

LEGISLATIVE COUNCIL

Wednesday 5 December 2001

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

The President offered the Prayers.

GAMING MACHINES BILL

GRAIN MARKETING AMENDMENT BILL

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No 2)

ANTI-DISCRIMINATION AMENDMENT (DRUG ADDICTION) BILL

Bills received.

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

Motion by the Hon. John Della Bosca agreed to:

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

Bills read a first time.

WORKERS COMPENSATION LEGISLATION FURTHER AMENDMENT BILL

LOCAL GOVERNMENT AND ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (TRANSFER OF FUNCTIONS) BILL

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

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report: Person Referred to in the Legislative Council (Mr J. Bennette)

Motion by the Hon. Helen Sham-Ho agreed to:

That the House adopt Report No. 14 entitled "Report on person referred to in the Legislative Council (Mr J. Bennette)", dated December 2001.

TABLING OF PAPERS

The Hon. Michael Costa tabled, in accordance with the Annual Reports (Statutory Bodies) Act 1984, the report of the Teacher Housing Authority of New South Wales for the year ended 30 June 2001.

Ordered to be printed.

BILLS UNPROCLAIMED

The Hon. Michael Costa, pursuant to sessional orders, tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 4 December 2001.

PETITIONS

Circus Animals

Petition praying for opposition to the suffering of wild animals and their use in circuses, received from **the Hon. Richard Jones**.

Council Pounds Animal Protection

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

Wildlife as Pets

Petition praying that the House rejects any proposal to legalise the keeping of native wildlife as pets, received from **the Hon. Richard Jones**.

BUSINESS OF THE HOUSE

Postponement of Business

General Business Notice of Motion No. 2 postponed on motion by the Hon. Michael Gallacher on behalf of the Hon. John Jobling.

INDUSTRIAL RELATIONS AMENDMENT (PUBLIC VEHICLES AND CARRIERS) BILL

Bill introduced and read a first time.

Declaration of urgency agreed to.

Second Reading

The Hon. JOHN 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) [11.13 a.m.]: I move:

That this bill be now read a second time.

The Industrial Relations Amendment (Public Vehicles and Carriers) Bill proposes a relatively minor amendment to the Industrial Relations Act 1996, but it is an amendment without which the protection taken for granted by taxidriver, truck driver and other couriers in this State for over 20 years may well be lost. Chapter 6 of the Industrial Relations Act provides for a modified industrial relations system for drivers of public vehicles and carriers of goods who are engaged under contracts that are not contracts of employment. Chapter 6 recognises that whilst these drivers are not employees in the true sense, nevertheless they share many of the characteristics of employees, and deserve protection from exploitation. Taxidriver, van driver, motorcycle and bicycle couriers and truck drivers share one characteristic in particular—they lack the bargaining power to achieve reasonable rates of pay and conditions of employment.

Our industrial relations system recognises the right of employees to join together and bargain collectively to achieve reasonable outcomes in pay and conditions, but people who work under arrangements that are not employment contracts are generally excluded from the industrial relations system. Often they are left to bargain individually. In the transport industry, more often than not, this results in drivers being paid less than is necessary to cover their running costs. To make a decent living to survive, drivers might cut corners on maintenance, take on excessive numbers of contracts, drive at excessively fast speeds, expose themselves and their immediate employees to fatigue and, therefore, jeopardise public safety. In New South Wales, chapter 6 provides a way of regularising outcomes for drivers and principal contractors.

Under chapter 6, the Industrial Relations Commission can make contract determinations, similar to awards, to determine the rates of pay and conditions under which these drivers are to be engaged. The commission can also approve contract arrangements, like enterprise agreements, between parties in relation to such contracts. In New South Wales there is a long history of seeking to protect these transport industry workers. After the end of the Second World War excess transport vehicles were sold to the general public, many of them to returned servicemen, who then sought to participate in the rebuilding of the Australian economy by transporting goods around the country. The amount of competition within the road-haulage industry resulted in many drivers in the trucking industry quickly going out of business, leaving many ex-servicemen and their families struggling to survive.

The first legislative response was to deem these transport industry workers to be employees, but section 88E of the former Industrial Arbitration Act 1940 gave rise to a rash of litigation as principal contractors sought to prevent the application of the deeming provision to the growing numbers and classes of contractors. It

became clear that a new approach to dealing with this issue was required. The Industrial Arbitration (Amendment) Act 1979 introduced the regulated contracts provisions into the Industrial Arbitration Act 1940. These provisions were continued in the Industrial Relations Act 1991 and find their modern expression in chapter 6 of the Industrial Relations Act 1996. As is clear from this time line, the need for and the appropriateness of providing a system of industrial regulation for transport industry drivers has been supported in this Parliament by governments on both sides of politics. No-one in this Parliament, I would suggest, would or should seriously question the ongoing need for this regulation; yet this sensible, effective and efficient approach to regularising contracts in the transport industry is under potential threat.

It is this threat that the amendment I propose today is designed to meet. Sections 45 and 45A of the Federal Trade Practices Act 1976 prohibit anticompetitive conduct. Section 51 (2) of the Federal Act exempts from this prohibition conduct engaged pursuant to employment contracts and arrangements—essentially the whole area of industrial relations is exempt, but section 51, as it is generally understood, does not exempt conduct engaged in relation to independent contractor arrangements and agreements. It would seem, therefore, that much of chapter 6 contravenes the Trade Practices Act. The Trade Practices Act does contain another means for exempting such conduct. Section 51 (1) (b) of the Trade Practices Act provides that the prohibition against anticompetitive conduct does not apply to anything that is done in a State, if the thing is specified in and authorised by legislation of that State or by regulation under such legislation.

Currently, chapter 6 is protected from the prohibition in the Trade Practices Act by a provision in the Competition Policy Reform (New South Wales) Regulation 2001 made under the Competition Policy Reform (New South Wales) Act 1995. That authorisation is due to expire on 13 January 2002 and cannot be further extended. The amendment I now introduce represents the only way to continue the protection of Chapter 6 of the Industrial Relations Act 1996 from the operation of the Trade Practices Act 1976. New section 310A will amend the 1996 Act to specifically authorise things done under chapter 6 for the purposes of the Federal Trade Practices Act and the competition code of New South Wales. The bill contains a sunset clause of two years from the date of the commencement. This will enable further consideration of the appropriateness of continuing this exemption from the Trade Practices Act for the form of protection offered by chapter 6. I commend the bill to the House.

Debate adjourned on motion by the Hon. Doug Moppett.

**WOLLONGONG SPORTSGROUND AND OLD ROMAN CATHOLIC CEMETERY LEGISLATION
AMENDMENT (TRANSFER OF LAND) BILL**

Second Reading

Debate resumed from 4 December.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.21 a.m.]: As elected representatives of the people, we are entrusted by them to use our power for the good of the community as a whole. All of us know that abuses of power can occur, whether in business or in politics, and power can be used for good and also for bad. But there is a third kind of abuse of power, and that is when we as members of Parliament have it within our power to correct an injustice but fail to use that power. To me, what the Government is planning for the fate of the old cemetery at Wollongong is in the last category, having the power but choosing not to use it. The Government has within its power to deal reverently with the remains of those buried there, to rebury them in another place. With all the proposed developments—the stadium extension, a brewery extension and the relocation of the main entrance to the stadium—this old cemetery will never again, in my opinion, be a rest place for the pioneers of Wollongong or their descendants. This Government has within its power now to relocate all the remains, as the Catholic Church initially wanted.

It is true that the old cemetery no longer resembles a cemetery. A few years ago the headstones were all removed and it was concreted over. The raised terrace has apparently been used, contrary to the original cemetery Act, to serve customers. The terrace has been used for many purposes completely inconsistent with the idea of a rest park. As I was being lobbied by the Labour Council I was told, "Ah well, there are now no records of where the bodies are. It is all just land. It is too late. It does not matter." In other words, if headstones are damaged, if graves are damaged, if it can all just be concreted over in a few years, after everything has been destroyed that is a fait accompli and we go ahead without regard to the history of the site and the use it will be put to. That does not alter the fact that it is still a cemetery. I ask the Government: If the site still had headstones and grass would the Government be in favour of revoking the dedication of the cemetery land and constructing an extension to a restaurant that serves alcoholic beverages on the tops of the bodies of the people buried in the cemetery?

The Government will be introducing its own amendments to the bill. However, the amendments would still involve revocation of lot 1 to the Sportsground Trust. It also does nothing for the remains of an estimated 200 people, including, I am told, a former member of the New South Wales Legislative Assembly, Andrew Lysaght. Some have argued that money is the issue. I have not seen any proof of this. I have heard reinterment figures from \$1,000 per body from the Government to \$5,000 per body from the community. In fact, the Government has already spent \$6 million this year on the Sportsground Trust. We are always hearing about difficulties to do with money but on the day that the workers compensation bill came through we were talking about putting all powerlines underground. When the Olympics got into trouble a bill for \$140 million went through this House in the twinkling of an eye. Simply dealing with the earth under the foundations for the stadium will involve a lot of money. The cost of reinterment is really small change given the total cost of the project.

Early yesterday the Government was willing to amend its amendments to remove all remains from lot 1—around 40 bodies in total we think—at its own expense. But later in the day the Government changed its mind, stating that the community groups that had lobbied for weeks here at Parliament House, including Carol Herben, who has been sitting around in this Chamber for many days, wanted all or nothing. I do not know where this "all or nothing" has come from, but it was not what was relayed by my office to the Government yesterday. To the great dismay of these community groups the Government has now withdrawn its proposal to remove the remains in lot 1. This means that the land will be revoked from the cemetery with the remains still in place, and those remains will not have protection under the law. In my opinion it is also misleading to link the construction of the stadium to the remains in the old cemetery. They are separate issues that should be dealt with separately. There is no way that the construction of the new stadium extension will be at risk. We have received 28 letters on this issue in the last few days. I will read portions of them. I ask the Government to listen to the desperation of the people who have written the letters. Councillor Robyn Whelan of Parramatta City Council, who is a direct descendant of William Ricketts, wrote:

It is disgraceful enough to think that these graves are being desecrated, but to have piers and construction directly overhead with the possibility of disturbing the cemetery grounds and the human remains it contains is appalling. Our government is sending out a message that it doesn't care for our forefathers nor for the sanctity of the dead, and this in Federation Year.

Suzanne Sticka of Ashbury wrote:

I am writing to you as a fifth generation descendant of William Ricketts... It is a disgrace that both Wollongong Council and the NSW State Government are intending to sign over the land space for commercial development and disregard the wishes of the relatives of those buried there in the cemetery.

Rex Connor, the son of a former member of Parliament from Wollongong, wrote:

The microbrewery artifice is supposed to be part of the elixir that is going to bring about economic growth in our decaying region. This stratagem is an indictment on the Wollongong City Council which so biasedly facilitated the microbrewery approval.

Mrs Kathleen Horan of Berkeley wrote:

Why has the Catholic Church changed its mind?

Why were we not consulted this time as to what activities we would consider to be appropriate? I can assure you that I certainly would not have considered a restaurant with a boutique brewery where customers wine and dine to be an appropriate and fitting place to be constructed on the cemetery where 2 members of my family are buried.

Kenneth Morgan of Corrimal wrote this to the Minister for Land and Water Conservation, Mr Aquilina:

I must display my disbelief that your department would even consider allowing a BREWPUB over the gravesite of the pioneers of Illawarra. Amongst those buried there is my family Ann and Mary Wilson as well as I have noted that amongst those buried in the cemetery are Andrew Lysaght MLA, 2 Police Officers, 1 Trooper and many convicts whose sweat built this city of Wollongong.

Why is the Government prepared to resume the bodies under the grandstand site and will leave the bodies under the terrace where alcohol will be served to the customers of this BREWPUB.

Joanne Maddy of Woonona wrote:

Why doesn't your department or the organisation running the entertainment centre either find an appropriate place for this Micro Brewery or either find another appropriate place for our family members and carry out what was promised to our family some 6 years ago?

Mrs Beverly Rutty of Figtree wrote:

I have just learned that the Roman Catholic Diocese of Wollongong has consented to the brewery proposal being constructed over the remains of our Pioneers. I cannot understand how the present Government would even condone the construction of commercial premises in particular a restaurant and brewery over the graves of our dead.

Edward Hollis of Wollongong wrote:

May I suggest that the Wollongong Sports Ground Trust should now be called the Wollongong Brewing Trust, because that is exactly what a wonderful sporting and entertainment complex will become famous for.

Terry Bugg, Group President of the Illawarra Family History Group, wrote:

After years of listening to political leaders in this State, align themselves with our Heritage, in a way that gave one the belief, that our elected representatives may actually care, it is indeed a bitter pill to swallow, when, now those same Heritage leaders, allow the degradation and humiliation of the very people who laid the foundations of this fine city, all for the sake of a few beers and some pieces of silver.

Robert and Marjory Henderson of Koonawarra wrote:

Although now I see by the newspaper reports that the Church has backed down from the strong stand that they held for some 4 months ...

I think it is an absolute insult that the Department of Land and Water Conservation, Wollongong City Council, Wollongong Sportsground Trust and the Five Islands Brewing Company proponents are still persisting with the proposal to enclose the terrace area for the sale of beer over gravesites.

Reverend Dalba John Primmer, an Anglican clergyman, of Wollongong wrote:

Mr Aquilina, if the New South Wales Labor Party wishes to regain credibility in the eyes of the people of Wollongong it needs to be seen to do and do that which is right and proper ...

Finally, I would conclude by reminding the Government that if this Rest Park is taken over by a commercial developer, the Wollongong Sportsground Trust, then the Government is setting a dangerous precedent for other developers to eye other rest parks and cemeteries with a view to a Commercial Development. A Pandora's Box will be opened.

Mr R. P. Rowles of Woonona wrote:

How shocked I am to just hear that the Roman Catholic Church here in Wollongong has backed down from their demands calling for exhumation of the whole of the Old Roman Catholic Cemetery and are sanctioning the development of the MICRO BREWERY over the graves of my family.

Miss Beverley Booth of Wollongong wrote:

Now I have just read in the paper where the government is preparing to exhume the remains from around the grandstand site, but are prepared to allow the extension of the Micro Brewery over the cemetery. I thought that you would have at least addressed the raised terrace area as well and considered the plight of the families involved who have people buried in this cemetery.

Mrs Bevely Yeomans of Wollongong wrote:

I see now that your department is proposing to exhume the bodies from the site of the grandstand only. What a sell-out that you are not going to exhume the bodies from where the brewery will encroach onto the cemetery site.

Mr Keith Hamilton of Appin wrote:

I really disagree with the possible building of a microbrewery over the top of the pioneers graves and may those who were buried in this cemetery, no matter how long ago, be respected enough to be able to rest in peace.

Mrs Patricia Hunt of Berkeley wrote:

I was born in the Wollongong District 66 years ago, and I have always been proud to say that I am a resident of this City. My Grandfather & Great Grandfather were also born here, and my ancestors that are buried in the above named cemetery came to this area as Convicts, and established themselves and their families here and made a life for themselves and those that followed them. Therefore I can only say that I am insulted at the proposed brewery on the site exercising [sic] Area 1, to be allowed to be erected over their last resting place.

Mrs Alida de Boer of Fairy Meadow wrote:

What a shame that everyone has lost the respect for the dead as your department seems to have. I am in favour of the grandstand being built and the bodies taken up and reburied for this area of the cemetery, seeing that there is no harm in being a spectator at a football match, but selling specially made beers over the graves in this cemetery area is shocking to say the least.

Mr Frederick John Shepherd of Wollongong wrote:

To allow a brewery and grandstand to penetrate on to any portion of the existing dedicated cemetery land known as the original Roman Catholic Cemetery would be sacrilege and an insult to the descendants.

Mr Aub McDonell of Coniston wrote:

I must add Wollongong City Council hardly ever mentioned the microbrewery extension on their Wollongong City Beach Plan of Management, which is partially funded by the State Government and the local ratepayer's money.

Mr Andrew McDonell of Coniston wrote:

It is a sad day the State elected representatives contrive with Wollongong City Council to change current laws to replace existing consecrated ground to accommodate the erection of a liquor outlet.

Mrs Nicole Samaras of Mount Warrigal wrote:

I am disgusted to hear that the State Government would even think of changing the Legislation to allow a commercial enterprise, the Five Islands Brewing Company to be established on top of the terrace of Andrew Lysaght Park, where my ancestor Rosanna O'Hara and other family members were laid to rest.

Ms Danielle McDonell of Mangerton wrote:

I happen to be a descendant of Rosanna O'Hara, who with other family members Ann O'Hara, Thomas McManus and Charles McCann are buried at Andrew Lysaght Park. Charles McCann is buried under the section of the raised terrace.

To-day it seems to be the only aspect that people are concerned with is profit before respect for the dead.

If this legislation is passed a precedent would be set and what hope do we have then for the future generations.

Mr V. F. Hurry of Cordeaux Heights wrote:

I implore you NOT to legislate to excise Area 1 (Raised Terrace) from said Andrew Lysaght Park. As well as many other Pioneers' graves, several graves containing the remains and artefacts of the ancestors of local people who, like myself, are fighting so hard to retain the sacredness of this original old Wollongong Cemetery lie beneath this raised terrace.

Natasha Hamilton of Coniston wrote:

When we bury our loved ones no matter how many years ago we always assume that they will always rest in peace. Who would have thought at the time of burial that our loved ones could end up with a microbrewery on top of their graves.

What a disgusting thought!

Mrs Joyce McDonell of Coniston wrote:

I find this appalling and I am totally disgusted with everyone concerned, namely the Wollongong City Council, Wollongong Sportsground Trust and especially the Department that you are now in control of, to have started proceedings before any legislation had been sought.

If Minister Amery had done the right thing he would have ordered all human remains be exhumed from Lot 95 of Andrew Lysaght Park immediately as Government cost as a stage one (1).

As stage two (2) all human remains on Lots 93, 94 and 113 be exhumed and placed in a Memorial Park.

The money from the lease of the Five Islands Brewing Company to the Wollongong Sportsground Trust could be reimbursed to the State Government for funding of stage two (2).

With all human remains next year and in a Memorial Park that land would be freed and there would be no more desecration and would leave all developments legal.

I might add that (4) four generations of our family have been Labor supporters and find this whole matter very disturbing.

That is what people think. When I telephoned Father Comensoli he told me that there was not much interest in moving the bodies and that public support was entirely with the development. That is certainly not the response that I received. If the church is serious about wanting people to care for the sacred ground in the long term, it should stand up and fight for that. I am most disappointed that the church has rolled over, presumably for some political reason, rather than caring for the sacredness of the site of the oldest cemetery in Wollongong. That is not only a religious site but also an historical site for the Wollongong area. I urge the House to support my amendments, which involve moving the bodies to another site and looking after the remains and the grave sites with the reverence that they deserve.

The Hon. RICHARD JONES [11.37 a.m.]: Yesterday the crossbenchers met with some of the descendants of those buried on this land. They were pretty upset at the idea that the remains of their forefathers and foremothers were to be disturbed and that a brewery and a road were to be built over the grave sites. Their speeches were quite poignant, and I felt empathy with them. It is gross that the Government is considering this treatment of our pioneers. I shook my head in disbelief that a Government could actually go ahead and ram through this legislation simply because money is involved. Those descendants asked me whether money has to dictate everything, whether it overrules ethics, morality and everything else. I guess it does, in this State.

This bill provides for the construction of a new grandstand at Wollongong Sportsground and the extension of the Wollongong Entertainment Centre to allow for the construction of a larger restaurant. It does so by excising some 1,020 square metres from the Old Roman Catholic Cemetery in Crown Street, Wollongong, which was dedicated as a public park in 1969, 198 square metres of which will be used for the grandstand extension and 722 square metres for the restaurant extension. The bill offsets that excision by adding some 2,222 square metres of an old road reserve to the cemetery park, classifying a further 2,395 square metres of land as community land vested in Wollongong City Council, and requiring the council to ensure that the public parklands are used only for passive recreational activities.

