forms of allowances—of $3.9 million, the savings to councils will be approximately $1.8 million.

The Hon. M. R. Egan: What was that saving again?

The Hon. I. M. MACDONALD: The estimated saving to councils is $1.8 million. The Treasurer is giving $1.8 million to councils, yet the Hon. Dr P. Wong has spoken as though the Government is taking the money from councils. He completely ignores the fact that the Shires Association and the Local Government Association fully participated in determining the outcome. I have read many letters in my time in this place but I have not read many that have been as clear-cut in support of legislation as the letter from Boorowa Council. The Hon. Dr P. Wong has selectively quoted from a few letters from councils. However, if I read them I am sure I would find plenty of quotes that support the overall objectives of the Government. In the letter from Boorowa Council the Hon. Dr P. Wong left out the paragraph which states:

> In reply to your fax dated 1st December 2000 regarding the above matter I would like to advise that following consultation with the Mayor Robert Gledhill—

He is the doyen of the region, the mayor who has been around the longest of any. He is the Labor Party member who left the Liberal Party. When I asked him why he was never a member of the National Party he said, "That was all right 30 to 40 years ago." The letter continued:

> —Boorowa Council has no concerns with the proposed percentage increase in Councils contributions to the fund.

No wonder the Hon. Dr P. Wong left that paragraph out of his contribution!

It is rather a king hit on the Hon. Dr P. Wong that he did not consider that statement by Mayor Gledhill. Mayor Gledhill went on to say that he would like an assurance that the $1.8 million will go to council. Honourable members know that I have given that assurance; I have read out the figures. The Minister has made those statements clear, and every sensible member in this Chamber knows that. Even the Deputy Leader of the Opposition knows that because at the commencement of his contribution he made it clear that he agrees with the Government's arithmetic. I am at a little at a loss to understand why National Party members support the amendments moved by the Hon. Dr P. Wong, other than blatant opportunism. I am not questioning the Hon. Dr P. Wong's motives in moving these amendments. He is doing this sort of work in the bush, and that is fair enough. I have encouraged him to do so. However, the arithmetic is clear. Country councils will save $1.8 million. We should get this legislation through quickly and reject the amendments moved by the Hon. Dr P. Wong.

The Hon. M. I. JONES [9.40 p.m.]: I shall speak to the amendments to the Rural Fires Amendment Bill, unlike the Deputy Leader of the Opposition, who was possibly talking to the rural councils assistance bill. The amendments in this bill will be revenue neutral to most councils. It is anticipated that four councils will have increased costs, and none of those councils is in the group mentioned by the Hon. Dr P. Wong. Those four councils have a guarantee that any increase in funds will be reimbursed by the Rural Fire Service. A member of the Hon. Dr P. Wong's staff came to my office today. I have spent 30 years looking at rows upon rows of figures. The basis of preparing figures is dual entry bookkeeping. I cannot remember ever seeing such nonsense. The figures were rubbery; the percentages were mixed with the dollar amounts. That is no basis on which to draft legislation, and I am sorry to say that it was simply absurd.

The Hon. D. J. Gay: That's a bit tough.

The Hon. M. I. JONES: It is appropriate for me to say that. I am sorry if it ruffles the Deputy Leader of the Opposition's feathers. Returning to the Rural Fires Amendment Bill, the cost to councils has decreased

from 25 per cent to 12.3 per cent since 1991. They are on a sliding scale anyway; it is getting cheaper for them. The 30 per cent on-cost from payroll is a problem for all employers to conceptualise because it comes in bits and pieces. However, it is real and it must be taken into consideration because it is such a high amount. Some 35 per cent of payroll is very high, and it is high for a number of reasons. The main reason is that it is dangerous work, and workers compensation is expensive for people who engage in dangerous work. If one were to canvass the 142 councils which have rural fire services and ask them whether they would like to pay an increased fee, I would surprised if complaints were received from only 10 or 16 councils out of 142. I understand that is in fact what happened.