However, the Friends of Andrew Lysaght Park are concerned that the excision proposed by this bill will allow a large part of Wollongong's heritage and artefacts to be sacrificed for the development of a commercial enterprise and set a precedent for other councils in New South Wales to turn cemeteries dedicated as rest parks into sites for commercial development. Those concerns are well founded considering that in the late 1960s the Department of Lands notified Wollongong City Council that the cemetery would be divided up into a reserve for public recreation and for use solely as a rest park and an area to be added to the showground on the strict understanding that it shall be used as a rest section and not desecrated by any additional buildings. The Minister for Land and Water Conservation also stated in his second reading speech on the Old Roman Catholic Cemetery, Crown Street, Wollongong Act 1969:

Many measures ... have resulted in the conversion of unsightly cemeteries into places of passive recreation and enjoyment without offending the sensibilities of relatives of persons buried in these cemeteries.

Yet by 1994 the Wollongong Sportsground Trust and Wollongong City Council were developing plans for the construction of the Wollongong Entertainment Centre on the showground site without consulting the families of those buried in the cemetery. The public was also reassured in 1997 that no development would take place over human remains, yet plans by the Department of Public Works and Services show that 10 grave sites were cemented over, and the driveway passes over known graves. The Friends of Andrew Lysaght Park have therefore requested that this bill be opposed. Environment groups are also concerned about the bill and the proposed alienation of public land for private commercial purposes contained within it.

However, the groups are also concerned about the lack of public consultation with regard to the proposals and would like to see the bill amended to ensure that it will not come into effect until proper and adequate public consultation has taken place and an independent inquiry has recommended approval or variations. The bill is also opposed by the diocese of Wollongong on the ground that it proposes an inappropriate use for the cemetery and fails to make provision for the reverent exhumation of the bodies in the cemetery. Some may argue, as the St George Illawarra Rugby League Football Club Pty Ltd has done, that such provisions cannot and should not be made because the cost of exhuming all bodies would run into millions of dollars and expert advice indicates there may be bodies under WIN Stadium playing surface and adjacent areas. But is that really the point?

Surely it does not matter whether the New South Wales Heritage Council and consulting archaeologist are of the view that the bodies should not be exhumed because the remains will not be in any fit state to exhume, grave site locations are in most cases unknown, the remains will be impossible to individually identify, and the council has a policy of not removing bodies. What does matter is whether the remains in the Old Roman Catholic Cemetery in Crown Street, Wollongong are treated with the reverence they deserve. It is clear that they are not, or they would not be, under the WIN Stadium playing surface and adjacent areas.

The fact that such a situation has been allowed to develop is an absolute disgrace and we should not contemplate making matters worse by disturbing or building over more graves. As an Australian official said in response to the *Sun-Herald* article on the French Government's decision to proceed with plans for a major airport on the Somme battlefields, which contains the unmarked graves of thousands of Australian soldiers who died in World War I:

Digging a huge runway into those fields will knowingly disturb the dead ...

We wouldn't do it in Australia for an airport, and you really have to ask yourself "Are they going to make the effort to exhume those Australians in unmarked graves or are they going to just build the tarmac over them?" And if they decide to build over them, what sort of respect does that show the dead?

If we would not disturb our unmarked graves in Australia for an airport, we certainly should not be doing it for a sports stadium. It is a matter of respect—not cost, practicality, time frames or policy. I feel very strong empathy for the descendants of those who are buried there. It is a gross invasion and it is sacrilegious to build over those bodies. They should be exhumed in a reverent way and perhaps re-interred elsewhere. This proposal is absolutely gross, and I oppose the bill.

Ms LEE RHIANNON [11.43 a.m.]: The Greens are very concerned about the bill. We believe it is unfortunate that the situation has reached this sorry state of affairs. It highlights that all too often decision makers in this State do not adequately do their jobs. In this case responsibility rests with Wollongong City Council and the Department of Land and Water Conservation. When we examine the chain of events we find a trail of inconsistency. The most polite thing that could be said is that there has been gross incompetence. My Greens colleague, Mr Ian Cohen, has clearly outlined our position on this bill. I would like to add some comments to reinforce the remarks that he has clearly set out.

We have discussed these matters with the descendants of the relatives buried in that area, and we should be doing the right thing by those people. However, it is necessary to ensure that rugby league in the Illawarra can flourish as it has for many years. In working with the descendants I have come to appreciate how reasonable they have been in trying to work through and find a respectable solution to this problem. They have in no way attempted to thwart the development of rugby league at the stadium. Their proposal is reasonable and simple: all bodies should be removed to the West Dapto Roman Catholic Cemetery. That cemetery was consecrated on the same day as the cemetery in question, on the foreshore of Wollongong. They suggest that this process should be undertaken over five years.

We must remember what these families have been through. For about six years they have watched the rest park being slowly eaten away by the Wollongong Entertainment Centre development. None of them opposed the erection of the new stadium. In 1996 they were consulted about how they would like the human remains treated but, unfortunately, their wishes were not respected. They wanted the human remains to be treated with dignity and reverence and they worked consistently to achieve that. There is only one solution, and that is for all the bodies in the entire Old Roman Catholic Cemetery to be exhumed. The relatives suggest that it be done in two stages. They suggest that stage 1 include the removal of portion 95—that is areas 1 to 7—to make way for the completion of the grandstand project and the extension of the restaurant and microbrewery. Stage 2 would involve the human remains being exhumed from the remaining areas of the cemetery and being re-interred in West Dapto Roman Catholic Cemetery within five years, with appropriate plaques.

The descendants accept that it is difficult for the Wollongong Showground Trust to proceed with this development because it does not have additional land, but they have endeavoured to be reasonable. For six years they have worked hard to find a solution to this messy problem. Cemetery land has been misused because alcohol is being served and other activities are taking place in that vicinity. Respect for the people buried there is essential and the Greens have been pleased to work with the descendants to try to solve the problem. We hope that commonsense will prevail and that, with the assistance of the State Government, dignity will be returned to the families of these pioneers. They have been hurt, humiliated and belittled. Some people do not understand their concern because the graves have been there for 150 years. The descendants should not be treated in this manner. Yesterday in this House the Hon. Peter Breen said:

Human remains buried on the former portion 95 can be removed by the Catholic Cemeteries Board with minimum interference to the construction work presently under way to extend the WIN Stadium, but it is my opinion that the graves under the concrete roadway and any graves that may exist under the paved terrace should not be subjected to jackhammers and front-end loaders.

This leaves nine known graves in portion 95. The descendants believe it is not the understanding of the Roman Catholic Church that only nine graves will be exhumed. I refer honourable members to some comments by the Roman Catholic Diocese of Wollongong, which in a media release asked:

How is the protection of the cemetery and its surrounds to be assured in the future?

The church is referring to all bodies buried in the area. One must assume that the reference to remains in portion 95 includes exhumation of the 10 graves under the present access road to the entertainment centre. The Hon. Peter Breen also said:

Honourable members may be assured by the preceding section of this bill, which provides that council must ensure that any use of the land is limited to passive recreational activities.

Since the construction of the WIN Stadium and the entertainment centre, activities in Andrew Lysaght Park have not been consistent with passive recreational activities—in fact, the opposite is the case. There have been extreme motocross events, a wedding car display and a merry-go-round, and parking fees have been charged for those events. The Hon. Peter Breen referred expressly to passive recreational activities, which is what we expect to occur in rest parks that are usually small parklands with no vehicle access. However, that has not happened in this park.

The Hon. Peter Breen also mentioned an additional 1,764 square metres that will be fully usable as park to compensate for the loss of area 1—the terrace of Andrew Lysaght Park. This 1,764 square metres, which is presently known as Quilkey Place, is a tarred area that was used as a bus terminus until last year. Amendments to this legislation will place the new access road to the WIN Stadium and Entertainment Centre through Quilkey Place, which is also being used as a parking area by customers of Five Islands Brewing Company. The passage of this legislation will remove an enormous number of parking spaces even though only limited parking is currently available. This will cause much congestion around the shore area of Wollongong city beach. The Greens are particularly concerned about this as public transport in the area is being wound back.

The Greens record our support for the development of rugby league in the Illawarra. It is a sorry day when conflicts of this type occur. In many ways the Illawarra could be considered the nursery for rugby league in this country. Some of the great names of league have come from the Illawarra area. Mick Cronin, Graeme Langlands and I think Bobby Fulton came from that area. Developing the stadium and fostering the St George-Illawarra team will ensure a great future for it and for the people of Wollongong, who will be justly proud of their team and of the great players who will almost certainly emerge from the Wollongong area.

On behalf of the Greens I record our appreciation of the efforts of the descendants of those buried on the site. They have worked consistently to sort out a problem that State and certainly local Wollongong authorities should have resolved long ago. We met with the descendants of William Rickets and Charles McCann, and Mrs Collins, Mrs Simpson and Mrs Carol Herben also supplied very useful information. We congratulate them on their consistent work on this issue and foreshadow that the Greens will move several amendments in Committee. We remain hopeful that good sense will prevail and that there will be both great respect for the deceased of the Wollongong area and a great football future for that part of New South Wales.

The Hon. Dr PETER WONG [11.54 a.m.]: I will consider supporting the Wollongong Sportsground and Old Roman Catholic Cemetery Legislation (Transfer of Land) Bill on the condition that the Government accepts the amendments proposed by the Australian Democrats, the Greens and the Hon. Peter Breen. This is a cemetery, and those buried there must be treated with respect. A reasonable solution for all seems to be that the remains should be exhumed and reburied at an alternative consecrated site, which is the wish of the descendants of those buried on the site. Given the amount of money involved in this development, any argument that funds are not available for this reasonable outcome cannot be supported.

So far the Government has not conducted this process in a sensitive manner, and members of the public may even be offended by what could be viewed as the Government's inconsiderate and irreverent attitude. I have read the material prepared for the Legislative Council by Carol Herben, and I am concerned by the attitude that the Minister and government advisers reportedly expressed initially towards the Roman Catholic Diocese of Wollongong. It would not surprise me if someone were to make a film about these events. All the elements of drama are there. A powerful interest group—the football club, backed by media interests—which is seeking to expand business opportunities and increase profits, enjoys the full support of the government of the day.

Then there are the local people, who have less power but considerable support, opposing the plans of the more powerful group. Money and corporate greed are set against more traditional values, including respect for the dead. People are being corrupted by power and greed, their values debased. In fact a movie with similar themes has already been made. Honourable members may have seen *The Loved One*, which is based on a book by Evelyn Waugh. This book and movie parodied the materialism and moral bankruptcy of modern America, portraying the funeral industry in that country. In one scene the cemetery owner, who wants to redevelop the cemetery and remove the bodies buried there in order to do so, famously comments "I've got to get these stiffies off my real estate."

In this case it appears that the owners of the stadium and proponents of the development are prepared to leave the bodies on site and build on top of them. Perhaps they thought no-one would notice or care. However, the relatives of those buried in the cemetery care, and I congratulate them on their good work. It was the height of arrogance to believe the developers could get away with this. I commend those crossbench members who have worked hard to have their amendments accepted by the Government. I hope that the Government will be reasonable and accept the amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.57 a.m.]: I thank honourable members for a very good debate in which each and every one of them demonstrated clearly why the Legislative Council is able to look at issues in depth in a way that other places cannot. I was very impressed by all contributions to the debate. As to the offer that was made—and to which a number of honourable members have referred—there was extensive negotiation. The Government offered to dig up the terrace, lot 1, remove two to three feet of concrete and the fill underneath and then exhume any bodies that were found beneath it. The cost of exhumation, not including reinterment, is \$20,000 per body as quoted by Anne Bickford, heritage consultant.

The costs of digging up the concrete and excavating the site together with reinterment were extremely prohibitive, but the Government was prepared to meet the descendants to discuss the matter. The offer to dig up lot 1 was discussed with and refused by the descendants. Our response was that, as no other group wanted the terrace dug up—indeed, many opposed that proposal vehemently—the offer should be withdrawn. Accordingly, subsequent to these discussions, the proposal to excavate lot 1 was not proceeded with. This extremely costly offer was rejected, and thus funds were not requested.

As to the points raised by Opposition members, I reiterate that the trust has undertaken not to disturb any remains except those to be removed from portion 95 as requested by the Catholic Church. We also understand that there is some concern that the concrete in lot 1 would be removed because it is not suitable for supporting the Brewery vats. Our advice is that it is of sufficient strength to support the weight of the development. If it is found not to be and some excavation has to occur, remains can be disturbed only in accordance with any permit granted by the Heritage Council under the Heritage Act 1977. However, it is highly unlikely that any excavation will be required.

The Hon. Duncan Gay: The remains would be removed if excavation were required?

The Hon. IAN MACDONALD: Yes. That is what I have said.

The Hon. Duncan Gay: That is a firm obligation.

The Hon. IAN MACDONALD: Yes, as I have said. As to the points made by the Hon. Dr Arthur Chesterfield-Evans, the Australian Democrats amendments offer two alternatives. The first involves the excavation of lot 1, the terrace, and the second involves the excavation of the whole site. To recap, the proposal we are discussing is the construction of a new grandstand at WIN Stadium and the provision of additional facilities within lot 1 at the Wollongong Entertainment Centre. Lot 1, the terraced area, and lots 2 and 3 are all under concrete. Lot 1 also includes a section of fill. To excavate lot 1 would involve a very considerable and prohibitive cost. To excavate the entire site is simply not possible.

I note that a number of the descendants of persons buried in the precinct have expressed concern about the expansion of a restaurant named the Brewery from the Entertainment Centre on to a terraced area. I feel deeply for the descendants of persons whose bodies are buried in Andrew Lysaght Park. My initial thought was that I would not want my relatives buried beneath a restaurant. I know that the Minister was anxious to meet with the descendants and keen to reach a compromise with them. Unfortunately, the descendants did not accept the offers. Furthermore, some people oppose digging up the site because they do not want the bodies beneath the concrete to be disturbed. I am advised that the Catholic Church prefers that only the bodies in portion 95, referred to in Government amendments, be exhumed and reinterred. Unfortunately, this is a situation where not everyone can be accommodated.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

POLICE CORRUPTION

The Hon. JAMES SAMIOS: My question is to the Minister for Police. Are the comments of Commissioner Ryan today that disgraced former police officer Ray Peattie will be used as a role model for police a direct flow-on from your comments in the *Sunday Telegraph*? On 25 November, you stated, "Police corruption in my mind is overemphasised." Is this change in direction following your appointment as Minister consistent with the findings published in the interim report of the Royal Commission into the New South Wales Police Service that all negative aspects of police culture be eradicated?

The Hon. Michael Gallacher: Even the Minister would acknowledge that is a great question.

The Hon. MICHAEL COSTA: I will not acknowledge that it is a great question. The question is consistent with an Opposition that does not have any policies. Again, the Opposition seeks to create an illusion of a division between the police Commissioner and the Minister. It is absolute nonsense. Our position on corruption is clear. The Government and the previous Minister for Police, I acknowledge on record, have done a tremendous job in ensuring that we have a corruption-resistant Police Service. The reference in the *Daily Telegraph*—I take it that is the article to which the question refers—is another example of the use of an innovative technique to get across the message about corruption. We will continue to police corruption in the manner that has proved to be successful to date.

I believe the systems that are in place, particularly the Police Integrity Commission, will ensure that we do not have a situation where corrupt police get away with corruption, as they clearly did during the Askin period. The Askin era was an atrocious era for corruption; wasn't he the Premier with the paper bags? The reality is that corruption is a significant issue in the New South Wales Police Service. We had a royal commission, and now we have a Police Integrity Commission to deal with corruption. We will never eliminate corruption. I will say it again so that even the Opposition members can understand. We will never eliminate corruption from the Police Service. What we will do is make the Police Service corruption-resistant, and we have done that.

The Hon. Michael Gallacher: Are you going to reward integrity?

The Hon. MICHAEL COSTA: Today's decision by the Commissioner to utilise a corrupt police officer—there is no reward for this detective, but he has displayed a clear expression of guilt and contrition. He understands that what he did was wrong, and his comments in the press are a lesson to other corrupt police officers that corruption will not be tolerated.

[Interruption]

We have a policy. Our policy is to make sure that we find local solutions to local problems. The Opposition has absolutely no policy. That is why it comes up with questions of this nature. It is embarrassing for the Opposition to ask such a trivial question. How about a question on policy? Yesterday the Government announced a promotions policy. Where is the Opposition's promotions policy? Where is the Opposition's policy on recruitment and retention? Where is the Opposition's policy on police numbers? Where are the Opposition's policies? The Opposition is bankrupt of policies on any issue.

SYDNEY MARKETING AND MEDIA CENTRE

The Hon. HENRY TSANG: My question without notice is to the Treasurer, and Minister for State Development. Would the Treasurer update the House on the Government's continuing commitment to New South Wales tourism?

The Hon. MICHAEL EGAN: I am pleased to inform the House of a new media centre, which will leverage the impact of the 2000 Olympic Games and establish Sydney as a world tourism brand. The Sydney Marketing and Media Centre, to be located within the New South Wales Trade and Investment Centre, will take up where the Olympics left off in promoting Sydney as one of the world's premier visitor destinations. A surprising number of international media are in Sydney at any given time to produce articles and programs. Whilst they have the potential to be a highly effective vehicle for promoting New South Wales in overseas markets, their potential contribution has frequently been overlooked. With this in mind, the new centre will take a leadership role in promoting the Sydney brand to the global and domestic marketplace.

The new media centre will provide vital business and media facilities for international media attending major events, such as the Rugby World Cup, which we will be hosting in 2003. Recruitment for general manager of the centre is under way. Operational staff for the centre will be drawn from Tourism New South Wales, the Sydney Harbour Foreshore Authority and the Department of State and Regional Development, based on their experience obtained at the Sydney Media Centre during the 2000 Olympics. The new centre is expected to be fully operational by early 2002 and is part of the New South Wales Government's comprehensive \$15 million strategy to assist the tourism industry. I look forward to watching this exciting initiative come to fruition in the early part of next year.

POLICE CORRUPTION

The Hon. MICHAEL GALLACHER: My question without notice is to the Minister for Police. Given the Minister's earlier answer, why is his Government allowing the Commissioner of Police to use disgraced former police officer Ray Peattie as a role model for the Police Service when his Government did absolutely nothing to prevent a highly regarded and decorated former officer, Michael Drury, who stood up against police corruption, from being pushed out of the Police Service?

The Hon. MICHAEL COSTA: Once again the Opposition demonstrates that it is struggling for a policy. I have said three or four times that I would like to know the Opposition's policy on promotions. I announced the promotions policy yesterday. What is the Opposition's promotions policy? What is your policy on recruitment and retention? What is your policy on police technology?

The PRESIDENT: Order! I call the Leader of the Opposition to order.

The Hon. Dr Brian Pezzutti: Point of order: The Minister is becoming boring and repetitious.

The PRESIDENT: Order! As I have warned the Hon. Dr Brian Pezzutti on many occasions, members cannot use a point of order to make a debating point. There is nothing in the sessional orders that says a member cannot be boring.

The Hon. MICHAEL COSTA: I will ensure that I am boring for the rest of question time by repeating my comments. This Opposition has no policies on policing. What are your policies on policing? What are your policies on promotions? What are your policies on recruitment and retention? We have a policy on corruption. We dealt with it. It is a successful policy. Again, I repeat the point. The detective who has made the admission has done something that the Commissioner believes is appropriate in sending a very strong message to other corrupt police officers. The message is that the public will not tolerate corrupt behaviour and you will be caught if you are corrupt.