It is similar to the debate on the fishing licence fee. Who wants to pay a fishing licence fee? I do not want to pay a fishing licence fee, but we have to look at what we get in exchange. The thrust of this bill is single accountability instead of dual accountability. Therefore, it makes sense that people should be responsible to one source, and that that source should pay salaries and on-costs. As rural communities will have a corresponding decrease in their costs, an adjustment should be made somewhere. The Government has given a guarantee that this bill will be revenue neutral, so what is the point of making a fuss? This bill is not designed to compensate rural councils, to give them a little extra. The Deputy Leader of the Opposition would, probably rightly, like to have that happen, but it is the wrong bill, it is the wrong time and it is inappropriate to try to do it on the back of this bill. I suggest to honourable members that these amendments are silly and inappropriate. I cannot support them.

The Hon. Dr P. WONG [9.45 p.m.]: Earlier I sought leave to incorporate the letter in *Hansard* so that it would not be quoted out of context. When leave was not granted I read part of the letter into *Hansard*. I apologise;I did not see the paragraph that was referred to by the Hon. I. M. Macdonald. I have no problem with the Minister's argument about the amendments being revenue neutral. In the lower House the Minister said that they will be revenue neutral. As for savings for local government, earlier in the debate I said that it was important for the Government, which purports to be a caring government, not to decrease its percentage contribution to the Rural Fire Fighting Fund. I am sorry that my figures confused the Hon. M. I. Jones. This afternoon I had a meeting with the Minister's adviser, and my figures did not confuse him. As for my intelligence, I feel that my intelligence is beyond question at this stage.

The Hon. D. J. GAY (Deputy Leader of the Opposition) [9.46 p.m.]: The Hon. I. M. Macdonald mentioned a very new member of Country Labor, so he claims. I thought the Mayor of Boorowa was a Liberal.

The Hon. I. M. Macdonald: No, he's finished. He is a member of the Labor Party now.

The Hon. D. J. GAY: He has left the Liberal party and joined the Labor Party. That is fine. I am sure the Liberal Party's loss is Country Labor's gain in that instance. I had the good fortune to speak to the Mayor of Boorowa earlier this week, that is, after the date of the letter from the general manager which represented the mayor's views. The mayor rang me to reinforce his views. I am sorry, that is not accurate.

The Hon. M. R. Egan: You rang him.

The Hon. D. J. GAY: Thank you. The Treasurer knew where I was heading. I phoned the Mayor of Boorowa.

The Hon. M. R. Egan: We keep track of what you do.

The Hon. D. J. GAY: Exactly. They have already checked my phone records, as they do. I phoned the Mayor of Boorowa, who had Mr Roger Kelly in his office at the time. Mr Kelly is a cousin of mine from that area. The mayor said to me, "Look, we have sent you a letter that lays out our point our view."

The Hon. M. R. Egan: How is cousin Kelly?

The Hon. D. J. GAY: Cousin Kelly is fine. He is not a relation of the Treasurer, although the Treasurer's staff and I share a relation. I told the Mayor of Boorowa that we would support the Hon. Dr P. Wong's amendment, which indicated that councils would not have to pay extra but that the Treasurer would pay the extra money. He said, "Good! That's even better than I had in my letter." So by way of our telephone conversation, the Mayor of Boorowa, the new member of Country Labor, is supporting the stance of the Liberal Party, the National Party and Unity on this matter.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 12

Dr Chesterfield-Evans	Mr Harwin	
Mr Corbett	Mr Pearce	
Mr Gallacher	Dr Pezzutti	*Tellers,*
Miss Gardiner	Mr Samios	Mr Jobling
Mr Gay	Dr Wong	Mr Moppett

Noes, 18

Mr Breen	Mr R. S. L. Jones	Mr Tingle
Dr Burgmann	Mr Macdonald	Mr West
Mr Dyer	Mrs Nile	
Mr Egan	Revd Nile	
Ms Fazio	Mr Obeid	*Tellers,*
Mr Johnson	Mr Oldfield	Ms Burnswoods
Mr M. I. Jones	Ms Saffin	Mr Primrose

Pairs

Mr Colless	Mr Della Bosca
Mrs Forsythe	Mr Hatzistergos
Mr Lynn	Ms Tebbutt
Mr Ryan	Mr Tsang

Question resolved in the negative.