We have a system in place that enables corrupt police to be caught and dealt with. What is the policy of the Opposition on this? I do not know. Does anyone know what the Opposition's policy is? What is your policy on promotions? What is your policy on recruitment and retention? What is your policy on police technology? What are any of your policies in policing? I would like to know. Until you come up with a policy, I will continue to repeat the questions.

The Hon. John Ryan: Point of order: In question time, as I understand it, the Opposition asks questions that the Government is supposed to answer. So far, the Minister has continued to ask questions of the Opposition. It is his job to answer the questions.

The PRESIDENT: Order! Once again I warn honourable members that a point of order must not be used to make debating points.

The Hon. MICHAEL COSTA: I am quite amazed that Opposition members do not want to hear my comments about their lack of policy. They sanctimoniously ask questions about corruption. This comes from a group that opposed the Police Integrity Commission. Why did they oppose the Police Integrity Commission? It is a joke that we have questions from the Opposition in relation to police corruption. They have never done anything to deal with police corruption. We all know that police corruption was at its peak under the Askin era. The Opposition has absolutely no policies on promotions, no policies on recruitment and retention, no policies on technology—no policies on anything. [*Time expired.*]

MULTIPLE CHEMICAL SENSITIVITY DIAGNOSIS

The Hon. ALAN CORBETT: My question without notice is addressed to the Treasurer, representing the Minister for Health. Is it a fact that single photon emission computed tomography [SPECT] scans have been used in the United States by prominent Harvard researcher, physician and epidemiologist Dr Howard Hu and others—

The Hon. Michael Egan: Point of order: I cannot hear the question being asked by the Hon. Alan Corbett because of the noise being created by the Leader of the Opposition.

The PRESIDENT: Order! I repeat: members who choose to speak at the microphone furthest from the Chair on the Opposition side should speak up. For some reason, that microphone is not functioning properly. I ask members to reduce the level of conversation; it is extremely difficult for members to hear the proceedings.

The Hon. ALAN CORBETT: I will repeat my question to the Treasurer, representing the Minister for Health. Is it a fact that single photon emission computed tomography [SPECT] scans have been used in the United States by prominent Harvard researcher, physician and epidemiologist Dr Howard Hu and others as one of the diagnostic tools for multiple chemical sensitivity [MCS]? Is the Minister aware that this research has shown that the blood flow in the brains of MCS patients is different from that of normal controls and people with chronic fatigue? Given that the above findings support the hypothesis that MCS has a biological basis, will SPECT scans be made available in New South Wales as a diagnostic tool for MCS? If not, why not?

The Hon. MICHAEL EGAN: I thank the Hon. Alan Corbett for his question, which, as the Hon. Dr Brian Pezzutti interjects, is a good question. I do not know the answer to the question, but I will certainly refer it to my colleague the Minister for Health and obtain a considered response.

FREEZE FRAME PHOTOGRAPHIC COMPETITION

The Hon. TONY KELLY: My question is directed to the Minister for Juvenile Justice, and Minister Assisting the Premier on Youth. Will the Minister inform the House of Government action to recognise the creativity of young people in our communities, particularly those from rural and regional New South Wales?

The Hon. CARMEL TEBBUTT: I thank the Hon. Tony Kelly for his question and I commend him for his interest in young people in rural and regional New South Wales. Young people make up one-third of the population of New South Wales. Nearly 40 per cent of those young people live outside Sydney. It is important that we make particular effort to involve young people from regional and rural New South Wales in a whole range of activities, particularly creative activities, which I think play an important role in enriching young people's lives.

Young people in all of our communities are contributing to the cultural landscape, often in ways that many people are not aware. The Government is committed to promoting the creative efforts of young people, and importantly to recognising their achievements. One of the ways that the Government is doing this is through State-based competitions that come under the umbrella of Youth Week. One of those important competitions is the Freeze Frame Photographic competition. This competition asks young people to send in images from their local activities that reflect the theme of Youth Week. This year's theme was Get Into It, and the entries truly reflected this.

Today I am pleased to advise the House that the winners of the Freeze Frame Photographic competition included three Youth Week committees from regional and rural New South Wales. This really shows that young people from regional and rural New South Wales are right up there in contributing to their local communities. I should add that young people judged all the entries. First prize wins \$1,000 for a youth project of the committee's choice. The three runners-up receive \$500 each for a youth project of their choice.

This year's first prize goes to the Cobar Youth Week Committee for their image of a community mural. The three joint runners-up are the Wagga Wagga Youth Week Committee, for their image of the opening of their skate park; the Waverley Youth Week Committee, for their image of the committee's deliberations; and the Shoalhaven Youth Week Committee, for their image of fire spinners at their youth festival. All young people who participated in those activities should be congratulated. I am sure the House would agree that the four winners demonstrate the great diversity of activities with which young people are involved. I have had the opportunity to see this first hand in the many consultations I have attended over the year.

Young people are involved in a range of different activities. Those activities are encapsulated through the Youth Week events. The winners of the Freeze Frame Photographic competition highlight some of the great events that occurred during Youth Week. The Government recognises that one way in which young people can stay connected to their communities is through the arts. The Freeze Frame Photographic competition is just one way in which the Government is recognising that creativity. Others, of course, are through the Indent program and the Big Art program. Those programs provide opportunities for young people in regional and rural areas to get involved in creative activities. Just recently, at the Indent training and awards night, the winners again overwhelmingly came from outside Sydney. I was able to present awards to young people in Armidale, Bega, Broken Hill, Deniliquin, Goulburn and Wagga Wagga—all leading the charge for young people in their communities.

The Hon. Dr Brian Pezzutti: What about Lismore?

The Hon. CARMEL TEBBUTT: Unfortunately, no young people from Lismore received an Indent Award. Nonetheless, I have had the benefit of seeing some of the very good things that young people in Lismore

are doing. Maybe next year they will receive an Indent Award. I was impressed with the pride that these young people displayed. The young people from Deniliquin, in particular, obviously travelled a long way to receive the award and it was great to see the pride in their faces for the recognition they received as a result of their involvement in Indent. More importantly, they knew they were doing something for their community, particularly their fellow youth in the area, to provide them with recreational opportunities. It is well recognised that activities that help to build protective factors in young people can be important in preventing involvement in risky behaviour. That is what programs such as Indent are doing. [*Time expired.*]

POLICE SERVICE PROMOTIONS

The Hon. MALCOLM JONES: I address my question without notice to the Minister for Police. During question time yesterday the Minister said, regarding police promotions, that statutory declarations of no corrupt conduct will be required. Are police officers not subject to probity tests prior to promotion? Is a corrupt policeman likely to confess his sins in a statutory declaration when an opportunity of promotion is offered?

The Hon. MICHAEL COSTA: The honourable member has asked a very good question. However, this matter is to come before Parliament and I suggest we deal with that issue during the course of debate on the bill that I will introduce.

PACIFIC POWER INTERNATIONAL

The Hon. DUNCAN GAY: My question is to the Treasurer. Will the Treasurer now confirm that it has been recommended to the Government that a sale of Pacific Power International [PPI] to the private sector go ahead? Is it a fact that at least two expressions of interest on the future role of Pacific Power International came from State-owned corporations, but were rejected? If so, why? Will the Treasurer explain to the House how the sale of Pacific Power International to the private sector matches official Labor policy of keeping the company in public ownership and enhancing its functions?

The Hon. MICHAEL EGAN: The Government has certainly taken no decision on the sale of Pacific Power International, nor have I—

The Hon. Duncan Gay: That was not the question.

The Hon. MICHAEL EGAN: You asked the question and I am answering it—nor have I taken any position on the matter. The Special Minister of State is a shareholder in Pacific Power.

The Hon. John Della Bosca: We have not discussed it.

The Hon. MICHAEL EGAN: As the Special Minister of State said, we have not discussed it, but it is well known—indeed, I have made it known—that the Government is looking at the future ownership of Pacific Power International. Pacific Power International is essentially an engineering consultancy group, and it largely consists of people who, years ago—

The Hon. Duncan Gay: The question was: Has it been recommended to you?

The Hon. MICHAEL EGAN: I don't know.

The Hon. Duncan Gay: You should know. It is your group.

The Hon. MICHAEL EGAN: No. There has been no recommendation that has come to me.

The Hon. Duncan Gay: It was the MIG group, your group.

The Hon. MICHAEL EGAN: No recommendation has come to me. I know that MIG has been discussing options with the unions, and has been doing it quite exhaustively. But that process will be exhausted before a recommendation comes to me. Why would a recommendation come to me before all the options have been carefully and closely studied? When that is complete, the recommendations will come to me. I will be in no great hurry to make a decision. I will consult with my fellow shareholder. No doubt, we will then come to a common view and we will take that view to the Government.

The Hon. DUNCAN GAY: I ask a supplementary question. It does not matter whether the Treasurer received something or not. Given that the Labor Party went to the people of New South Wales with a firm election promise not to privatise PPI, is it not the case that nothing will happen? Therefore the Treasurer would not receive such a document; he would dismiss it before he received it?

The Hon. Michael Costa: We have a policy on privatisation.

The Hon. MICHAEL EGAN: As the Minister for Police, the Hon. Michael Costa, points out, we do have a policy. I think it was at the 1993 or 1994 State Conference of the Labor Party that adopted a resolution, which provided that we look at these things on a case-by-case basis. That is what we are doing with Pacific Power International. I do not want anyone to think that Pacific Power International is the New South Wales power industry. It is not. Pacific Power International does not run a single generator in New South Wales. It has not generated one single megawatt of power in New South Wales. It does not distribute electricity, nor does it retail electricity. It is an engineering consultancy.

The Hon. John Della Bosca: He is confusing Eraring with Pacific Power.

The Hon. MICHAEL EGAN: He does not know the difference between Eraring and Pacific Power International?

The Hon. Duncan Gay: This is not about Eraring; this is about Pacific Power International.

The Hon. MICHAEL EGAN: Pacific Power International consisted of people who were engaged by Pacific Power to build New South Wales power stations. We are not building any more power stations.

The Hon. Duncan Gay: It is a wholly owned part of Pacific Power; it is not part of Eraring. You don't know!

The PRESIDENT: Order! I ask the Leader of the Opposition and the Deputy Leader of the Opposition to turn off their microphone if they are going to be continually chatting. It is very difficult to hear the Minister. I am sure Hansard has the same problem. The Minister may proceed.

The Hon. Michael Gallacher: I ask you to direct the Minister for Police to remain silent.

The PRESIDENT: Order! He is not near a microphone. Do not canvass my ruling.

The Hon. MICHAEL EGAN: I always welcome interjections, even poor interjections, anonymous interjections, but it does waste the time of the House.

The PRESIDENT: Order! The Minister will resume his seat.

SCHOOL GAS HEATERS POLLUTION

The Hon. RICHARD JONES: I ask the Minister for Police, representing the Minister for Education and Training, how many classrooms in New South Wales are still being polluted with carbon dioxide and nitrogen dioxide from unflued or broken gas heaters? How many hundreds, perhaps thousands, of children will have to suffer again next winter from breathing this bad air? And what impact does this have on the huge number of children with asthma? Will the Minister conduct an urgent inventory and make sure that every single unflued gas heater has ventilation adequate to protect children by the beginning of next winter? As the Department of Education and Training has failed up to this point to ensure these heaters are flued, will the new Minister now guarantee that this long overdue work will be done by 1 July 2002? If not, why not?

The Hon. MICHAEL COSTA: I will take the honourable member's question on notice and obtain advice from the Minister for Education and Training, which I will provide to the House.

SCHOOL SECURITY

The Hon. PATRICIA FORSYTHE: My question without notice is to the Minister for Police, representing the Minister for Education and Training. I preface my question by reference to the Minister's answer yesterday about policing in Kings Cross and his comment about policing strategies, including the provision of extra lighting and closed-circuit television. As these are judged to be, in part, solutions to crime in that area, will the Minister for Education and Training review school security measures to determine whether better external lighting and security cameras should be introduced to schools known to have a high incidence of vandalism, to provide improved preventative measures? If not, why not?

The Hon. MICHAEL COSTA: I will refer the question to the Minister for Education and Training for advice and provide the honourable member with his response. But I want to take up one point made about

closed-circuit television cameras and lighting. I did not say that they were the solution to the problems; I said they could be part of the solution and it requires careful consideration with the local planning authorities to ensure that is the case. In many instances such technology may make the situation worse, or move potential problems somewhere else. As I said, I will obtain a detailed answer to the question.

GRAFTON INDUSTRIAL RELATIONS CAMPAIGN

The Hon. IAN WEST: My question is to the Special Minister of State, and Minister for Industrial Relations. Will the Minister detail action the Government is taking to ensure that employers in regional areas in New South Wales are complying with industrial laws?

The Hon. JOHN DELLA BOSCA: The Department of Industrial Relations has recently completed a compliance campaign in Grafton. I congratulate the retailers in Grafton on meeting their legal obligations. Inspectors from the Department of Industrial Relations visited 26 Grafton retailers and discovered 30 breaches of industrial laws. Only four shops were initially found completely free of breaches. However, the remaining retailers have since worked with the department's inspectors and now comply in all respects with the law.

No prosecutions were necessary. Most employers showed a constructive and co-operative attitude. Many retailers welcomed the department's assistance in clarifying their obligations, which is essentially the purpose of this type of campaign. In October, 26 random workplace inspections were completed. They covered the employment records of 197 workers. Most retailers were doing the right thing by paying their employees the correct rate. However, a number of employers were not providing proper pay slips to employees and were not keeping employment or wage records. All were not displaying in the workplace a copy of the Shop Employees (State) Award. Employers who ignore the minimum employment standards will be prosecuted if necessary. This protects employees and the interests of those employers who do the right thing and comply with the law. Employers can face penalties of up to \$10,000 for underpaying employees. Courts may also order employers to repay employees their lost wages, plus interest. Employees and employers in Grafton, especially in the retail industry—and around New South Wales—can be assured that the Government will continue to actively enforce our industrial laws, and to ensure that both employers and employees comply with their obligations.

CHRISTIANS DISCRIMINATION

The Hon. ELAINE NILE: I ask the Treasurer, representing the Premier, whether it is a fact that Mr Puplick, President of the Anti-discrimination Board, stated in the *Sydney Morning Herald* of 28 November:

As a result of deliberate government policy, it is still awful in this State to discriminate against people on the basis of their being Christian.

Will the Government direct Mr Puplick that the fact that Christians are not a specific classification of people under the Anti-Discrimination Act does not mean that it is lawful to discriminate against Christians in New South Wales, because Christians can still take court action under other laws? Will the Government direct Mr Puplick to stop making public statements that could encourage persons to discriminate against Christians and cause great alarm to Christians such as Anglicans, Catholics, Baptists, Presbyterians and members of other Christian denominations, who make up 75 per cent of the New South Wales population?

The Hon. MICHAEL EGAN: I am not aware of the issue to which the Hon. Elaine Nile has referred but I will certainly refer the question to the Premier for his considered response. I would be very surprised if Mr Puplick was arguing that people should be free to discriminate against Christians. I am sure that was not the point of whatever comment he was making. I say that having met Mr Puplick on a number of occasions. I am sure that he is not the sort of person who would be advocating that Christians should suffer any discrimination.

TROUT FISHING

The Hon. JENNIFER GARDINER: My question is to the Minister for Fisheries. With regard to the recommendation of the Fisheries Scientific Committee to list as a key threatening process the introduction of fish to waters within a river catchment outside their natural range, what assurance can the Minister provide to trout fishers and the recreational fishing industry in New South Wales that their sport and the industry will not be affected? What is the implication of the Fisheries Scientific Committee recommendation for hatcheries currently operated by New South Wales Fisheries?

The Hon. EDDIE OBEID: The report of the Fisheries Scientific Committee on the ecological community in the Murray region will be debated by this House today, but I am more than happy to attempt to give the honourable member a broad view. The Hon. Jennifer Gardiner knows as well as anyone that the Government is doing everything possible to have this House pass a regulation allowing us to continue the practice of recreational fishing—

The Hon. Duncan Gay: Trout fishing?

The Hon. EDDIE OBEID: That includes all freshwater fishing.

The Hon. Duncan Gay: Make a firm commitment on trout fishing.

The Hon. EDDIE OBEID: We are the greatest supporters of trout fishing. For the past 2½ years I have been preaching how good the trout fishing industry is and referring to the Government's desire to improve recreational fishing. We have been stocking waterways with millions of fingerlings to improve trout fishing. I stated in an answer to a question that trout fishing probably provides the Snowy Mountains area with its main income. It injects more than \$70 million a year into the local economy. We will continue to do what is necessary to ensure that all freshwater fishing continues for all species that are not ecologically threatened. We are all about continuing sustainable practices for both recreational and commercial fishers. The amendments to the Fisheries Management Act that are now before the House will ensure that the Government responds to the scientific community's warnings. Specific species assessments will ensure that we are not taking out species that could be threatened in the future.

We will listen to scientific expertise and adhere to what is being called for, but we will continue our present policy of allowing recreational fishing for non-endangered freshwater fish. Recreational fishers inject more than \$2.5 million a year to improve recreational fishing in our freshwaters. The Government will note what the scientific community is saying and ensure that the species being fished are not threatened. The whole point is to ensure sustainable recreational fishing and commercial fishing so that future generations will be able to fish for the types of fish that are being taken out today, which in the future we hope will be in more abundance.

PETROLEUM EXPLORATION

The Hon. AMANDA FAZIO: My question is to the Minister for Mineral Resources. What has been done to encourage petroleum exploration in northern New South Wales?

The Hon. EDDIE OBEID: I thank my colleague the Hon. Amanda Fazio for her question and note her continued interest in petroleum exploration in New South Wales.

The Hon. Duncan Gay: When has she shown an interest before?

The Hon. EDDIE OBEID: She is one of the better members who goes around to the regions and actually works her electorate, more so than some of your local members.

The Hon. Rick Colless: I have never seen her.

The Hon. EDDIE OBEID: You will hear about her. The New South Wales Government is actively encouraging petroleum exploration in northern New South Wales. This includes targeting the area with a program of high-resolution geophysical surveys. The Government's \$30 million Exploration New South Wales initiative has greatly increased our knowledge of the petroleum potential of the State. These initiatives have resulted in the number of petroleum titles more than trebling in the past six years. In fact, they have risen from 11 in 1995 to 38 this year. The total area under exploration licence has increased by 150 per cent. Annual expenditure by companies on exploration programs has increased from \$5 million to the current level of around \$15 million.

As part of the Exploration New South Wales initiative, a petrol data package is being prepared for parts of the Surat Basin in north-eastern New South Wales. Aeromagnetic and gravity information has already been collected in the Moree area. The same information is being developed for parts of the St George and Goondiwindi area between Moree and the Queensland border. This survey was completed last month and preliminary data was released at the Eastern Australasian Basins Symposium in Melbourne last week. This completes the New South Wales Government's detailed geophysical coverage of the entire New South Wales portion of the basin. This new research, together with existing information on petroleum wells and seismic surveys, will be included in the petroleum data package. It will also include an assessment of the petroleum prospectivity of the Surat Basin.

The petroleum data package is due for release to exploration companies and the industry next year. It will be extensively promoted to potential investors and the petroleum industry. The Government's initiatives in the Surat Basin in northern New South Wales will help create further interest in petroleum exploration in our State. This is good news for regional communities and great news for jobs in country New South Wales.

ENRON CORP COLLAPSE

Reverend the Hon. FRED NILE: I direct my question without notice to the Treasurer, and Minister for State Development. Is it a fact that the failure of Enron Corp in the United States of America is the world's biggest corporate collapse and that that company has debts of \$US31.2 billion? What effect will the collapse of Enron Corp have on New South Wales as that company has about 20 per cent of the electrical derivatives market in New South Wales, Victoria and Queensland, worth hundred of millions of dollars each year? Will the collapse of Enron Corp have any impact on the New South Wales electricity spot price market, because Enron Corp provides hedging contracts for local electricity generators and retailers?

The Hon. MICHAEL EGAN: I advise the House that the preliminary advice I have received from the Government's seven energy businesses indicates a potential direct exposure to Enron Australia Pty Ltd of about \$3 million. I point out that while \$3 million is a lot of money, it is a miniscule proportion of the \$4,000 million of revenue that was earned last year by the State's electricity distributors and retailers.

The Hon. Duncan Gay: You wouldn't tell us if there were more, anyway. You would cover up.

The Hon. MICHAEL EGAN: I am glad that the Deputy Leader of the Opposition made that silly interjection, and I will come back to it in a moment. The Opposition has no policy in the fiscal area; as far as I can see it has no policy in any area. The Opposition is in a policy-free zone.

The Hon. Duncan Gay: Point of order: The Leader of the Government indicated that the Opposition has no policies. I suggest to him that that is not as bad as taking a policy to the people and then breaking that policy.

The PRESIDENT: Order! I have warned members on numerous occasions not to use points of order to make debating points. The Minister may proceed.

The Hon. MICHAEL EGAN: The Government's seven electricity businesses are among 38 Australian electricity businesses that have contracts with Enron. I am advised that an administrator has been appointed to Enron Australia and, of course, it is quite possible that a buyer can be found for Enron Australia that will honour its commitments. Although the Government has \$3 million of exposure to Enron, that does not mean that we have lost \$3 million. It will be many months before the full ramifications of the failure of Enron Australia are known. I do not know what impact the failure of Enron Australia will have on other electricity companies in Australia. I suppose we will know that before too long.

GREEN SLIPS POSTCODE RATING SYSTEM

The Hon. JOHN RYAN: My question is to the Special Minister of State. Is the Minister aware of the statement concerning anomalies in the cost of green slip insurance made by the honourable member for Cessnock? In the other place on 21 September, the honourable member for Cessnock said:

It concerns me and constituents in my electorate that this arbitrary approach of using postcodes as a benchmark does not operate within any guidelines that could be justified in terms of fairness and equity.

In the more than two months since that statement was made, what action has the Minister taken to follow up the recommendation by the honourable member for Cessnock for a review to take place to ensure that people who are living in rural areas have access to rural rates for green slips?

The Hon. JOHN DELLA BOSCA: I am aware that the honourable member for Cessnock has made some observations about green slip prices. He is a very good member, an excellent member.

The Hon. Michael Gallacher: Why has Costa moved into his electorate?

The Hon. JOHN DELLA BOSCA: I do not know. You will have to ask the Minister for Police that question. In fact, I thought the Hon. John Ryan was talking about the Minister for Police; I thought he said "the Costa green slips". I thought to myself that the Minister for Police is taking over everything.

The Hon. Michael Gallacher: It is called poor diction.

The Hon. JOHN DELLA BOSCA: Yes, it is. On a number of occasions the Motor Accidents Authority has considered the regional allocation of various weightings and analyses for pricing of risk based on

a geographic or regional basis. Postcodes have been determined as the most satisfactory means of allocating that risk. The Motor Accidents Authority has considered whether the data could be reduced to other geographical fields, such as local government boundaries, and whether that would increase any concerns about the fairness of the boundaries. However, these are even larger areas than postcode areas, and would tend to unfairly spread risk claims analysis, making it even more imprecise.

The Hon. Patricia Forsythe: What about a census district? That is about 250 households?

The Hon. JOHN DELLA BOSCA: That is an interesting interjection. I will take that advice from the Opposition, and put it into the package of concerns raised by the honourable member for Cessnock. I will ask the Motor Accidents Authority to give me some advice on that and will forward that to the honourable member for Cessnock and members opposite. But that will not count as policy, because the Opposition still does not have a policy on any of these matters. It should be noted that in other States no such analysis is undertaken. Instead, a flat premium is charged, regardless of the location of the vehicle, and that unfairly allocates risks to motor vehicle owners who are not placed in high-risk situations. That tends to provide a significant subsidy to urban areas. In other States there is a very significant cross-subsidy back to urban areas because of their green slip or equivalent systems. The system in place under the Motor Accidents Authority protects rural areas from that sort of discrimination.

In other States urban areas are subsidised by regional motorists. Obviously, that is unfair and it will not be tolerated by the Government or the Motor Accidents Authority. Therefore, we have decided to retain the different zones approach and ensure that country motorists and motorists in regional areas pay premiums that reflect their true risk rather than artificially subsidising urban motorists. That ensures fair relativity across the States but, as I said, there is an imperfection. The only system that we have been able to put in place efficiently is postcode based. However, I am prepared to consider any good idea, such as that of the honourable member for Cessnock. Interjections from members opposite have given me some ideas. I will ascertain the practicability of using census zones, but I suspect that that has already been considered. I will determine whether that is feasible and will advise the House subsequently.

CONSTRUCTION INDUSTRY SAFETY

The Hon. RON DYER: I ask the Special Minister of State, and Minister for Industrial Relations a question without notice. Will the Minister inform the House what action has been taken to prevent workplace accidents in the construction industry?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question and commend him for his ongoing concern about the safety of workers, particularly construction workers. In 1999 this Government established 13 industry reference groups to reduce the incidence and severity of work-related injuries, improve return to work rates of injured employees and reduce the overall costs of workers compensation. Falls on construction jobs were identified by the Construction Industry Reference Group to be one of the significant causes of serious injury in the construction industry.

The workers most frequently involved in fall accidents were painters and electricians, followed by roof tilers, bricklayers and carpenters. Ladders were the most common cause of serious injuries from falls. The Construction Industry Reference Group [IRG] recognised the need to raise the awareness of fall prevention in the construction industry and to promote the correct use of ladders and fall prevention equipment. On 26 August the Construction Industry Reference Group launched the Construction IRG Falls Prevention project.

The two main themes of the project were: use the right equipment for the job when working at heights and take care when using ladders. At the launch, which was attended by more than 100 employers, employees, union representatives and wholesale distributors, the Construction Industry Reference Group distributed material warning of the dangers of working on ladders and encouraging workers to assess the risks when planning construction work to be carried out above ground level.

These products and other information have been displayed at trade wholesale outlets, TAFE colleges and other areas where construction workers can readily notice them. In the second stage of the project a booklet will be produced explaining the importance of assessing risks involved in working at heights and how to implement safe working systems in different individual jobs. This project is a good example of a co-operative, targeted approach to safety in the construction industry.

GANG MEMBERS PROSECUTIONS

The Hon. DAVID OLDFIELD: My question is to the Minister for Police. Is the Minister aware that the prosecution of Middle Eastern gang members is reported to be such a difficult process that some police are advising victims not to pursue charges against gang members because the outcome may not be worth the trouble? Would the Minister agree that if such allegations are true then this unofficial immunity from prosecution only serves to encourage gang membership and activity? Will the Minister undertake to see any such victims who are willing to come forward and, where necessary, afford those victims appropriate protection?

The Hon. MICHAEL COSTA: This is a very important question because it deals with a number of issues that are of concern to the community. There are three parts to the question. In relation to the first part of the question, I am not aware of any reports of police advising victims not to pursue charges against gang members, and I would be very concerned if that were the case. I will investigate the claim to ensure that it is not the case. However, it would be useful if the honourable member had a specific example to which I could refer.

In relation to victims coming forward, it is certainly the policy of the Police Service to encourage victims to come forward and to provide appropriate protection, but if I could be made aware of specific instances of people being reluctant to come forward—and I realise that given the nature of some of the activity there are cultural constraints on people coming forward—we could address those through a set of strategies that the Police Service is working on currently. This question presents me with an opportunity to reiterate the Government's policy on gangs. We did announce legislation last week the aim of which is to provide flexibility for courts in relation to gang violence. Non-association orders will become a very important tool for policing efforts against gang activity. As well, orders will be given to ban gang members from their so-called "turf", which is really the basis of much of the gang activity.

The Hon. Michael Egan: They are good measures.

The Hon. MICHAEL COSTA: They are very good measures and everybody involved in their introduction should be congratulated. In terms of practical policing activity, last week I announced the establishment of the Gang and Organised Crime Strike Force, the membership of which will be built up to roughly 52 to 54 detectives early next year. Its prime focus will be to gather intelligence and deal with the very issues that the honourable member referred to in his question. We want to collect intelligence. If people are being victimised or put under pressure not to give evidence, I am very hopeful that this Gang and Organised Crime Task Force will deal with those circumstances. The short answer to the question is that if the honourable member has a specific example I am certainly prepared to take it up, and welcome doing so, with the Police Service.

POLICE SERVICE PROMOTIONS

The Hon. RICK COLLESS: My question is to the Minister for Police. Now that the Minister has moved to streamline the police promotions system, will he also order a review of the formulas used to determine police numbers in regional areas? Is it a fact that under the existing formula there are 1,000 fewer police hours per week in the Lismore, Ballina and Casino areas because at least 35 of 172 officers are on long-term stress leave, sick leave, or long-term light duties or because of unfilled vacancies? What does the Minister intend to do to resolve this ongoing problem?

The Hon. MICHAEL COSTA: I am glad to hear an acknowledgment from the Opposition that the Government has done something positive about the promotional system. That is the first sensible thing I have heard come from the Opposition this morning. Police numbers are determined on operational grounds and will continue to be determined on operational grounds. Police are allocated to places of need, not to where there is a desire from a local member to increase police number for political purposes. We have 13,700 police in the New South Wales police force.

The Hon. Dr Brian Pezzutti: Police Service.

The Hon. MICHAEL COSTA: Force. Those numbers represent record growth in policing numbers under the Carr Government. Not only that, we will have an additional 400 police from the academy next month. So we have increased police numbers—

The Hon. Michael Egan: And I am giving you the money for that.

The Hon. MICHAEL COSTA: As the Treasurer has pointed out, he is providing a record \$1.6 billion a year to run the police force. I congratulate the Treasurer on that.

The Hon. Dr Brian Pezzutti: Point of order: The Minister for Police is new to this Chamber and to the ministry but he should remember that it is actually the Police Service that is funded by the Treasurer. There is no such thing as a police force in this State.

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

The Hon. MICHAEL COSTA: There are 13,700 police in the police force. What a wonderful achievement. We ought to be proud of what this Government has been able to achieve over the last period. There will be an additional 400 police graduating next month, thanks to the funding from the Treasurer. I was amazed to hear the Opposition acknowledge our wonderful announcement yesterday relating to police promotions. I thank the Opposition for that acknowledgment because the announcement was critical in terms of restoring police morale. Police are very concerned to ensure that their promotions system will enable positions to be filled as soon as possible to allow police to carry out their critical role in front-line policing. We are proud of our record on police numbers. It stands up against any record, particularly that of the Coalition. There has been an additional half a billion dollars put into the police budget from the last date that Opposition members had control of the budget and, given that they will not have control of the budget again for a long time to come, I look forward to increased resources in policing over the next period.

There is no way in the world that Opposition members will be in government this side of 14 years, let alone 14 months, because they have no policies. I asked my staff to check the Coalition's web site for any policing policy. I have received a briefing from the ministry on what we stand for and I understand what the Government's policies are about. But where are the Opposition's policies? There are no policies. The Opposition web site is empty. It is blank because the minds of Opposition members are blank. *[Time expired.]*

The PRESIDENT: Order! The honourable Minister will take his seat.

The Hon. RICK COLLESS: I ask a supplementary question. Given the Minister's statement in his answer about police vacancies, how is it that there are still vacancies for four sergeants in Inverell that have remained unfilled for over 12 months?

The Hon. MICHAEL COSTA: I thank the honourable member for asking his supplementary question because once again it gives me the opportunity to congratulate those involved in the promotions policy, which will deal with the Opposition's problem. As I said earlier about the Coalition, its web site is blank, its mind is blank, and it has no policies. Opposition members say they are interested in policies but they have no policies themselves.

The Hon. Greg Pearce: Point of order: The Minister for Police continually misleads the House by suggesting that the Opposition has no policies on law and order. The Opposition introduced self-defence legislation as far back as 1996, which was subsequently stolen by Bob Carr. The Coalition's life sentence confirmation legislation was also stolen by Bob Carr. The Premier copied the Crimes Amendment (Aggravated Sexual Assault in Company) Bill. Both the Minister and the Premier stole the Opposition's sniffer dog policy. We all know that the Premier is a klutz when it comes to financial management, but when it comes to our law and order policies he is a kleptomaniac.

The PRESIDENT: Order! I have warned members on numerous occasions not to use points of order to make debating points. There is no point of order.

SYDNEY 2000 OLYMPIC GAMES AWARD

The Hon. JOHN HATZISTERGOS: My question is directed to the Treasurer, and Minister for State Development. Can he advise the House of the latest accolade awarded to the Sydney 2000 Olympic Games?

The Hon. MICHAEL EGAN: The Sydney 2000 Olympic Games recently won the Major Festivals and Special Events category at the annual Australian Tourism Awards held in Hobart. My colleague the Minister for Tourism, the Hon. Sandra Nori, accepted the award on behalf of the State Government and praised the many thousands of people who made the Olympics such a stunning success. This award is yet another reminder of the considerable economic legacy that the Olympics have left for the State of New South Wales. At

the early stages of our Olympic preparations the Government recognised that high-quality visitor services throughout the three weeks of the Olympics would be a key factor in securing repeat tourist visits in the future. The focus on visitors experiencing friendly and personal service during the Olympics was an investment that will continue to bear fruit for the economy of New South Wales into the future.

Considerable praise must be extended to those right across the New South Wales hospitality and tourism industries for their good service and professionalism throughout the Olympic period. It is important also to acknowledge the important role played by the Olympic volunteers in welcoming international guests into our country and in creating an instant impression of Sydney as a hospitable and friendly tourist destination. Just over one year after the Sydney 2000 Olympic Games the New South Wales tourism industry certainly faces much more turbulent times. That is why the Government recently announced a \$15 million package to assist the industry through these difficult times, with an emphasis on the interstate car travel and short-haul international markets. This assistance package will bring greater certainty and stability to the New South Wales tourism industry so that it remains well positioned to take advantage of the many opportunities that continue to arise from our successful staging of the 2000 Olympic Games.

PACIFIC POWER INTERNATIONAL

The Hon. MICHAEL EGAN: Earlier today the Deputy Leader of the Opposition asked me a question about Pacific Power International and I regret to advise the House that I misled him. I suggested that the Deputy Leader of the Government and I were the shareholders of Pacific Power, but we are not. Pacific Power International is a corporations company and is a subsidiary of Pacific Power. Pacific Power is not a State-owned corporation but a statutory corporation with no shareholding Ministers. Pacific Power reports to, and is subject to directions from, Kim Yeadon.

RECLAIM THE STREETS FESTIVAL

Ms LEE RHIANNON: I direct my question to the Minister for Police. Does the Minister recall the answer that he gave to my question on 29 November? He said:

Police in this State always act within the law and within the appropriate policies of the Police Service.

Will the Minister retract this falsehood and set the record straight with regard to police corruption in this State? If he refuses to retract his statement and stands by his assertion that "Police in this State always act within the law", does it mean that there is no place for the various investigations being undertaken into the activities of corrupt police?

The Hon. Michael Egan: Point of order: Madam President, the question is out of order because it contains argument.

The PRESIDENT: Order! I invite Ms Lee Rhiannon to rephrase the question in a shortened form, without some of the argument.

Ms LEE RHIANNON: My question did not seek any opinions. It was clearly stated.

The Hon. Michael Egan: It contained argument.

Ms LEE RHIANNON: There were no arguments. I simply asked whether the Minister would retract his statement.

The Hon. Michael Costa: I stand by my comments.

Ms LEE RHIANNON: The Minister wants to answer the question. He has to give just a simple statement.

The Hon. Michael Egan: Further to the point of order: A question is not in order on the basis that a Minister wants to answer it. A question is either in order or out of order. The fact that the Minister wants to answer it is completely irrelevant. Madam President, you have given Ms Lee Rhiannon the opportunity to rephrase the question but she obviously does not understand the sessional orders that she foisted on all of us just a few months ago.

The Hon. Dr Brian Pezzutti: To the point of order: Because the Leader of the Government considers a question to be argumentative does not mean that it is out of order. The reality is that Ms Lee Rhiannon referred the Minister for Police to a comment he had made in the Chamber and asked whether he supported it. Where is the argument in that? It would be easier to ask Ms Lee Rhiannon to put the question more clearly. If the Minister did not get the question, he should ask for it to be clarified.

Ms LEE RHIANNON: To the point of order: Madam President, I can easily rephrase the question. Does the Minister for Police stand by his statement of 29 November in answering my question of that date?

The PRESIDENT: Order! I remind members that the new sessional orders are very specific. Questions may not include arguments, inferences or imputations. The question as rephrased by Ms Lee Rhiannon is certainly in order. I will allow it.

The Hon. MICHAEL COSTA: I certainly stand by my comments that police officers in this State must act within the law and within the operational procedures of the Police Service. If they do not, they put themselves outside the service, and the institutions that have been set up to deal with them will do just that. It is the responsibility of police officers to act within the law and within the operational procedures of the Police Service.

The Hon. MICHAEL EGAN: If honourable members have further questions, I suggest they put them on notice.

Questions without notice concluded.

STANDING COMMITTEE ON SOCIAL ISSUES

Reference

The Hon. JAN BURNSWOODS [1.08 p.m.]: In accordance with paragraph 14 (2) of the resolution establishing standing committees, dated 25 May 1999, I inform the House that the Standing Committee on Social Issues has this day received the following reference from the Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts:

1. The Standing Committee on Social Issues is to inquire into and report upon the scope and operation of the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2001 with regard to:
 - (a) whether the provisions of the Bill meet its stated policy objectives,
 - (b) whether the provisions contained in Schedule 2 of the Bill provide an effective and enforceable regime for the regulation of on-line material,
 - (c) the social and legal impact of the on-line regulation of offensive material, and its implications for fair reporting of news and current affairs and legitimate internet use, and
 - (d) any related matter:
2. That the Committee provide a final report to the House by 7 June 2002.

[The President left the chair at 1.08 p.m. The House resumed at 2.40 p.m.]

STANDING COMMITTEE ON STATE DEVELOPMENT

Interim Report: Genetically Modified Food

Debate resumed from 28 November.

The Hon. IAN COHEN [2.45 p.m.]: There is a common misconception that plant breeding and genetic engineering [GE] are one and the same thing. The argument then follows: We have been doing plant breeding for many years so what is the big deal with genetic engineering? Plant breeding and genetic engineering are not the same and the perpetuation of this misinformation only serves to illustrate the level of ignorance about the science behind genetic engineering. Genetic engineering forces genetic material from widely differing species—plants, animals, viruses, bacteria and even humans—into the genome of plants and animals. Genetic engineering bypasses the normal regulatory mechanisms inherent in natural breeding within a species.

Genetic engineering breaches species barriers, disregarding each species' unique genetic makeup: for example, putting fish genes into tomatoes. The process of gene insertion is random and imprecise and can give rise to unexpected and unpredictable effects. Such was the case reported in the journal *Nature* in 1998. It was discovered that a GE herbicide-resistant mustard plant was found to be 20 times more likely to out-cross than the same plant with a conventionally induced mutation. That was not an isolated instance. The danger of using viral and bacterial genes in GE was revealed in an experiment by Australian scientists at the Australian National University. Scientists trying to develop a mouse contraceptive engineered a protein into a mousepox virus. The result was unpredictable.