Amendments negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

ADJOURNMENT

The Hon. I. M. MACDONALD (Parliamentary Secretary) [9.58 p.m.]: I move:

That this House do now adjourn.

RESERVE FORCES DAY 2001

The Hon. Dr B. P. V. PEZZUTTI [9.58 p.m.]: I draw to the attention of honourable members the launch of Reserve Forces Day for 2001 to celebrate the centenary of Federation. The first of a series of the Reserve Forces Day Council celebrations, which was held at Centennial Park, was a re-enactment of the proclamation by the Town Crier of the City of Sydney, acting as Governor, in front of a large crowd of invitees. The formal dinner to celebrate the national launch of Reserve Forces Day 2001 was held at the Randwick Barracks Officers Mess in the presence of the Governor of New South Wales. Major-General Paul Cullen, who is now 91 years of age but still stands tall, delivered an excellent, witty and challenging speech which was responded to by the Land Commander, Major-General Peter Abigail.

There was then a gathering at Government House in the presence of the Governor and the Chief of the Defence Force, Admiral Barrie. The gathering included cadets, members of the reserve forces, senior officers, officers on horseback and a troop of guards from the University of Sydney Regiment. That was followed by the celebration of the centenary of the formation of the University of Sydney Regiment. All these events, which have taken place in the past week and a half, highlight the importance of the reserve forces to the defence of the nation not only in times of peace but also in times of war. The reserve forces serve the internal and external needs of the nation.

This year marks the two-hundredth anniversary of part-time soldiering commenced in Australia, with the formation of the Loyal Parramatta Regiment and the Loyal Sydney Regiment. It is also100 years since the first part-time members of the naval reserve left to fight against the Boxer rebellion and 75 years since the Citizens Air Force was raised. It is important for people to remember that long-term volunteer effort, which is consistent with the volunteer effort at the Olympics and Paralympics. Today members of the House have been speaking about another volunteer group, the bush fire brigade. Across the nation there are many volunteer organisations including the Country Women's Association.

The importance of the reserve forces underpins the importance of people who serve in full-time jobs and who are prepared to serve at war, if necessary. I am reminded of an important speech by Winston Churchill, who said that people who serve in the militia and in the regular forces serve the nation as two people. That sentiment has been echoed on a number of occasions this year by the Governor. It was also echoed last year at the Cenotaph by important people, including the managing director of Qantas. Of course, this year much more importance will be paid to the centenary of fFederation, because it is also the centenary of the Commonwealth Defence Force, or the Commonwealth Military Force, as it was previously called, which led to the formation of the Australian Navy, Army and Air Force. I expect and hope that honourable members will take part in services to commemorate Reserve Forces Day in 2001, an important year for the nation and for the nation's reserve forces.

Mr GLENN DRUERY ELECTORAL REGISTRATION ALLEGATIONS

The Hon. M. I. JONES [10.03 p.m.]: I received a letter from my friend Glenn Druery concerning allegations made against him in this House on Thursday 30 November. I will place it on record in defence of the allegations made by the Hon. Jan Burnswoods. The letter states:

> Dear Mr Jones
>
> Last Thursday evening my good name was brought into disrepute by the accusations of Miss Jan Burnswoods MLC.
>
> In support of the Local Government Amendment Bill, Miss Burnswoods made claims that I was personally responsible for the "bogus, if not fraudulent registration of a large number of parties for the 1999 State election" as well as "registering a large number of bogus parties for the Hunters Hill council elections".
>
> I totally refute these accusations and demand an apology from Miss Burnswoods for this slur on my reputation.
>
> This represents a misuse of parliamentary privilege where attacks can be made on the reputations of private citizens with little recourse for the victim. It is my intention to set the record straight regarding my involvement in those elections.
>
> The 1999 NSW State election saw many parties and individuals expressing their democratic rights by entering the contest to be elected to the Legislative Council.
>
> I arranged a meeting by inviting many of the candidates to discuss strategies to best enhance the chances of those seeking to take advantage of the protest vote.
>
> In a similar way to the major parties who enjoyed a trickle down effect, for example, Jeff Shaw received 1.3 million votes, and John Della Bosca who was second on the ticket received less than 1000.
>
> The reality of the trickle down effect is to work to the advantage of the major parties whilst the preference system could work to the advantage of the minor parties, as well as the major parties.
>
> Despite our methods sadly, some groups and individuals not invited to these meetings made tremendous efforts to spoil the rights of others.
>
> With regard to the Hunters Hill Council election, Miss Burnswoods also claims to know people in the area who informed her of the "scandalous tricks used."
>
> In the Hunters Hill Council election my only involvement was an adviser to several candidates. I am pleased to say that due to my efforts those with a better sense of reality were elected to the council.
>
> Miss Burnswoods clearly does not know the facts and has misled the Parliament and the people of NSW.
>
> Parliamentary privilege is intended to facilitate Parliament in carrying out its major functions effectively. Freedom from question and prosecution in the courts does not bestow upon members of Parliament the right to make scurrilous statements at will, but rather it bestows a heavy responsibility to use this freedom for the betterment of the communities they represent.
>
> My good name has been attacked under the protection of this Parliamentary privilege. Damage has been done to my reputation which warrants an immediate apology.
>
> Alternatively, I challenge Miss Burnswoods to repeat her remarks outside of the Parliament and therefore challenge her to put up or shut up.
>
> Yours sincerely
>
> Glenn Druery.

CATTLE STEALING

The Hon. JANELLE SAFFIN [10.06 p.m.]: A few months ago I organised and hosted a public forum on cattle stealing, which iscolloquially called cattle duffing but is, in reality, pastoral and stock theft. In the area where I live, which is cattle and dairy country, it is overwhelmingly cattle that are stolen. Cattle stealing is a perennial problem, but it appears to have ebbs and flows and peak periods. It is often minimised as a problem, but its impact is quite devastating on farming families, particularly small family concerns, and the financial loss it causes is a tragedy. If one can imagine losing one's monthly salary, the effect that that would have on a person would be similar to the effect that cattle stealing has on farming families.

The forum, which was held in Casino, was attended by approximately 30 people, some representing other members of their communities. The local member of Parliament, Thomas George, also attended. At the forum we discussed issues such as tagging, travelling stock statements and the ministerial pastoral and stock theft committee, which is soon due to report to the Minister for Agriculture. The Director-General of the Ministry for Police, Les Trees, is represented on that committee.

All parties recognise that cattle stealing is a difficult and complex problem and its policing is essential. We in our area have had our problems. It helps matters greatly if local police know a little about the subject matter, such as the fact that a Hereford bull or a jersey cow are of a particular hue. However, I admit that the problem is still difficult to police. The forum requested that the reconstitution of the stock squad be continued. The stock squad operated for many years, and it is still in existence in some form. That is one of the things being looked at by the ministerial committee.

The Hon. Dr B. P. V. Pezzutti: There used to be a cattle duffing squad.