Unexpectedly, the scientists created a deadly virus. This virus killed 100 per cent of the mice used in the experiment. Not only did it kill the mice without immunity to the mousepox virus; it also killed 50 per cent of mice with immunity to mousepox, meaning it was able to bypass the mouse's immune system. The safety of GE food to humans and other animals has not been proven. Many independent scientists are warning that GE foods introduce new risks because of the potential for new allergenic, toxic and carcinogenic compounds they may create in food. Let us not forget the 37 people killed by the GE L-tryptophan dietary supplement in 1987 and, more recently, reports of allergic reactions to tortilla chips that tested positive for StarLink corn.

How is it that we have food on our shelves and crops growing in our fields that pose considerable risks? In Australia, the answer lies in part with the approach the Australia New Zealand Food Authority [ANZFA] takes to testing novel foods. ANZFA does not apply the precautionary principle to these novel foods and, essentially, permits 18.7 million Australians to eat GE foods based on the philosophy that it is safe until proven unsafe. It is a flawed scientific premise that genetically engineered food is substantially equivalent to other food and introduces no greater risk. The basis for this claim has been that the amount of new genetic material introduced is very small and poses no risk—current regulations allow less than 0.1 per cent of new material.

However, scientific method requires that researchers should assume GE food is substantially different and unsafe from other food and set about proving otherwise. Absence of evidence is not evidence of absence. ANZFA, which is responsible for food safety in Australia, merely assesses GE foods from data supplied by corporations promoting the technology. It conducts no independent tests. The Public Health Association of Australia has also analysed ANZFA's food safety assessment and considers that these assessments in Australia are significantly flawed. ANZFA does not acknowledge the possibility of unexpected effects such as new or altered proteins or toxins. It only looks for expected changes. It also makes a number of assumptions that are not supported by fact.

For example, insect-resistant corn currently on our supermarket shelves was initially approved by ANZFA because it thought it was passed in the United Kingdom. When this corn was assessed in Australia it showed significant differences from the conventional variety, but no testing was undertaken. It has not been proven safe, but it is in our food supply. There have been no studies to prove the long-term safety of GE products. This approach has been severely criticised by scientific groups, including the European Union-United States Biotechnology Consultative Forum report of December 2000 and the Canadian Royal Society. Both have called for more extensive testing to prove safety, and highlighted the need for mandatory comprehensive labelling so adverse effects can be traced. With such unknowns it is imperative that people with responsibilities in food and health should be aware of the potential risks from food containing genetically engineered ingredients.

Non-target beneficial insects including bees are affected by gene technology. Michael Meacher, Minister for Environment in the United Kingdom, reported in the House of Commons in 1999 that, despite precautions, "It has to be recognised that bee activity may in some cases involve the dissemination of GE pollen beyond the isolation distances used". It has since been shown in farm-scale GE trials that bees can carry pollen up to four kilometres from test sites. This illustrates that buffer zones in GE management plans are practically useless—especially for open pollinated crops such as canola. It will be virtually impossible to maintain a GE-free canola industry in New South Wales if GE canola is commercially released.

The introduction by stealth of GE crops also exposes farmers to litigation by the corporations that own the seed, as in the notorious case of Canadian farmer Percy Schmeiser, who was sued by Monsanto for growing its GE canola seed even though he had never purchased seed from the company and was actually contaminated by neighbours who were growing the GE crop. At a recent presentation to the Australian Institute of Health, Law and Ethics, Gary Golberg, chief executive officer of the American Corn Growers Foundation, said:

So what have genetically modified organisms [GMOs] done for the American farmer? They have made us liable for pollen contamination from other farms, forced us to segregate our GMO from non-GMO crops, diminished our export markets, made

our customers lose faith in the ability of United States farmers to provide the products they demand, increased corporate concentration within the seed industry and have cost the American farmer billions of dollars through lower commodity prices. All this in the name of science.

It is not surprising that some countries are now choosing to go completely GE free. New South Wales would be wise to do the same. The *Sydney Morning Herald* of 1 December contained an interesting article by John Vidal, in London, entitled "Native corn infection fuels fears of GM spread". The article stated:

One of the world's oldest varieties of maize has been contaminated by genetically modified organisms, say United States researchers who have had their work confirmed by the Mexican Government ...

The researchers from the University of California, Berkeley, detected the contamination in October last year. They compared indigenous corn with samples known to be free from genetic engineering, as well as with genetically modified varieties.

The results, published on Thursday in the science journal *Nature*, showed that four of six samples of native *criollo* corn taken from fields contained a genetic "switch" commonly used in GM crops and that two of the samples were found to have another DNA segment commonly inserted by genetic engineers ...

The results are surprising because Mexico, which is the genetic home of maize, has banned the growing of GM maize since 1998, and the last known GM crops grown in the region were almost 95 kilometres from where the contaminated maize was found.

It is not clear where the contamination took place, but the American scientists speculated that it originated from GM maize brought from the US as food aid for the impoverished region in central Mexico, and had progressed via multiple pollinations.

It is not thought that the cross-pollination happened over long distances, because corn pollen is heavy and does not travel far on the wind. The lead author of the report, David Quist, said: "I repeated the tests at least three times to make sure I wasn't getting false positives. It was initially hard to believe that corn in such a remote region would have tested positive."

That is the sort of thing that happens with genetically engineered [GE] materials. It is important that this House recognises that we are gambling with the future health of people in New South Wales and also with the viable future of many farmers. It would do us all well to go for a clean, green future that is GE free.

The Hon. RICHARD JONES [2.53 p.m.]: I commend the work of the Standing Committee on State Development in its inquiry into genetically modified food. Gene technology is one of the most contentious issues that governments and the community face in the twenty-first century and the inquiry process has been—and I hope will continue to be, in the absence of any other State forum—a vital avenue for the community to voice its concerns about gene technology. Genetically modified food raises many complex social, scientific, ethical, health, and environmental issues as well as legal and economic implications, and the interim report, or issues paper, has identified many of those for further consideration.

Communities in many countries, including Australia, have raised concerns about genetically engineered food. Honourable members would be aware that many New South Wales councils including Byron shire, the city of Newcastle, Manly, North Sydney, Waverley, Willoughby and Wingecarribee have declared that their food services will be GE free, and more than 18 other councils have expressed their opposition to GE field trials by declaring themselves GE free zones. Consumer boycotts are also being organised in opposition to GE foods. Friends of the Earth launched a campaign in 21 European countries, targeting Safeway supermarkets in the United States of America.

Greenpeace is conducting a high-profile worldwide campaign, with Kellogg's its main target. More than 15 major American companies have been targeted for some form of consumer action. Starbucks was recently the target of a 100-city protest, which caused it to announce its intention to eliminate GE products. According to the Third World Network Information Service on Biosafety of 26 June, many countries, including key trading partners with Australia, have taken an anti-GE position. For example, Egypt has declared it will not import GE wheat. Sri Lanka has placed a ban on all genetically modified foods, raw and processed, including food additives. Thailand has had a ban on the importation of GE seeds for commercial planting since 1999, and in April 2001 there was a Cabinet decision to stop all field trials.

Japan will not import GE wheat and has recently passed legislation to set zero tolerance for imports containing unapproved GE products. In the European Union the de facto moratorium on all new genetically modified organisms [GMO] approvals is still in place and there will be strict legislation on labelling and traceability and regulations on GE animal feed and products from animals fed with GMOs. Austria, Norway and Germany have banned the importation of various GE crops, and in the United Kingdom the House of Commons has banned GE food from its catering service. In Spain, the Basque Government has imposed a five-year blanket moratorium for GMOs.

Italy has banned GE crops in Tuscany, Molise, Lazio and Marche and 25 other provinces, cities and communes. In Latin America, Brazil has placed a ban on planting GE seeds, and the Bolivian Ministry has passed a resolution prohibiting the importation and use of any GMO in the country for one year. Given this rapidly increasing opposition to GE, perhaps the question we should be asking is not how or to what extent GE crops and food should be regulated, but whether they should be allowed to be grown and sold here at all. Surely this State has to assess the option of remaining GE free.

The paucity of objective research on the implications of genetically modified food is alarming, given the extent to which it has already been developed. The more I find out about it the more I am convinced that it is extremely dangerous and we simply do not need it. In the rush to apply gene technology to food many community concerns have been ignored and the farming sector has been misled about its potential and its risks. Unfortunately, governments in Australia have, in a sense, prematurely given the go ahead for GE crops and food, without adequate public debate or consent, by allowing trials to be conducted under voluntary agreements throughout the country and by the establishment of the Commonwealth Gene Technology Regulator and the National Regulatory Scheme.

The discrepancy between what the community wants, or does not want in this case, and what is actually happening is astounding. For example, last year the United Kingdom Government spent £52 million on developing GE crops, for which the demand in Britain is approximately zero, and £1.7 million on research into organic farming, for which demand outstrips supply by 200 per cent. This inconsistency is mirrored in Australia, where the Commonwealth Government spends more than \$80 million per year on gene technology research and less than \$1 million on sustainable agricultural systems, including organic and biodynamic farming. The imbalance in funding priorities is also reflected in the States. It clearly does not add up.

If consumer acceptance to GE food is the key driver to its success and customers everywhere are saying they do not want GE food, why is it still being pursued? Against the will of the people, genetically engineered ingredients are already likely to be in more than 65 per cent of all processed products on supermarket shelves. And because no products are currently labelled in Australia if they contain genetically modified ingredients, it is difficult to predict just how many people would buy them if they were aware of what they were buying. However, if the increase in sales of certified organic products is anything to go by, it may suggest that people are opting for food they can be confident does not contain genetically modified ingredients and is safe.

Giant supermarket chains in the United Kingdom, such as Tesco and Sainsburys, are listening to the public, and they now claim that all their own brand products are now GE free. Sainsburys is offering long-term contracts with fixed prices to encourage farmers around the globe to switch to organics. The company promotes product stewardship and embraces conservation and native biodiversity on farms as the only way forward for long-term sustainability of food production. The market backlash to GE is also being responded to by international food companies such as Burger King, Pizza Hut, Nestle, Pepsi Cola, Coca-Cola, Heinz, Mars, Danone, Kellogg's, Campbell Foods, and Cadbury Schweppes, who are among the 30 largest food companies in Europe and have agreed to phase out GE products.

Michael Coupe, Trading Director for Asda, one of several of Europe's largest food retailers, has also committed to removing genetically engineered ingredients and said, "If other retailers follow suit, non-GM animal feed will become the industry standard." Tesco and CWS Co-operative, two major supermarket chains in Britain, have also announced plans to eliminate GM-fed meat as soon as possible. The *Wall Street Journal* reported that in Europe, consumer opposition is so intense that "GM-free has become an effective marketing slogan." Japan's two largest breweries and a major Mexican corn tortilla maker will no longer buy GE corn from the United States of America. Novartis, one of the world's leading agricultural biotechnology companies, acknowledged that it had eliminated GE ingredients from all of its consumer food products.

Deutsche Bank, Europe's biggest bank, advised investors to sell their shares in companies involved in the development of genetically modified organisms in a report entitled "GEs Are Dead". Credit Suisse First Boston warns that the commercial development of GEs is suffering from "negative momentum". A J. P. Morgan analyst said, "The market's appetite for life science companies has changed 180 degrees." In a Federal survey of Midwest banks, 28 per cent of agriculture lenders acknowledged reservations about backing purchases of gene-altered seeds. European buyers of wheat have announced that there is no market for GM wheat in Europe and United States farmers will have to take their business elsewhere.

An extensive survey by the United States Department of Agriculture last year found that farmers were planting fewer GE crops as optimism about genetically modified food was sharply declining. Field trials of GE

crops among countries has plummeted by more than 95 per cent since 1998. In a recent article in the United Kingdom *Guardian* of 28 August entitled "Global GM Market Starts to Wilt", John Vidal says that "companies are investing less in research than five years ago and profits are static and the global GM food bubble has burst". The article also cites Sergey Vasnetsov, Wall Street's leading chemical industry analyst, who was scathing over claims made by the biotechnology industry that GE crops will "feed the world" and said: "Let's stop pretending we face food shortages. There is hunger, but not food shortages. GE is for the rich world."

From the farmers' perspective, the case for growing GE crops rests largely on their ability to produce higher yields and margins. In a recent report entitled "Genetically Modified Crops Spell Trouble on the Farm" by Mark Griffiths, European Policy Advisor for the Royal Institute of Chartered Surveyors [RICS]—which provides land management advice to owners and occupiers of agricultural land—it was stated that:

The initial expansion of GE crops in the USA was driven by the belief that farmers would be better off, but after 2 or 3 years of practical cropping experience there is evidence that some GE crops may actually be producing lower yields and margins than their conventional equivalents, especially in the case of soya, canola and cotton.

The report also indicates that there are serious financial implications for growers of organic crops whose farms would lose organic status if crops become cross-pollinated by GE crops. Crops can be cross-pollinated over a large distance, so GE cropping on one farm can affect the GE-free status of another because wind, bees and other pollinating insects do not recognise farm boundaries. Organic farmers in the United States are apparently in serious trouble.

Not only is there evidence of organic product contaminated after planting, from field or post-harvest contamination, but the very seed stocks that organic farmers depend on are now also contaminated. So serious is the situation that Farm Verified Organic, a United States organic certification program, has written to their operators indicating a requirement for them to get "GMO-free" statements from their seed companies. But apparently seed companies are no longer ready to state that their seed is GMO-free, as they did in the past. They are afraid to give a GMO-free guarantee because of liability issues.

Recent reports have suggested that out of 281 seed companies in the United States, 77 have tested their corn seed and found contamination with the Aventis Starlink GE corn. A further 68 seed companies are still testing. Starlink corn was approved by the United States Department of Agriculture for animal consumption only because of concerns that the genetically modified corn could trigger allergic responses in people. Despite the Government's restrictions, Starlink corn contamination was found in a number of corn products including tostadas, taco shells and tortillas, which resulted in a recall from the market of over 300 products containing the contaminated corn.

According to an internal industry study by Promar International conducted for Kellogg, Unilever and Aventis, it is predicted that there will be billions of dollars in food industry losses as a result of the recall and that the Starlink corn scandal "is going to come back and haunt the regulators and the food industry". Aventis has apparently reached an agreement with 17 American states that legally binds the company to compensate farmers and grain handlers for loss of value resulting from the Starlink contamination for the next four years. Aventis' costs alone are expected to be in excess of \$1 billion. The risks, costs and potential devastation to the New South Wales organic and conventional GE-free farmers from GE contamination has not even been assessed in the regulator's risk analysis.

This is extremely concerning given the United States experience, as these viable and growing produce sectors stand to be devastated once GE contamination occurs. If GE-free status is lost, it is lost forever because inherited engineered sequences in crop volunteers and related weed species in fields will persist on the farm—and this has already occurred in the United Kingdom with canola. Other crossbench members, and I believe the National Party, have been briefed on several occasions by organic farmers and conventional canola growers in New South Wales about their serious concerns over the impending commercial release of genetically modified canola and the impact this would have on GE-free canola industry in New South Wales. Their concerns are very real.

In an article by James Woodford in the *Sydney Morning Herald* of 24 July 2000 entitled "The Great Food Battle" it was reported that Aventis, the company conducting the nation's largest trials of genetically modified crops, had told the *Sydney Morning Herald* it knew that its laboratory-bred canola plants could not be guaranteed not to pollute neighbouring farm crops. Ms Namoi Stevens, spokeswoman for Aventis said: "There's always been gene flow between canola crops, whether that's good genes or bad genes". Ms Stevens also said that once genetically engineered crops are being trialled it is impossible to keep the experimental or existing crops pure.

Aventis has apparently had more than 100 farmers on its books in Australia since 1996 who have, under voluntary agreements, allowed trials on their farms for up to \$3,000 a hectare. Despite the fact that these trials are meant to be non-commercial, Aventis has been exporting 200 tonnes of GE canola seed annually to Canada, India, Belgium and Pakistan. The issue of liability and insurance for GE crops was recently examined in a Reuter's article by Julie Vorman on 21 November 2000. The article entitled "Farm Groups want Aventis held liable for bio-corn" reported that a grassroots coalition of United States farmers worried about the costs of the Starlink corn contamination want the United States Attorneys General to give an opinion on the extent to which farmers or seed companies are liable for any damages caused by contamination of traditional crops and the failure to segregate GE crops.

They want legislation passed that places liability squarely on companies who develop and manufacture GE seeds for all the economic and environmental damage caused by their products, and they want to ensure that farmers are properly advised of the liability and risks of growing GE crops before they commence. A Missouri farmer and President of the United States National Family Farm Coalition, Bill Christison, said the United States Department of Agriculture has done virtually nothing to address liability issues for farmers who can face substantial costs for inadvertently contaminating a neighbour's crop with wind-borne pollen from GE crops, or for other lapses in the marketing chain.

The situation is no different in Australia or New South Wales, and I am pleased that the issues paper has picked up on this very important issue of liability and insurance. But I am alarmed that currently there does not appear to be an insurance scheme available for licensed GM dealings. In fact, Mr Robert Drummond, Executive Manager of the Insurance Council of Australia, in a submission to the House of Representatives Standing Committee Inquiry into Gene Technology in Agriculture, compared GM technology to many pharmaceutical disasters and suggested that GM production is effectively uninsurable because insurers were reluctant to accept incalculable risks.

Swiss Re, the world's second largest reinsurance company, issued a report stating that the risks of genetic engineering "could lead to unsupportably high liability risks which cannot be carried by either the genetic engineering industry or the insurance industry alone." Industry fees cannot be calculated by traditional means, as there is no prior experience with the risks of this new technology. Insurers are concerned about the fast-changing political and public sentiment, the mounting evidence of ecological liabilities such as cross-pollination with non-GE crops and the creation of "superweeds"; as well as public health concerns regarding allergic reactions to ingredients which have not previously existed in the human food supply, and increased resistance to antibiotics due to use of GE "marker" genes.

Although as yet untested in law, the growing of GE crops and subsequent permanent GE contamination of farmland may also prove to be a breach of agricultural tenancy agreements. A tenant could end up with a substantial claim for depreciation in the value of the landlord's freehold interest at the end of a tenancy if GE contamination occurs. This would not only affect rental land values, it may also be of concern to banks if secured loans based on the collateral value of the land have been made. The problem of GE crop contamination and identity preservation alone should be enough to make any farmer think seriously about the risks of venturing down the GE path. None of the standard crop assurance schemes has anticipated the traceability complications that are thrown up by GE crops.

It is inevitable that supermarkets, driven by consumer preference and competitive pressures, will seek GE-free traceability safeguards from producers and, given the experiences overseas, it seems unlikely they will be able to provide it. The ABARE research report of August 2001 on genetically modified grains and market implications for Australian growers indicates, on the issue of identity preservation and price premiums, that the imposition of identity preservation requirements on world grain trade would substantially offset any agronomic benefits of GE crops by adding costs. The report concludes, amongst other things, that in the short term Australian grain growers are unlikely to be greatly disadvantaged by not having access to GE grain crops and may even profit if premiums for non-GE grain further evolve in the marketplace.

In his speech to the House the Hon. Tony Kelly referred to the weevil-resistant pea developed by the CSIRO and to genetically modified cotton as examples of the potentially positive benefits that gene technology could offer. While it is difficult to argue against a reduction in the use of pesticides that may result temporarily, it is essential that we do not get caught up in a process where the end justifies the means. After all, there are other ways of reducing pesticide use in crops and there is a ready market for pesticide-free, GE-free, certified organic food. The world market for sustainable and organic foods is estimated to be worth \$35 billion annually. Consumer demand for this clean and green produce is growing at between 10 per cent to 35 per cent per year. It is estimated that the world market will be worth between \$110 billion and \$190 billion by 2006.