The Hon. JANELLE SAFFIN: It is called the cattle duffing squad, but it is the stock squad for pastoral and stock theft. The local farming communities are keen to have the stock squad reconstituted. As I have said, that is one of the things that will be looked at by the ministerial committee. One of the people who attended the forum who has suffered considerable stock losses and who has been active in trying to deal with the problem wrote to me. His letter reads:

> Dear Janelle,
>
> Re our telephone conversation two days ago concerning cattle thieving.
>
> We have been to the Police on several occasions, about lost cattle without much luck at all.
>
> And people around here are hesitant to report stolen cattle, as little is ever done about it.
>
> In the last 4 years, I have lost 48 head, of good Hereford cattle—

The Hon. Dr B. P. V. Pezzutti: That's $48,000 worth.

The Hon. JANELLE SAFFIN: It is a lot of money. The letter continues:

> — ear marked, and branded, but never found, except for 3 head. These 3 we saw in the neighbours stockyard as we helped him yard them. One of these cows was put up on the crush as I insisted, and my ear mark and brand was visible.
>
> Police were then notified on the 9th January, that is 45 weeks ago, and asked by me to obtain the Vendor Declaration Form, to prove the owner, as he claimed he had bought them at Auction from Primac.
>
> My records prove that I have not sold these cattle at all.
>
> Over these Vendor Declaration Forms I have had two arguments with two of the Police Officers at the Casino Police Station by me insisting they recover these forms, as the manager of Primac told me, when I went to check these, that only a police officer with a search warrant could obtain these.
>
> Inspector Sullivan has been more than helpful in assisting us with this case, as the Detectives are far too busy on other cases to do everything, and we do need a Stock Squad to control this trouble.
>
> On the 9th August, Janelle Saffin held a Rural Crime and Stock Theft Meeting, Thomas George was also in attendance.

The Hon. Dr B. P. V. Pezzutti: I was not invited to that meeting.

The Hon. JANELLE SAFFIN: The Hon. Dr B. P. V. Pezzutti says he was not invited. I am sure that I invited him. I deeply apologise if I did not. The letter continues:

> All were in favour of a stock squad being formed at this meeting. To this date we have heard not a thing happening.
>
> So how can we stop this raging theft from going on. It is going on from Casino to Grafton, and many more areas we may not know of.
>
> I would be more than grateful if you can get some help for us underway, as violence was threatened at the crime meeting.
>
> Kind Regards

Stock theft is a real problem. That is why I have put the constituent's letter on the public record.

TRIBUTE TO TEACHERS

The Hon. PATRICIA FORSYTHE [10.11 p.m.]: As our parliamentary year and school term wind to an end I wish to place on record an acknowledgment of the outstanding work of our fine teachers in this State. As we look back over the past 12 months we have much to be proud of. We have heard much in this Chamber about the work of schools and school students during the Olympics and the Paralympics. But without the support of teachers, many of the students' achievements would not have been as significant. Many teachers participated as volunteers during the Olympics and Paralympics. I also note the role of our students in the Olympic opening and closing ceremonies and particularly their general participation at the Paralympics.

In an earlier debate I referred to Muswellbrook High School students, who, day after day, assisted athletes in the shot-put event at the Paralympics. The students gained excellent experience from assisting and working with the athletes. Although I particularly noted Muswellbrook high school students, students from many other schools across New South Wales participated in medal ceremonies and in many other ways. This year, as in every other year, we have seen outstanding achievements by schools in other fields, particularly at the Schools Spectacular and Art Express. I commend the work and support of teachers in preparing students in music and dance and in the creative arts in general.

The Hon. Dr B. P. V. Pezzutti: And the one we went to.

The Hon. PATRICIA FORSYTHE: The Hon. Dr B. P. V. Pezzutti has reminded me that he and I were delighted to attend the school dance festival at the Seymour Centre early this year. The four-day dance festival brings together schools from across New South Wales. As well, I was pleased to attend the primary schools choral festival at the Opera House. Schools of the northern Sydney district participated in drama eisteddfods, which was also held at the Seymour Centre early this year. Those performances are an example of the outstanding work from our teachers as well as from our students.