The Minister for Agriculture, the Hon. Richard Amery, has recognised the importance of organic farming and recently announced the opening of the Centre for Organic Farming at Bathurst to foster the network of organic research, advisory, education and regulatory specialists located across the State and to place a significantly sharper focus on organic and biodynamic food and fibre production across New South Wales. I hope to see that worthy facility expanding its research and development agenda in the near future. In an article entitled "The Green Revolt", which appeared in the *Age* of 6 October 2000, Claire Miller stated:

While the government [in the UK] struggles to regain credibility on regulating food safety [in the wake of mad cow disease], retailers, processors and distributors are taking matters into their own hands.

She went on to say that this trend has:

... profound implications for countries such as Australia whose economies rely heavily on agricultural exports because it is one thing to lobby the World Trade Organisation to break down barriers and subsidies in Europe and the United States, but if retailers themselves set exacting standards for environmental sustainability and fair trade, there is no law against that.

According to Andrew Jeeves, environmental manager for Go Mark Foods, an Australian accredited company committed to agricultural sustainability and ecological health:

... many farmers are realising they will miss out on the market opportunities here and overseas if they do not lift their game on issues such as biodiversity, conservation and ecological degradation.

He also said:

Supermarket chains have been slow to realise the commercial advantages of backing sustainable agriculture and it's a bitter joke that local policy-makers and food conglomerates laud Australia's supposed advantage as a source of "clean and green food" because the image does match the reality of land clearing, spreading salinity and toxic blue-green algae outbreaks caused by polluted run-off from farms.

Currently the majority of GE crops grown are fed to animals without any investigation of the impacts that this may have on their health and wellbeing. I am extremely pleased that the issues paper has taken up the problem of feeding GE crops to animals. It is only a matter of time before this becomes a significant market problem for producers of meat in Australia, especially in light of the three reported cases of mad cow disease in Japan, which is a major market for Australian beef. I look forward to reading the final report and recommendations from the inquiry and trust that they will reflect the depth of concern in the community and in world markets by thoroughly assessing the full implications of the introduction of broad-scale GE agriculture in New South Wales. If we run headlong into planting GE crops, we could be sowing the seeds of economic and environmental disaster in this State.

The Hon. Dr BRIAN PEZZUTTI [3.12 p.m.]: I enjoyed being part of the inquiry into genetically modified [GM] food. As you point out in your foreword, Mr Deputy-President, this interim report provides:

... a timely analysis of the nature and use of gene technology, as well as an overview of the emerging regulatory system to monitor, control and disseminate information relevant to the application and distribution of genetically modified food and its technologies.

It is important to point out that this report does not editorialise or come down on either side of the argument. It simply presents the evidence that the Standing Committee on State Development received from 28 private citizens, 20 private organisations and State and Federal government agencies. The committee held hearings in Sydney, Yamba and Queanbeyan, and committee members also travelled to Tasmania. The committee chairman, the Hon. Tony Kelly—who is in the Chamber—and I had the opportunity and the privilege of meeting a number of people in Rome, Brussels, London and Dublin to discuss these matters.

The Hon. Michael Egan: You could have left out Brussels.

The Hon. Dr BRIAN PEZZUTTI: Brussels was very important because the European Commission, Agriculture Directorate-General is based there. That is why we visited that city. I concede that Brussels is not one of the most exciting places to visit. However, our visit to Rome—we were there for a whole 9½ hours—was important because we talked to representatives of the Food and Agriculture Organisation. We also fitted in some important meetings with Lord Peter Jenkin and Baroness Maddock from the House of Lords, who chaired the body that examined this issue on behalf of the European and British parliaments. We were in London for only 11 hours—it was a very quick trip.

This report is important as it offers information and raises issues that must be resolved in the community so that we may provide a more formal response to the committee's terms of reference. These matters

include the likely private and public benefits and costs of genetically modified food to the State of New South Wales; the impacts of genetically modified food technology upon the agriculture and food processing sectors; and the identification of any possible adverse consequences for trade, food safety and the environment as a result of the introduction of GM food technologies. Committee members have done as much research as we can both here and overseas and have gone to the community to gather all that is currently known about this subject. The Commonwealth Gene Technology Act 2000, which contains the precautionary principle, states:

... where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation ...

That is the definition in the Commonwealth Act, which is the framework Act. On the other hand, the International Agreement on the Environment, which was signed by the Commonwealth, States and Territories, states:

Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

The important difference between those two definitions is the use of the word "cost-effective" in the Commonwealth legislation. The first question we ask people to resolve is whether they believe we should use the Commonwealth definition of the precautionary principle or the definition in the New South Wales Protection of the Environment Administration Act. We then turn to the issue of whether the New South Wales Government should develop policy guidelines regarding the release of genetically modified organisms [GMOs] in this State that have been approved by the Gene Technology Regulator. Should the policy guidelines require consideration of a number of factors in assessing individual GMO types, including: the commercial position of GM-free status of certain New South Wales regions and for New South Wales as a whole, and, importantly, the impact of market perceptions on introducing GMOs into presently GM-free areas? In other words, should the entire State remain GM free or should we allow some parts of the State to be GM free but not others? If we allow that to happen, will other New South Wales farmers be disadvantaged on international markets? We simply do not know the answers to those questions at this stage, and we are seeking advice about what we should recommend.

Should the New South Wales Government make representations to the ministerial council seeking the development by the insurance industry of an appropriate insurance scheme for licensed GM dealings? In other words, when the regulator approves the growing of a GM crop, should there be an insurance policy in case something goes wrong? Should the Gene Technology Act create civil liability for environmental damage? In other words, if a GM crop spreads to the farm next door or into the environment generally and there must be a clean-up, should liability rest with the person who grew the crop and who must therefore take responsibility? Should the Gene Technology Act create offences for intentional damage to crops, and what penalties should apply? This question applies to the Luddites—whom the Hon. Richard Jones and the Hon. Ian Cohen strongly support—who rooted out the pineapple products that were growing in Queensland and other crops in New South Wales. What occurred in Britain is nothing short of a scandal. Even though crops were being grown under close supervision, our good friends the Luddites destroyed not the presses but the experiment.

Should the New South Wales Government provide prominent links from the New South Wales Agriculture and Environment Protection Authority web sites directly to the Gene Technology Regulator web site publicising trial site locations and the record of genetically modified organism and genetically modified product dealings? Should the gene technology legislation be reviewed, because of the new knowledge that has been acquired since the Act came into force, and, if so, what time period should be allowed between reviews? The Committee will further investigate the potential economic costs and benefits of genetically modified food. This will include examination of implications for individuals and the community as a whole on the economic, social, cultural and environmental costs from genetically modified food and non-genetically modified food. The Committee will further investigate implications of the precautionary principle, including perceived risks and benefits. The Committee will address the issue of labelling regulations in Australia and consumer information rights.

It is important to note that since this interim report was produced there have been considerable movements in labelling in Australia, with the agreement of the relevant Ministers throughout Australia. The changes have gone a long way to clarifying this issue. Again, the Committee asks to see the new information that has been put out by the Commonwealth and the States and also asks whether the implementation was with the approval of the people, particularly the people of New South Wales. The Committee will look further into the rights and responsibilities of producers of genetically modified food products in relation to the community as well as the producers of non-genetically modified food products. In particular, the Committee will investigate the implications of the Commonwealth gene technology regulatory framework for State government, local government and community interests.

The Committee will investigate issues about informed choice. The Committee will further research the implications of genetically modified food on international trade and will examine the potential costs and benefits to New South Wales on export markets from either restricting or facilitating the production of GM food products. The Committee will examine the implications of feeding genetically modified crops to animals that are utilised for food products from a market perspective. For example, in cotton production the aim of Bt toxin—which I believe is used with great approval in New South Wales—is to limit the application of pesticides, thereby reducing the risks associated with those pesticides throughout the community.

The Hon. Doug Moppett: That is what those greenies wanted.

The Hon. Dr BRIAN PEZZUTTI: Of course, but some countries, such as Japan, will not allow the importation of beef that has been grown on genetically modified product, whether it be cotton seed oil or cotton trash. As illogical as it is, it is an important consideration because the customer knows best in all respects. The Minister asked where the Committee went and what we did. In Rome we met with a senior group of people from the Food and Agriculture Organisation of the United Nations [FAO]. Mr Jose Esquinas-Alcazar, Secretary of the Genetic Resources for Food and Agriculture of the FAO, was at pains to point out that all the research is being undertaken by major companies. To continue the research the companies have to make a profit. Therefore, seeds, which may be economically valuable in the production of better crops, are very expensive in some parts of the world where production of food is vitally important. He said that Africa has just caught up with major technological changes that we have had the benefit of for many years.

As the Hon. Rick Colless said, technological changes have provided improved general nutrition, better soil management and better seed breeding by normal Mendelian breeding processes. Generally, that type of research has been funded by government, and government has been able to use the results to benefit the entire country. The production of rust-free wheat in this country was funded through the CSIRO, and the rust-free wheat product was made available to farmers at substantially no cost. Research into genetically modified food technology is not funded by government. In particular, the Carr Government has withdrawn funding for agricultural research. It continues to reduce the agricultural budget each and every year and increase regulations on farmers, making production more costly for them. As the Hon. Rick Colless knows, extension and research services will result in improved water application and food and nutrition for crops and animals. All this research and funding has now gone because of the Government's slash and burn attitude to country New South Wales and to agriculture generally.

The Hon. Doug Moppett: They are a lot of ring barkers.

The Hon. Dr BRIAN PEZZUTTI: They are more like clear fellers.

The Hon. Michael Egan: We are the first Government in 15 years that has taken the country seriously.

The Hon. Dr BRIAN PEZZUTTI: You are the first to have taken the country seriously to the cleaners, more like it.

The Hon. Jennifer Gardiner: Aquilina is an insult to all country people.

The Hon. Dr BRIAN PEZZUTTI: He is an insult to himself. The Committee needs people to respond to this report in a considered way so that we have an aspiration for the future and can get on with the business of growing food of quality and value in an environmentally and reproducible way.

The Hon. Richard Jones: Food that people want to eat.

The Hon. Dr BRIAN PEZZUTTI: That is right, that people want to eat. In Europe and in Australia the price of food is of no consequence in our budgets. I speak in general terms. The cost of housing and transport affects a family's budget vastly more than the cost of food. So people can be a bit choosy about food. In Europe the Committee went to Tasco shops, which sell organic and biodynamic products. Some of the products are more expensive than non-organic food, some are less expensive. The price varied a great deal, but the consumer can make a choice. The difference in price is not considerable for a European, an Australian or an American. But in Africa, price does matter. We must seriously consider how countries in Africa, Asia and the Middle East will be able to grow their own supply of food if we totally block this new technology or make it too expensive for them to use.

These are important considerations, and the FAO is trying desperately to get government to fund this type of research, rather than individuals having to pay for it. Governments can then use the technology for the

benefit of the people. Private companies cannot be expected to do it for nothing; they will go broke. The FAO has asked governments to invest in research into the best methods of farming, the best use of water and other resources, the best way to retain soil and stop salinity, and other issues. We went through the process of *Future Shock*—the Hon. Richard Jones is probably a great supporter of Mr Ehrlich—which stated in the mid-1970s that we would starve because we would run out of food. Now we hear this mantra all the time about growing organic food.

If we grew organics without fertiliser application, we would have to chop down every single tree that remains in the world to get enough land to grow the crops we need. There has to be balanced judgment and an appropriate use of the precautionary principle. We cannot be like Luddites and run around saying that the end of the world is near. We have to listen carefully to what people say. The report will reflect the evidence. This document is a non-editorialised document and includes the various shades of opinion and concerns that need to be addressed.

The Hon. Richard Jones will say that this is an interim report but that it contains considerable information. I was astonished that the honourable member did not address that report. I will wait to hear from the Hon. Richard Jones and the Hon. Ian Cohen, who serve on the committee, so that I will have whatever information and recommendations they can give to enable honourable members to make the best judgment that they can and to come down with a report that addresses the terms of reference.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.29 p.m.]: I strongly support the use in Australia of genetically modified products. This is a new generation of crop and plant development that is in keeping with the need to feed the millions of people on this planet today. I acknowledge much of the argument put by organic farmers that there is a niche market in many of the wealthier countries for organic products. I believe that Australia is well placed to pursue development of such crops. I do not believe, from my research, that there is a great difference between organic products and product derived from the use of modern technology.

In relation to the genetically modified crop debate there is a wealth of evidence to show that the statements made by scaremongers about genetically modified foods are quite inaccurate. They are inaccurate in their substance and in their attempt to make a great distinction between the development and evolution of crops for the use of humanity. Further, the scaremongers are trying to present genetically modified product as Frankenstein food, with the specific purpose of scaring off the peoples of a number of countries from using genetically modified product.

I have spent a fair bit of time looking into this question because, like the Hon. Richard Jones, initially I was very sceptical of genetically modified food. I wanted to know what the debate was all about. I read various publications sent to me by a number of people opposed to genetically modified production. I in fact read a letter sent to me by the Hon. Richard Jones. I do not think I will have adequate time to deal with my response to that letter at this point of the debate. Two people impressed me most with their views on the use of genetically modified products: Professor C. S. Prakash of the Centre for Plant Biotechnology Research, College of Agriculture, Tuskegee University, Tuskegee, in the United States of America; and Professor T. J. Higgins, the head of the Plant Industry Division at the CSIRO in Canberra.

I have had the opportunity to spend a considerable amount of time with both gentlemen, going through a whole raft of issues that have been raised by the Hon. Richard Jones. That honourable member made a well-researched contribution to this debate, but his contribution started from the biased position of opposition to genetically modified product and dealt only with that side of the argument. The article published by Professor C. S. Prakash in the May 2001 edition of *Plant Physiology* is entitled "From the Flintstones to frankenfood: The GM Crop Debate in the Context of Agricultural Revolution". From that article one can see that the main techniques used for the production of genetically modified product have not altered significantly from the various techniques used to develop plant technology over the past 3,000 or 4,000 years. Those who look very carefully at this wonderfully researched article will see that many different technologies have been used to evolve the approximately 100 crops that today are intensively cultivated to produce food.

The Hon. Doug Moppett: Not just Mendelian selection.

The Hon. IAN MACDONALD: No. Mendelian selection is but one aspect. For instance, I grow a crop which I am about to harvest, weather permitting. It is triticale, a grain derived from combining the cereal grains of both wheat and barley.

The Hon. Rick Colless: No, it is not.

The Hon. IAN MACDONALD: Which is it?

The Hon. Rick Colless: Cereal rye.

The Hon. IAN MACDONALD: That is correct, cereal rye and wheat. Over many centuries there had been nothing but unsuccessful attempts, using many different techniques, to combine the two grains. In the twentieth century a technique was found that enabled the combination of the two grains to form triticale, which is a very important, nutritious crop. At the moment it is a feed crop, but it is a cereal that has the potential to be used in many foods for human consumption. For instance, triticale flour can be consumed by many individuals who have a chemical or allergic reaction to wheat flour products. There is a niche market in Australia for the supply of triticale flour products for those individuals.

Triticale was developed in the 1940s and 1950s using nuclear technology to combine the two grains to create a new, stable grain. That process basically destroyed a number of reactants in one of the grains. The exact process is detailed in this article, which I am quite happy to circulate later to honourable members. The grain's resistance to combining, or breeding, with the other grain had to be broken down. Nuclear technology was used to alter the structure of the resistant grain to permit it to combine with the other grain and form a grain that produces a very important crop today—a crop that will have many other uses with further development. At the moment, that development is not being undertaken because the concentration is on wheat. But triticale, I believe, can provide a whole range of products that can be used in the future.

The Hon. Doug Moppett: Especially for people with coeliac disease: people who suffer a reaction to gluten products.

The Hon. IAN MACDONALD: Yes. A number of other technologies have been used over particularly the last 100 or so years following Mendel's development of traditional crop breeding, bringing a range of different foods to our table. I do not believe there is a total answer to the problems perceived to be associated with genetically modified product. For example, much of the literature that is against genetically modified foods speaks about the risks involved with such foods. It also talks about the chemical and allergic reactions that some people may have to it. Professor Prakash points out that every food that can be harvested and used, whether organic or not, has certain carcinogens or toxins that create allergies. I quote Professor Prakash:

While not alarming, our daily food naturally contains thousands of chemicals, and many of them are shown to be carcinogenic or hazardous in lab animal studies with huge doses.

So many of our daily foods, if consumed in huge quantity by people, will create allergies and difficulties. Professor Prakash continues:

We consume roughly 5,000 to 10,000 natural toxins daily, as plants have evolved to produce an array of chemicals to protect themselves against pests, diseases and herbivores (Ames et al. 1990a). For instance, roasted coffee has over 1,000 chemicals—of which 27 have been tested and 19 of them were found to be rodent carcinogens (Ames and Gold 1997). The fat-soluble neurotoxins solanine and chaconine are present in potatoes and can be detected in the bloodstream of all potato eaters (Ames et al. 1990b). Naturally then, when crops are bred for resistance to pests by transferring genes through conventional methods, the resistance is often accompanied by an increase in such toxic compounds.

That is the problem with undertaking a lot of reading on this subject. In the combining of various cereals and other food products the toxins that affect individuals are not necessarily eliminated. Professor Prakash continues:

Thus, it is not true that we never had problems with conventionally bred varieties. Any crop variety found to pose a real health risk was promptly removed from the market, but those varieties (in contrast to GM crops) were never routinely tested. One test-resistant celery produced rashes in agricultural workers and subsequently was found to contain 6,200 ppb of carcinogenic psoralens compared to 800 ppb in the control celery (Ames et al. 1990).

This was a crop that was developed and grown naturally but which when harvested contained a very high level of carcinogens. This celery was removed from cultivation, and that was also the case with various potato varieties. A lot more information is available but the possible presence of allergens or other toxins does not necessarily condemn a food to being described as "Frankenfood" or what have you. A lot of untruths have been spread, and rather dramatically, about many elements in the anti-genetically modified debate.

The Hon. Richard Jones: Can you show me?

The Hon. IAN MACDONALD: I am as sure of some of these issues as the honourable member, because I am as much a scientist as he is.

[Interruption]

It is easy to scare people about something new. That has been a time-honoured approach to development of anything new. If honourable members get the opportunity I suggest they read Prakash's very strong article, which I will circulate. He is one of the leading experts on genetic modification in the world today. He is not particularly well liked by some of the Bob Phelps types around the country, but he is a very powerful and knowledgeable person in this field. I do not want to focus on the Hon. Richard Jones, but I will refer to a couple of responses to the letter he sent to all honourable members seeking to form a sort of genetically engineered [GE] free New South Wales. I seek leave to have incorporated in *Hansard* a letter from Professor T. J. Higgins in response to the letter sent by the Hon. Richard Jones to all members of Parliament.

Leave granted.

The Hon. Ian M. Macdonald
Parliamentary Secretary
Parliament House
Macquarie Street
SYDNEY New South Wales 2001

Dear Ian

I am responding to your letter of February 13 concerning the proposal of a group within the NSW Parliament to establish a "GE-free NSW".

The well-meaning response of this Parliamentary group is a classical example of how it is possible for a committed minority group to put a seemingly convincing case that is largely based on selected quotes from pseudo-experts, near-truths and untruths. Their message, which is repeated in virtually every paragraph of Richard Jones' letter, is an exhortation to "Fear The Unknown!". We know that this is a very successful tactic. The media prefers to report disasters and potential disasters rather than potential benefits and, as a result, the general public gets the overall message of the committed minority with little exposure to the counter arguments.

A related problem is that it takes a lot more words to refute a claim of disastrous consequences than it does to make that claim. However, in response to Richard Jones' letter I would make the following comments on each paragraph:

Para 1 It is totally incorrect to assert that genetically engineered plants and the products made from them are not "adequately tested". The current regulations controlling the development and testing of these products in Australia are very comprehensive and the scientists doing this work applaud this situation. With the passage of the Gene Technology Bill in Federal Parliament, these controls will become even more stringent. There is no question that GM plants and their products are subjected to more testing than any non-GM products.