These events would not be held without the work of our fine teachers. I note reports today about the participation of our students in world science and mathematics competitions and the excellence with which Australian students are now regarded. For too long we have lowered our estimation of the work of teachers and their profession. It is time we talked up the profession and the quality of the work of teachers, particularly in public education. It is time that we took the opportunity to say that the outstanding achievements by young students are the end result of hard work and dedication by their teachers that is way beyond what one imagines of a 9.00 a.m. to 3.00 p.m. school day, which, in reality, extends to weekend work and after-school commitments.

This year, because of the Olympic Games and events such as the Schools Spectacular, which occurred soon after the Olympics, we realise that the work and efforts of enormously dedicated groups within schools and the Department of Education, such as its Performing Arts Unit, and the academic achievements of students have combined to make success a reality. I made similar comments at the close of the parliamentary sittings last year. I hope to make this speech a tradition throughout the life of this Parliament. At the end of each year I will look back with pride at what has been achieved in this State's schools system in the promotion of young people through the work and effort of their teachers.

ONE NATION

The Hon. D. E. OLDFIELD [10.15 p.m.]: In only a couple of weeks time we enter the true new millennium, not the fake new millennium that was celebrated by many last year. For many of us, the new one thousand years brings the prospect of new beginnings. Given recent events, it is appropriate for me to spend this five minutes detailing some aspects of the political party I helped to found. More than four years ago when I was an adviser in the Federal Parliament, fate made a late-night drink into a significant turning point in Australian

politics. Pauline Hanson, who was probably Australia's most controversial political figure, was being severely and most unreasonably abused by a prominent member of the Young Liberals. I intervened and, as many have said before me, the rest is history. But how well is it understood?

Even before meeting Pauline Hanson, it was clear to me that she was not getting the help she needed. From that night on I began advising her on all things political. Included in that advice was that real impact and change could be achieved only by creating a political party and in succeeding in having candidates elected to Parliament. Until that time Pauline Hanson had no intention of starting a political party and had adopted advice to pursue the ill-conceived strategy of standing candidates as Pauline Hanson endorsed Independents. To anyone who truly understands the way such things work—or, perhaps I should say, the way that such things do not work—that idea is nonsense.

Had the idea even made it to an election, it would have been a miserable failure due to the unworkable situation of having to convey to the public that these various Independents had somehow been given the nod by Pauline Hanson. I determined that, without vast financial resources, such a plan was folly: that with vast financial resources, such a plan would be a waste of money. I decided that the simplest and most cost-effective approach was to use Pauline's own enormous profile, form a party based on her name, and hence further expand that profile while publicising the party's name and building the basis of association for each and every candidate. And so it came to pass that Pauline Hanson's One Nation was born.

One each ballot paper next to the name of our candidate was the name Pauline Hanson. On each how-to-vote card, next to the name and photograph of our candidate was the name and photograph of Pauline Hanson. On each poster, next to the name and photograph of our candidate was the name and photograph of Pauline Hanson. Wherever the name and photograph of a candidate appeared, so would the name and photograph of Pauline Hanson. Such was the success of this political initiative that each individual candidate was supported by voters almost as though those candidates were themselves Pauline Hanson.

From the outset it was well understood by the three founding members that when the name One Nation had been established, the name "Pauline Hanson's" would be removed and the party would go forward without relying on the symbol of one person's name and face. Pauline Hanson's One Nation could not have been created without Pauline Hanson, but just as she was the party's face and name, I was its creator, its author. I wrote its scripts. Perhaps when time permits I may write the only factual and detailed account of the real story inside the party that so many people came to support. Only I know the whole story. Only I know the true story.

As the millennium comes to an end and the new one starts, I find myself in a position that was never planned. Col Easton, John Cantwell, Christine Ferguson, Dennis and Estelle O'Brien, Lisa Johnston, Brian and Graham Burston, Chris Spence, Rod Smith and I have joined to co-ordinate the survival, reconstruction and growth of a party that affected twentieth-century Australian politics like no other. We do that without Pauline Hanson—without her name, without her face. We do it as One Nation.

I am immensely sentimental about Pauline, but one cannot help those who will not let you help them. I am very concerned for Pauline, but one cannot save those who see no danger. Many have referred to Pauline as their Joan of Arc, and although the sentiment is intended to be positive and to highlight a brave stand, it ignores the naive nature of a person who did not understand politics or the ways of the world, and finished her moment in history burning at the stake. Though they no longer burn people at the stake, and Pauline will not be remembered quite like a brave maid of Orleans, politics is closing in on Pauline Hanson, and I do not think she even knows it.

UNIVERSITY OF WESTERN SYDNEY STAFF RESIGNATIONS

The Hon. JAN BURNSWOODS [10.20 p.m.]: Last Friday during debate on the University of Western Sydney Amendment Bill the Hon. Dr A. Chesterfield-Evans quoted university staff resignation figures which were not correct. As honourable members will know, I am a member of the university's board of trustees. The board met this morning. Members of the board were very pleased with the passage of the amending bill, but they were very concerned about the inaccurate figures given to the House. I was asked by the board to inform the House of the correct figures. The resignation data was incomplete and it did not include historical information for all of the university's campuses.

The vice-chancellor provided the board with comprehensive and accurate information to correct the errors. The correct information shows that there has been only a small increase in resignations, and an overall

decrease in separations from universities. In fact, the pattern of staff separation at the University of Western Sydney in the last four years does not support any assertion that there is a significant increase in departures due to the restructuring of the university, or for any other reason. I seek leave to incorporate the table.

Leave not granted.

The Hon. JAN BURNSWOODS: The following information appears in the table under the heading "Separations Type as a Percentage of Total Staff":

SEPARATION TYPE	1997	1998	1999	2000
Voluntary Redundancy	2.0%	1.7%	1.7%	0.6%
Forced Separation	0.0%	0.1%	0.1%	0.0%
Agreed Period Expired	5.2%	6.4%	5.6%	2.2%
Resignations	6.6%	6.7%	7.5%	8.0%
All Other Separations	1.8%	1.4%	1.0%	1.0%
TOTAL SEPARATIONS	15.6%	16.3%	15.8%	11.8%
TOTAL STAFF	2303	2292	2304	2266

CLIMATE CHANGE

The Hon. I. COHEN [10.22 p.m.]: I wish to make some remarks on the failure of industrialised countries last week to agree on how to implement the Kyoto Protocol on climate change at The Hague. It was agreed in Kyoto to reduce greenhouse gas production in industrialised countries by an average of 5.2 per cent of 1990 levels in the period 2008 to 2010. The sixth conference of the parties to the United Nations Framework Convention on Climate Change was held in The Hague between 13 and 24 November. The parties to the Kyoto Protocol were unable to come to an agreement on the vast array of issues, but especially on whether production of greenhouse gases could be traded off for tree plantation establishment and changed means of agricultural production.

European nations would not agree to such a trade-off knowing it to be false. Measurement of carbon dioxide absorption by vegetation is highly inaccurate compared to the measurement of carbon dioxide production in industry. There is no surety that plantations will stay in the ground for the 100 years that a carbon dioxide molecule will stay in the atmosphere before being absorbed by the oceans or natural forests. To allow this type of trade delays the inevitable. In the opposing corner were the United States of America, Australia, Japan, Canada and New Zealand. The National Environmental Trust and the National Resources Defence Council reported that eight of the 12 members of the United States Congress attending climate negotiations ranked among the most anti-environmental members of the United States House and Senate. In addition, the groups said, the eight squeezed more than $1.7 million in campaign contributions during the last election cycle from United States industries that are fighting the Kyoto Protocol. The President of the National Environment Trust, Philip Clapp, surmised:

> This isn't a delegation from the US Congress. It's a delegation representing America's worst polluting industries.