While it is true that some scientists express reservations about the release of GM products, most (but not all) of those quoted are not trained in the relevant scientific areas. I don't know of any scientist who is trained in this area who believes "it is so potentially dangerous that it should be banned altogether".

Although the bogey of large multinational corporations is commonly raised by opponents of genetic engineering, there are many scientists in Australia and throughout the world who are doing this work in universities and government organisations without any direct association with large corporations. These scientists are doing this work because they believe that genetic engineering has the potential to improve the efficiency of food production and the quality of the resultant foods. It is true that in the final stages of their work these scientists often need to seek a commercial partner to see their developments utilised. This is a far cry from the agenda being driven by "large corporations".

Para 2 It is difficult to comment on Mr Drucker's claims about what he calls the US FDA 'cover up'. One would need to know more about the statements of their own scientists—how many of them speak in favour of GE—are we just getting selective quotes? My instinct is to trust that the final decision of the FDA represented a consensus of all opinions expressed at their hearings rather than the interpretations of Steven Drucker on selected submissions.

Para 3 It is quite true that the introduction of new genes using genetic engineering procedures is usually (but not always) imprecise in the sense that, in the initial stages of a project, the first generation of progeny may be quite variable. This is also the outcome in any traditional breeding program where related parent lines are crossed. The standard procedure in both GE and traditional procedures is to test the first generation and discard any progeny that have undesirable characteristics and retain those that are expressing the sought-after trait. Mr Drucker's reference to this routine outcome is typical of the scare tactics used throughout his presentations.

Para 4 The L-tryptophan story is another favourite scare tactic. L-tryptophan has been produced as a product of large-scale bacterial fermentation for many years. Producers were aware that other by-products of the fermentation process were toxic and had to be removed during isolation of the L-tryptophan. Isolated cases of toxicity of the product were observed, indicating

incomplete removal of the by-product. A Japanese producer of L-tryptophan modified the bacteria by genetic engineering to increase the output of L-tryptophan in the fermentation process. At the same time, the producer changed the purification procedure with the result that the toxic by-product was not effectively removed. The consensus of opinion is that it was this change in the purification procedure, not the fact that the bacteria were genetically engineered, that was responsible for the tragic outcome.

The current regulations that require GM products to undergo extensive trials is the best safeguard we can have against unknown risks. It is very difficult to do more specific tests for unknown risks!

Para 5 It is hard to take the assertions in this paragraph seriously when it is clear that many farmers are keen to take up genetically engineered crops, for example, the cotton industry in Australia and the USA. They presumably can see the economic and environmental benefits of these crops. Any decline in GM crop plantings in the USA can be attributed to the grower's concerns that the anti-GM lobby might be successful in making their products unmarketable.

Para 6 The vague assertion that "US universities have also been revealing that GE crops rarely provide economic benefits to farmers" is completely contradicted by a recent report from the National Center for Food and Agricultural Policy in Washington. Production of this report was supported by the Rockefeller Foundation. I attach a copy of the Executive Summary. It is clear from this analysis that for all the major GE crops (corn, cotton, soybeans and potatoes) there have been tremendous financial and environmental benefits from the introduction of these crops and also that these crops have been taken up enthusiastically by the growers. Contrary to the claims in paragraph 6, the use of GE crops has resulted in a reduction in pesticide and herbicide sprays per unit of area.

In the light of these very clear environmental benefits, it is difficult to understand why the Greens would want to prevent the use of these crops in Australia. It seems to be the kind of thing they would want to support strongly. We have reports of residents of towns in the cotton-growing areas in the USA insisting that growers in areas surrounding the towns must use GE cotton because it reduces the amount of chemical spray drift that they receive. I am told that, on the same grounds, the Dubbo Shire Council recently approved an area near the town for cotton growing on condition that only GM cotton was grown.

Apart from its value in increasing crop productivity and reducing pesticide use, we believe that genetic engineering has great potential to improve the quality of our food. The recent reports of rice with increased levels of pro-vitamin A and iron are two examples; our own success in producing high-sulfur lupins that promote increased wool growth and live weight in sheep is another.

I think I have confirmed the point that I made at the beginning that it takes a lot more words to refute the kind of claims made by Steven Drucker than it does to make them. I hope this is of some help to you in preparing your counter arguments to Richard Jones' letter. I will provide some additional material which you may find useful when you visit on March 2, 2001.

Yours sincerely
TJ Higgins
23 February 2001

The Hon. Richard Jones: You should incorporate my letter, too.

The Hon. IAN MACDONALD: That is all right. We will do that later in the day. But honourable members already have the original letter from the Hon. Richard Jones.

The Hon. Richard Jones: Not everyone.

The Hon. IAN MACDONALD: You sent it to everyone, did you not?

The Hon. Richard Jones: No.

The Hon. IAN MACDONALD: You sent it selectively? Professor Higgins is a very nice fellow and I can tell honourable members that his reply to the letter from the Hon. Richard Jones is not exactly a hard-line letter that completely buckets the views of the honourable member. Professor Higgins said that we need to monitor and develop these products. Yes, there can be problems that evolve, but those problems can be managed. I spent some time looking at the development of a new genetically engineered plant that is resistant to fungicide.

The Hon. Richard Jones: Point of order: I made a mistake in giving permission for that letter to be published. He is presenting the views of Monsanto. T. J. Higgins is actually a hired gun for Monsanto. I apologise. I made a mistake in allowing you to publish it.

The DEPUTY-PRESIDENT (The Hon. Dr. Brian Pezzutti): Order! There is no point of order.

The Hon. IAN MACDONALD: Before I conclude I want to table the article by C. S. Prakash. I urge the Committee in its further deliberation to meet with Professor Prakash.

Leave granted.

Document tabled.

The Hon. IAN MACDONALD: I have another article that I wish to table, by Professor T. J. Higgins.

Leave not granted.

The Hon. Richard Jones: He is a hired gun for Monsanto.

The Hon. IAN MACDONALD: This has nothing to do with Monsanto.

The Hon. Richard Jones: He is paid by Monsanto.

The Hon. IAN MACDONALD: He is paid by CSIRO.

The Hon. Richard Jones: Out of its research fund.

The Hon. IAN MACDONALD: He is paid by CSIRO.

The Hon. Richard Jones: Where does he come from? Come on!

The Hon. IAN MACDONALD: He is paid by CSIRO. That was an absolutely disgraceful comment by the Hon. Richard Jones. The Plant Industry Division of the CSIRO receives money from everywhere. I do not know where it gets its funding from, but that is totally irrelevant.

The Hon. Dr Arthur Chesterfield-Evans: It makes a lot of difference.

The Hon. IAN MACDONALD: This is getting a little out of control. For instance, due to funding cuts most universities today unfortunately have to seek funding from various organisations for their research. They apply across the whole range of human endeavour at universities. It is wrong to single out Monsanto.

The Hon. Richard Jones: Why?

The Hon. IAN MACDONALD: Professor Higgins is a world-renowned figure. He knows more about genetic engineering than anyone in the environment movement or anywhere else. He has an international reputation. To try to suggest that somehow he has been duped by Monsanto, or something like that, is absolutely outrageous.

[Time for debate expired.]

Report noted.

CRIMINAL LEGISLATION AMENDMENT BILL

DISORDERLY HOUSES AMENDMENT (BROTHELS) BILL

Bills received.

Pursuant to sessional orders leave granted for procedural motions to be dealt with in one motion without formalities.

Motion by the Hon. Ian Macdonald agreed to:

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

Bills read a first time.

WOLLONGONG SPORTSGROUND AND OLD ROMAN CATHOLIC CEMETERY LEGISLATION AMENDMENT (TRANSFER OF LAND) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.47 p.m.], in reply: When debate was interrupted for the taking of questions I was in the process of replying to some of the comments made by the Hon. Dr Arthur Chesterfield-Evans, and to his amendments. The Government has a great regard for the descendants of those buried in Andrew Lysaght Park and would help them, if that were possible. However, their

views are mutually exclusive to the wishes of the Wollongong community. The local members for the area—David Campbell, Colin Markham and Marianne Saliba—have already publicly expressed their strong support for these projects. A number of community figures, including representatives of the Illawarra Steelers, the Illawarra Regional Development Board, Tourism Wollongong, Illawarra Business Chamber, the Wollongong Hawks and the Wollongong Wolves, have also expressed their support.

It is the Government's responsibility to take very seriously not only the concerns of the descendants but also the interests of the entire Wollongong community in terms of jobs, entertainment, sport and recreation. In response to the Greens amendments, I thank the Hon. Ian Cohen for his lengthy and detailed contribution to the debate. His amendments involve three principal concerns—availability of the land for recreation, prohibition on the use of the land for commercial purposes and a restriction on vehicular access. In relation to his first concern, the availability of the land for recreation, the Greens amendment requires that all the land, including that set aside for the restaurant, remain as green space.

The Government believes that it is important to strike a balance between uses of land. Accordingly, while allowing space for recreation, the Government is also approving the expansion of a restaurant onto the terraced area. This expansion also has permitted the return of other land to public space. I note the Hon. Ian Cohen's concern that the site be treated with sensitivity. The council will be required to manage the new park, the rest park, in a way that does not intrude on the recognition of and respect for the land as an old cemetery. In addition, the land must now be used only in ways consistent with a plan of management that the council will be required to prepare and which, I might add, the council has voluntarily agreed to prepare. These measures will ensure that the land will be used in ways in keeping with the natural and spiritual values of the old cemetery.

The second theme of the Greens amendments involves a prohibition on the use of the land for commercial purposes. The Government has noted the concerns of the Hon. Ian Cohen. We have included in our amendments a prohibition as outlined by the Hon. Ian Cohen, and we thank him for his sustained interest in this matter. In relation to the restriction of vehicular access, the final theme of the amendments, the Government has discussed the matter with the council, which has approved moving the road presently passing through lot 3 to the edge of lot 4. Unfortunately, it is not possible to remove the road completely as access is needed for some vehicles, including emergency vehicles. I asked an officer of the Department of Land and Water Conservation to speak to Mr Stuart Barnes of the Wollongong Sportsground Trust. The question put to Mr Barnes was: Will the existing concrete slab on lot 1 be of sufficient strength to support the construction of a restaurant and microbrewery without having to undertake any excavation work? Mr Barnes said:

The concrete slab is strong enough to support the proposed development without any underpinning or other foundation work having to be undertaken. I can categorically guarantee that no excavation work will be undertaken. The proposed construction is lightweight. Any supports for any part of the restaurant or brewery will sit on the surface of the concrete slab. There is enough builders fill under the slab, about two metres of it, to support the slab containing the restaurant brewery. I can categorically guarantee that no human remains on lot 1 will be disturbed in any way.

With that I—

The Hon. Rick Colless: Is that your undertaking or is that Barnes speaking?

The Hon. IAN MACDONALD: That is the Government's undertaking, based on Mr Barnes. I commend the bill to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 29

Mr Breen	Mr Harwin	Ms Saffin
Ms Burnswoods	Mr Hatzistergos	Mr Samios
Mr Colless	Mr M. I. Jones	Mrs Sham-Ho
Mr Costa	Mr Kelly	Ms Tebbutt
Mr Dyer	Mr Lynn	Mr Tingle
Ms Fazio	Mr Macdonald	Mr Tsang
Mrs Forsythe	Mr Oldfield	Mr West
Mr Gallacher	Mr Pearce	<i>Tellers,</i>
Miss Gardiner	Dr Pezzutti	Mr Moppett
Mr Gay	Mr Ryan	Mr Primrose

Noes, 7

Mr Chesterfield-Evans
Mr R. S. L. Jones
Mrs Nile
Reverend Nile
Ms Rhiannon
Tellers
Mr Corbett
Mr Wong

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Clause 5

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.00 p.m.]: I move Government amendment No. 1:

No. 1 Page 2, proposed section 5 (4), line 29. Omit "Issue C". Insert instead "Issue E".

I seek the Committee's concurrence with this amendment.

Amendment agreed to.

Clause 5 as amended agreed to.

Schedule 1

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.01 p.m.], by leave: I move Government amendments Nos 2, 3 and 4 in globo:

No. 2 Page 3, schedule 1 [1], line 9. Omit "Issue C". Insert instead "Issue E".

No. 3 Page 5, schedule 1. Insert after line 23:

[8] Schedule 4 Savings and transitional provisions

Insert after clause 4:

4A Survey of Portion 95

- (1) This clause applies to all that piece or parcel of land situated in the County of Camden Parish of Wollongong at Wollongong being Portion 95, as referred to in paragraph (b) of Part 1 of Schedule 1.
- (2) The Trust must cause the land to which this clause applies to be surveyed as soon as practicable after the commencement of this clause to determine the correct position of the boundaries of the land.

No. 4 Page 5, schedule 1. Insert before line 24:

[9] Schedule 4, clause 4B

Insert before clause 5:

4B Removal and reburial of remains in Portion 95

- (1) This clause applies to all that piece or parcel of land situated in the County of Camden Parish of Wollongong at Wollongong being Portion 95, as referred to in paragraph (b) of Part 1 of Schedule 1, other than any part of that land on which is situated (as on the day this clause commences) a road, building or other permanent structure.

- (2) The Catholic Cemeteries Board (*the Board*) may locate, exhume, and remove the remains of any person buried in the land to which this clause applies.
- (3) Any such remains located by the Board must be reburied in a suitable position in Andrew Lysaght Park determined by the Board following consultation with the Council of the City of Wollongong (as trustees of the land comprising the Park).
- (4) The Trust must reimburse the Board for such reasonable costs as the Board incurs in the exercise of its functions under subclause (2) as the Trust has approved of in writing.
- (5) The Trust must grant the Board access to trust lands to enable the Board to exercise its functions under subclause (2).
- (6) The Trust must not commence any construction work on the land to which this clause applies unless the Board has first been given a reasonable opportunity to exercise its functions under subclause (2). The Board must not unreasonably delay in exercising those functions.
- (7) This clause has effect despite the provisions of any other Act or law.

The Hon. PETER BREEN [4.02 p.m.]: I support the amendments. Government amendment No. 2 relates to the plan, called the redefinition plan. There is an existing plan, which has an easement down the centre of what was lot 113. The purpose of Government amendment No. 2 is to produce a new plan that does not include an easement. The object of that provision is to move the proposed access road to the eastern side of the park. I support the amendment as it is an important outcome from the negotiations. The Government is to be applauded for that amendment. Government amendment No. 3 relates to a survey of portion 95, an area that was formerly part of the cemetery and was transferred to the sportsground trust in 1986. In that area there is to be a survey and an exhumation of bodies.

On figures that I have seen, it is likely that there are 23 bodies in that area. It ought to be emphasised, however, that no-one really knows what is in some parts of an area about the size of a quarter-acre block. I suggest that the amendment requiring the survey is an important one. Government amendment No. 4 provides for the removal and reburial of the remains in portion 95. The amendment refers to the conditions under which the remains are to be removed and reburied. I draw attention to the cost of that. The amendment inserts a new subclause (4), which states:

- (4) The Trust must reimburse the Board for such reasonable costs as the Board incurs in the exercise of its functions under subclause (2) as the Trust has approved of in writing.

That is not an entirely satisfactory provision, because it gives the trust the sole right to be the arbiter as to what constitutes reasonable cost. Various figures have been bandied about during debate, one being \$20,000 per body if lot 1 were to be exhumed. I would not expect the figure to be anywhere near that; it is more likely to be \$1,500 per human remains, being the cost of exhumation and a further \$500 or so for the likely cost of reburial in Andrew Lysaght Park. It is important to put those figures on the record, because of the open-ended nature of the provision. I thank the Chairman for his indulgence.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.05 p.m.]: I reiterate that the Government's amendments are based upon representations from the Hon. Peter Breen.

The Hon. RICK COLLESS [4.05 p.m.]: The Opposition supports Government amendments Nos 2, 3 and 4. It is appropriate that a survey be carried out of portion 95. The boundaries of that portion are somewhat indistinct because of development over many years. There is a need to clearly identify the boundaries of that portion. The Opposition supports Government amendment No. 4, which refers to removal and reburial of the remains in portion 95. As the Hon. Peter Breen pointed out, the subsequent parts of amendment No. 4 relate to the conditions under which the education and reburial will proceed.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.06 p.m.]: The Democrats support Government amendments Nos 2, 3 and 4 because they involve the exhumation and reburial of the remains under the grandstand. This precedent should be set for all the remains under all buildings at the site. We approve of what the Government is doing in this matter, and that approach should be taken all over the site. I am disappointed that this is happening on the implementation of the Catholic Church, because it should be adopted universally for the whole site.

The Hon. IAN COHEN [4.07 p.m.]: Likewise, the Greens support Government amendments Nos 2, 3 and 4. As I said in my contribution to the second reading debate, whilst we see this as a compromise, it would be appropriate that a survey be undertaken, and exhumation, and that the remains be reinterred in the area of the grandstand. Along with the Democrats, the Greens believe that the whole area should be dealt with now, before the site is further developed and these types of problems arise further down the track. In principle, the Greens are happy that the remains will be exhumed and reburied.

Reverend the Hon. FRED NILE [4.08 p.m.]: The Christian Democratic Party supports Government amendments Nos 2, 3 and 4 and commends the Government for this solution. It will avoid the problem of foundations impacting upon any remains as the grandstand is completed. We want the grandstand to be completed; even those of us who are concerned about the cemetery do not wish to stop construction of the grandstand. This amendment will permit that construction to proceed without in any way affecting the cemetery. The other question in my mind is: Once the remains are exhumed, where will they be placed? The remains should be relocated in the cemetery, but does that mean that by removing the concrete in the area below the terrace, the remains will be placed nearer the grassed area near the beach? I ask the Parliamentary Secretary to explain where the remains will be placed.

The Hon. PETER BREEN [4.09 p.m.]: In answer to Reverend the Hon. Fred Nile's question, there has been some discussion with council about where the remains are to be buried. It is clear that the proposed foreshore development plan will include a redevelopment of the whole of Andrew Lysaght Park, which will be properly delineated as a rest park, and part of the rest park will be dedicated to the remains that are uncovered from portion 95. No specific agreement has been reached at this stage on exactly which part of Andrew Lysaght Park will be the final resting place of those remains, but it will be a sensitive and appropriate place.

The Hon. Dr Arthur Chesterfield-Evans: They don't even want to dig up the paving.

The Hon. PETER BREEN: But they will be digging up the paving. The redevelopment plans clearly show part of the paving being dug up. A number of options have been mooted, but an appropriate place will be found, a grassed area where the remains will be reburied.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.10 p.m.]: A later Government amendment makes it clear that any such remains located by the board must be reburied in a suitable position in Andrew Lysaght Park determined by the board following consultation with the city of Wollongong.

Reverend the Hon. Fred Nile: I understood that. I was asking where in the park.

The Hon. IAN MACDONALD: In a suitable location.

Reverend the Hon. Fred Nile: Have you selected a position in the park?

The Hon. IAN MACDONALD: The appropriate location.

Amendments agreed to.

The Hon. IAN COHEN [4.11 p.m.], by leave: I move Greens amendments Nos 1, 2 and 7 in globo:

No. 1 Page 4, schedule 1 [5], proposed section 12A (1), lines 6-12. Omit all words on those lines. Insert instead:

- (1) This section applies to the land comprising part lot 94, DP 751299, City of Wollongong, as shown edged black and marked "Lot 7" on the redefinition plan.

No. 2 Page 4, schedule 1 [5], proposed section 12A (2) (b), lines 19-24. Omit all words on those lines. Insert instead:

- (b) is taken to be dedicated under the *Crown Lands Act 1989* for public recreation.

No. 7 Page 8, schedule 2 [5], lines 15-21. Omit all words on those lines. Insert instead:

, other than the land comprising part lot 94, DP 751299, City of Wollongong, as shown edged black and marked "Lot 7" on the redefinition plan.