In New South Wales the interest in trading greenhouse gas production for plantation growth is similarly high. An urgent motion moved by the honourable member for Menai, whilst recognising the suspension of talks in The Hague, commended the New South Wales Government for its leadership in providing workable solutions,, such as carbon trading, to global climate change. Where was the commendation for increasing the proportion of renewable energy suppled to the electricity grid? Where was the commendation for increasing the energy efficiency of homes and offices in New South Wales? Where was the commendation for spending more money on public transport than on roads? It is now generally agreed that human production of greenhouse gases is changing our climate.

It is also disappointing to note the Government's claim that it has not been involved in discussions with Canberra about the position it took to The Hague. Federalism requires responsibility from both the Commonwealth Government and the States. In this case that responsibility was lacking in New South Wales. The Premier should instruct the Cabinet Office to talk to the people of New South Wales. The Government's greenhouse gas policy should be moulded by such a discussion. It is still too early for the Government to claim leadership on greenhouse gas policy.

AUSTRALIAN BROADCASTING CORPORATION INDUSTRIAL DISPUTE

The Hon. I. W. WEST [10.25 p.m.]: This morning I attended a rally at ABC's Ultimo centre in Harris Street in support of ABC staff members who have been left with no other option but to take strike action in

defence of both their own and our national broadcaster's future. The integrity, independence and non-commercial nature of the ABC is at stake whilst the Howard Government continues to pursue an ideological vendetta against one of our remaining great national institutions. This dispute is about basic fundamental rights: the right of the Australian public to have an independent and adequately funded media organisation; the public's right to be consulted about any proposed changes designed to meet commercial objectives; and the public's right to be informed by independent news and current affairs services and contents without a hard commercial selling edge. Australians have a right to know that the ABC is under attack from within.

The strike action is not about an unwillingness to accept change; it is about fundamental democratic principles of an independent press. Australians have more than enough press dictated to by Murdoch, Fairfax and Packer. Australians should not be beholden to them or the dollar—completely and without choice. The ABC should not have to buy its television content from the archives of Channels 7, 9 and 10. What would be the point of having a free-to-air national broadcaster? I can see a situation arising whereby we all pay for the same program twice: first when watching advertisements on commercial television and, second, when watching the ABC airing disused or pulled programs from the commercial television networks.

The extraordinary interview of Quentin Dempster this morning on Channel 9's *Today* show by Tracy Grimshaw,who attempted to label strike action by ABC staff as irresponsible,together with today's *Daily Telegraph* editorial attack shows that the tabloid press and the Federal Government are in concert in their attempts to downgrade the ABC to the point where it is no longer viable, independent or a challenge to ratings. The ABC has gone through many decades of change, especially over the past 15 years. It has survived and it competes well. ABC online services receive 6.5 million hits each week. Fairfax F2 and Packer 9MSN spend approximately $30 million each year providing their online service. The ABC does the same for a fraction of the cost about $3 million.

Our national broadcaster is being interfered with.It has been accused by the Federal Government of being biased time and again over the past four years. In its 1996 budget the Howard Government cut $66 million from the ABC. In this year's budget the Howard Government refused to provide adequate funding for the ABC's transition to digital television. Federal Minister Alston continues to encourage proposals for commercialisation and privatisation. I am concerned that the abolition of the ABC television science unit and its flagship program *Quantum* could diminish the ability of the ABC to deliver quality independent science programming. The managing director, Mr Shier, protests that under his new structure there will be even more high-quality science programming on ABC television. Today the board considered submissions from Mr Shier. The board and management have failed to fully explain their strategic outline for the future of the ABC to the staff and the public. The public is entitled to ask questions.

[*Time for debate expired.*]

Motion agreed to.

House adjourned at 10.28 p.m.