The purpose of these amendments is to retain the area of land proposed to be developed for extension of the brewery in Andrew Lysaght Park. The Greens oppose the extension of the brewery, which will encroach on the park. The amendments will not affect the grandstand. Over the past day I have received numerous letters from people in the community who strongly believe that no development should be permitted in this area of the park. I will quote from letters of relatives of those interred in that area. Terry Bugg, Group President of the Illawarra Family History Group, stated:

I have been asked to inform you of the position of the Committee and members of the Illawarra Family History Group, with reference to the proposals dealing with Andrew Lysaght Park, in Wollongong.

1995 marked the beginning of many layers of subterfuge being foisted on the citizens and the heritage of Wollongong.

We as the heirs of our heritage were asked to attend a public meeting, 14 March 1996, to discuss changes and alterations then being planned by Wollongong City Council, with the concurrence of the Government of the State of New South Wales. One of the highlights of this meeting was the exhibition of a series of plans showing Andrew Lysaght Park as an attractive and open green space. We were told that after giving our names and addresses, we would be contacted if there were to be any major alterations to the basic idea of this area being used as an open park for the people of Wollongong.

You can well imagine our horror when we were shown the final version of an open green space. Concrete, a veritable sea of gray, and a terrace that council steadfastly refused to believe was in Andrew Lysaght Park. I can assure you at no time was any person who was present at that meeting ever contacted about any changes, large or small.

We now have a proposal to allow an industrial complex for the brewing of beer to be erected on our pioneers.

One of the proposals before you is to remove the area of the terrace from Andrew Lysaght Park. We are opposed to this. Allowing the construction of this terrace was an underhand occurrence in the first place. But to now say we can simply remove it as a cemetery, with the stroke of a pen is truly an insult to those citizens of Wollongong who built this city. Their last resting place should be just that, a resting place.

We as a group of over two hundred members and with affiliations to hundreds of History and Heritage groups world wide, believe most firmly that if this present Government wishes to denigrate the memory of our pioneers, then it, the Government, should pay the costs involved in exhuming the remains contained within the disputed grounds. We also believe that the said remains should be reburied in Andrew Lysaght Park and that Andrew Lysaght Park should be returned to the citizens of Wollongong as a space where true respect is paid to our past and future.

Robert and Marjory Henderson of Koonawarra stated:

I must say that I cannot support the extension of the restaurant and micro brewery over the terrace which is part of the cemetery land. I think it an absolute insult that the Department of Land and Water Conservation, Wollongong City Council, Wollongong Sportsground Trust and the Five Islands Brewing Company proponents are still persisting with the proposal to enclose the terrace area for the sale of the beer over gravesites.

Mr R. P. Rowles of Woonona wrote in the following terms:

How shocked I am to just hear that the Roman Catholic Church here in Wollongong has backed down from the demands calling for exhumation of the whole of the Old Roman Catholic Cemetery and are sanctioning the development of the MICRO BREWERY over the graves of my family ...

At least in 1996 we were asked how we would like our family remains treated. That was with dignity we thought, as some compassion was granted to us.

But this time we are being insulted and our family humiliated in the fact that at no time has your department given us a fleeting thought when this proposal was planned. The ultimate insult is for the extension of this brewery onto the raised terrace over the Old Roman Catholic Cemetery. I have noted that this brewery established in the Wollongong Entertainment Centre is open and operational, and your department has allowed this to be developed on Crown Land. Can you tell me what is planned for the remaining portion of the cemetery land, perhaps a casino, why not humiliate us a little more.

Mr V. F. Hurry of Cordeaux Heights stated:

I implore you NOT to legislate to excise Area 1 (Raised Terrace) from said Andrew Lysaght Park. As well as many other Pioneers' graves, several graves containing the remains and artefacts of the ancestors of local people who, like myself, are fighting so hard to retain the sacredness of this original old Wollongong Cemetery lie beneath this raised terrace.

Finally, Mrs Joyce McDonell of Coniston wrote:

At the official launch of the Wollongong Entertainment Centre at Foreshore Plaza (Andrew Lysaght Park) on Friday 18 December 1998, it was stated that the area that is now being sought has great heritage and historical value and would always remain a public access area for all people to enjoy, and "Wollongong City Council has been involved with trying to ensure that development on the site takes proper consideration of its important history." ...

It is the responsibility of the NSW Government of the day to ensure and protect all public land, parks and foreshores which is our Heritage.

With those comments from concerned people in the community I commend Greens amendments Nos 1, 2 and 7 to the Committee.

The Hon. RICK COLLESS [4.17 p.m.]: The Opposition does not support the amendments. We have carefully considered the issue and understand it is a sensitive and delicate matter. The descendants of the people buried in the area fully acknowledge the sensitive nature with which this matter needs to be addressed. The amendments prevent the excision of lot 1 from the park and will allow some development to occur over that terraced area shown as lot 1 on the plan. The Opposition is very much aware of the needs and requirements of the Catholic Church in relation to what happens to those remains. The Catholic Church would not like any disturbance of the remains under the area known as lot 1.

As late as last night I had a discussion with one of the descendants, who alerted me to the fact that there were plans to excavate the area known as lot 1. This morning I had a number of discussions with the department and government advisers in regard to what will happen to lot 1. I am assured by the Hon. Ian Macdonald that there will be no excavation of that area. Indeed, the document he quoted in the second reading speech indicated that there was sufficient pavement to erect structures over that area to meet the needs of the Catholic Church and that the remains of the people buried under that area will not be disturbed. Any remains that will be disturbed by excavation should be exhumed. That applies particularly to portion 95. We support the exhumation, removal and reburial of those remains. However, given the Government's commitment that there will be no excavation of lot 1, we cannot support the Greens amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.20 p.m.]: The Government opposes Greens amendments Nos 1, 2 and 7. I outlined our position in considerable detail in my reply to the second reading debate.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.20 p.m.]: The Australian Democrats support the amendments, which we believe go to the heart of this issue. I note that section 4 of the Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969 states that the land described in the first schedule of the Act is dedicated as a public park and shall be deemed to be a public park within the meaning of the Public Parks Act 1912. Section 4 (3) states that that land shall be maintained by the council as a rest park and, notwithstanding anything in any other Act but subject to the provisions of this Act, the council shall not use that land or permit it to be used for any other purpose.

The council has breached that provision totally. It allowed the terrace to be built and is now acting as though the onus of proof is reversed and that those who wish to remove the terrace are upsetting the natural order of things. The fact that we are considering these measures at the last minute because the council went ahead and entered into negotiations on the assumption that Parliament would roll over and agree to whatever it wanted, is an insult to this place. It is amazing that no-one else has pointed that out. The Government—the Labor mates, if you like—assumed that this would happen quietly. I am disappointed that the Catholic Church has rolled over on this issue. I urge honourable members to support the Greens amendments.

Reverend the Hon. FRED NILE [4.21 p.m.]: This is the second part of the controversy, the first being the grandstand, which one might consider to be the big issue. The hidden issue that somehow slipped into the Government's legislation is legalising the establishment of a brewery and a restaurant on the site of a cemetery. That is basically what this legislation seeks to do. That intention has not been explained fully. In fact, I do not recall hearing Government members give details of the size of the proposed brewery or the restaurant.

The Hon. Dr Arthur Chesterfield-Evans: Eight big vats.

Reverend the Hon. FRED NILE: I know that, but there is a restaurant as well. How big will the commercial operation be? It seems to be rubbing salt into the wound to erect a brewery on a cemetery. It is admitted that there are human remains in the terrace area, which is an elevated part of the cemetery. When I inspected the land with some of the descendants of those who are buried there I saw through a window a number of great copper or bronze tanks that are established inside the building where I gather they are operating. They are probably eight or nine feet high and two or three feet wide. The question is: Why can they not stay where they are? Why is there an urgent push to expand onto the terrace? There are already catering facilities in the building, so this is an expansion of the commercial operation into the cemetery, which has been blocking that expansion.

I do not know whether it realises this fully, but the Government is aiding and abetting that commercial operation by allowing the establishment of a brewery and a restaurant on the terraced area that is part of the original cemetery. The bill uses the term "excised". This means that part of the cemetery will be chopped off and will no longer be part of Andrew Lysaght Park. This legislation takes the unusual step of declaring a cemetery a non-cemetery. The bill refers to land designated "for tourist purposes", and that is what this issue is all about. We support the Greens amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.25 p.m.]: In answer to Reverend the Hon. Fred Nile's question about the size of the commercial operations, the restaurant area extension will be about 722 square metres. It has been clearly assessed that the current size is far too small.

The Hon. Dr Arthur Chesterfield-Evans: For what?

The Hon. IAN MACDONALD: For running a restaurant. However, to offset the excisions it is proposed that an area of about 2,222 square metres, which is presently a public road, will be added to the park. It is also proposed that an additional 2,395 square metres of land, which is also a public road, will be classified as community land. So, while there is to be an extension of about 722 square metres, an overwhelming excess of land will be added to the public domain.

The Hon. PETER BREEN [4.26 p.m.]: I do not support the Greens amendments. The Hon. Ian Cohen said that he had received a number of letters from people, many of whom were descendants of those who are buried in the cemetery. I do not disparage their views in any way and I am no defender of the church's position. I do not represent the church, as the Hon. Dr Arthur Chesterfield-Evans pointed out this morning. I make my own decisions about how I vote in such matters. However, the reality is that the church has not backed down or consented to anything. The church has been put in an invidious position by the development of the stadium. The Government has gone ahead and built the stadium extension as though it were entitled to do so without consulting the church or anybody else.

It has taken this action on the basis that the land on which the stadium is built was excised from the cemetery in 1986. I do not know what happened then and why the issue was not addressed at that time. The fact is that it was not. The church has tried to reach a compromise that will enable it to access the bodies buried in portion 95, where the stadium will be extended to, but the negotiations were unable to include lot 1. The reality is that compromises are made in negotiations such as this. The cemetery has been preserved. It has been properly delineated and will be upgraded as a result of those negotiations. The access road will be extended beyond the park.

The Hon. Dr Arthur Chesterfield-Evans: It already is.

The Hon. PETER BREEN: It is not. It is extended under this legislation only as a result of negotiations. Unfortunately those negotiations did not include the exhumation of bodies from lot 1. This is a compromise position and I do not see any value in arguing in support of digging up concrete, steel and builders rubble and thereby disturbing the area further. The entertainment centre was built three years ago and its foundations extended into the cemetery. Bodies were uncovered and the Heritage Council said that they must be protected. Concrete and plastic were put over the remains just over three years ago. To interfere with that work—which would happen if lot 1 were to be excavated—would be a greater desecration of the remains than to leave them in place. On that basis, I cannot support the amendments.

The Hon. RICK COLLESS [4.29 p.m.]: In the past the trust has made a number of changes to that area without the concurrence and approval of the community, particularly the descendants and the Catholic Church. During the early excavation work that was undertaken when the entertainment centre was built, I understand that some remains were uncovered and re-covered with concrete. The descendants were understandably very upset about that, and that action has led to a degree of mistrust between the descendants and the community and the trust itself. We need to recognise that the trust, which is in charge of that area, is subservient to the Department of Land and Water Conservation.

The department needs to make sure that the trust operates in accordance with its terms and conditions and in the best interests of the community and the descendants. I put on record that the department needs to make sure that the descendants' and the community's needs are taken into account before any further work is done by the trust. I refer in particular to lots 2 and 3. If there is to be any further work in the future on those areas, the department needs to be upfront and make sure that the trust tells the community and the descendants about its long-term plans.

The Hon. IAN COHEN [4.31 p.m.]: I hope to correct some confusion that has arisen about the amendments. The amendments do not relate to exhumation; they relate to concerns that the Greens have about the tenure of the land. We do not want the land handed over to another body, which would be an alienation of Crown or public land. That is the basic thrust of the amendments. There is no exhumation involved in the nature of these amendments.

Reverend the Hon. FRED NILE [4.32 p.m.]: I thank the Hon. Ian Cohen for clarifying that matter. I understood the purpose of the amendments to be as he stated. The Hon. Peter Breen spoke about the problem of removing the bodies, but there is not any reference to exhumation in the amendments. If the bill is passed as it stands, the bodies cannot be exhumed. The land will no longer be part of the cemetery, it will become part of the trust, and that would make it difficult legally to exhume the bodies. The descendants made it very clear to me that although a brewery or restaurant is not presently on the site, the cement pavilion area is already used as a beer garden. People flow from the building with their drinks and cigarettes onto this area.

I do not criticise those people; they probably do not have any idea that they are standing on cemetery land. If that situation occurs now, before the installation of a brewery and restaurant on the terrace, how will the council guarantee that the area covered with cement tiles will be treated as a cemetery? It will operate like a beer garden. People will buy their drinks and come out of the building onto this cement pavilion area. Although the Government has promised that the area will be treated with respect, how can it stop people congregating outside? Human beings mill about outside hotels, and they will do the same outside this restaurant and brewery. The Christian Democratic Party supports the amendments.

The Hon. PETER BREEN [4.34 p.m.]: Reverend the Hon. Fred Nile's statement about the existing brewery and restaurant facility is correct. This facility will extend onto the terrace, perhaps much more than Reverend the Hon. Fred Nile realises. The intention is to extend the bar and restaurant and to place brewing vats in that area. After this legislation is passed, that land, for all intents and purposes, will be part of the entertainment centre. I wish to refer to a point made by the Hon. Dr Arthur Chesterfield-Evan about Greens amendment No. 2. The purpose of the amendment is to clarify a zoning issue and to require that the land be specifically dedicated for public recreation.

I point out that the remaining part of the cemetery is already designated as rest park. Proposed subsections (4) and (5) of section 4 are to be added to the provisions of the Old Roman Catholic Cemetery Act 1969, which is still in operation. The land is still a rest park. The reason for a different type of zoning, such as a recreation area, is to deal with two problems. Firstly, lot 1 requires a tourist zoning so that it can be used for its intended purpose and, secondly, the parcel of land that was formerly roadway has to be dedicated in this way to overcome the lack of a specific provision in the Crown Lands Act to deal with a roadway becoming part of a rest park.

Amendments negatived.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.37 p.m.]: I move Australian Democrats amendment No. 1:

No. 1 Page 5, schedule 1 [5]. Insert after line 17:

12D Removal and reburial of remains

- (1) This section applies to the land shown edged black and marked "Lot 1" on the redefinition plan and any other prescribed land shown on the redefinition plan.
- (2) The Catholic Cemeteries Board (the **Board**) must locate, identify, remove and rebury the remains of all persons buried in the land to which this clause applies.
- (3) In complying with subsection (2), the Board must:
 - (a) act as soon as practicable after the day this section commences, and
 - (b) act in consultation with the Trust in relation to the Board's access to and work on trust lands pursuant to this section, and
 - (c) ensure that any remains are assessed and identified by a heritage consultant approved by the Board, and
 - (d) consult with the Illawarra Family History Group, the Society of Australian Genealogists, the Illawarra Historical Society and known descendants of persons whose remains are located.
- (4) The Trust must grant the Board access to the land to which this section applies for the purposes of locating, identifying and removing the remains of persons who are buried there.
- (5) The Trust must not begin or continue to carry out any construction work on land to which this section applies until the Board has, in accordance with this section, finished locating, identifying and removing the remains of persons buried there.
- (6) The Trust must erect and maintain a memorial plaque in a suitable location in Andrew Lysaght Park to commemorate the Park's use as a cemetery.
- (7) In this section, **construction work** means any work carried out on the land to which this section applies in connection with the erection of a building or other structure on the land.

The amendment allows for the digging up of the terrace, which was built at the same time as the entertainment centre. I do not know whether the paving of the terrace over the cemetery was legally done. It seems to me that

under the definition of the land it was done illegally. In a sense, this bill is a post facto legalisation of what has already taken place. Interestingly, those of us who oppose this abrogation of the land are seen as usurpers or destroyers. In fact, all we ask is that the terrace part of the land remain in the cemetery and that the bodies beneath be treated decently and returned to an area that is to be called a rest park. This amendment simply provides for the removal of the bodies from lot 1 in the plan. I believe only one-half to one metre of builders fill was used in that area. The terrace is not raised much above the rest of the land and is merely a step down. The concrete slab would be dug up and the bodies removed to another part of the park.

We would prefer that the bodies be moved to a better area. As I said in my contribution to the second reading debate, the area that is left—with a main gate and a stadium on one side, a main road on another side, a brewery or beer garden on yet another side, and a beach, a road, a car park and access road on another—is unlikely to be maintained as a serious rest park, as was pointed out by Reverend the Hon. Fred Nile. We are asking only that this should happen. We understood that the Government was willing yesterday to grant this request and provide the funding. When the residents said they would like the bodies moved further away, the Government said, "You have asked for too much, so we will give you nothing," and withdrew its offer.

I ask the Government to reconsider the offer it made yesterday. I ask the Government to do the right thing, accept this amendment, clean up the area under lot 1 in the interests of the relatives of Andrew Lysaght, and show some respect for the people buried under that site, the pioneers of the city of Wollongong. I note that the term "rest park" is not defined in the bill. Given that the area has been paved, abused and turned into a place for temporary tents to be pitched whenever there is a conference to be had, or an extra dinner needed, the fact that the term "rest park" has not been defined is a source of worry. I hope that the Minister will make absolutely clear what he means when he says it is going to be a rest park. I urge honourable members to support this perfectly reasonable amendment.

The Hon. IAN COHEN [4.41 p.m.]: The Greens support the amendment. It applies, as I understand it, the same requirements on the brewery site, lot 1, as the Breen compromise, which applied to the grandstand site. The Greens believe the Government could take this historic opportunity to resolve the problems in all areas before we go any further.

Reverend the Hon. FRED NILE [4.42 p.m.]: The Christian Democratic Party supports the amendment in principle. My concern is that a very important part is missing from it. The Government's amendment dealing with the removal of remains in the grandstand area provides, "The trust must reimburse the board for such reasonable costs as the board incurs in the exercise of its function ...". There is no mention of that in the amendment moved by the Australian Democrats. If the amendment is agreed to in its present form, we would be putting heavy economic pressure on the Catholic board and on the diocese. The question is whether it is covered by the Government's amendments. The way this amendment is worded, I do not think it was. A question has been raised about whether the earlier amendments moved by the Government would mean that the amendment we are now discussing, Australian Democrats amendment No. 1, would automatically involve the trust in reimbursing the board for its expenses. I do not think it would. I want to get that issue clarified. If the amendment is agreed to, who will pay for that to be done? If the board does the work, would the trust reimburse the board?

The Hon. Ian Macdonald: Yes.

Reverend the Hon. FRED NILE: Well, that is another matter in its favour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.43 p.m.]: My apologies, if that has been omitted. Certainly my understanding is that the trust would be paying for this. The trust is the developer and the trust will receive the rental from the changes. No, I do not think one could ask the Catholic Cemeteries Board to pay. I would certainly accept an amendment to that effect.

Reverend the Hon. Fred Nile: If the Government guarantees that that is what it means, that is sufficient.

The Hon. Ian Macdonald: That is exactly what it means.

The Hon. PETER BREEN [4.44 p.m.]: This question of costs goes to the heart of the matter. The amendment relates to a parcel of land, lot 1, which is not covered by the Government's amendment. Whilst the Government's amendment does assure reimbursement to the Catholic Cemeteries Board in respect of portion 95,

if this amendment were to pass, the Catholic Cemeteries Board would be doing the work off its own bat, so to speak. The cost of removing bodies from this area, where there is concrete, steel and builders' rubble, is of the order of \$20,000 per human remains. Whereas, in the other area, where there is no concrete, no steel and no rubble, the cost is of the order of \$1,500, plus an additional \$500 for reburial. I think it is quite unfair to suggest that the Catholic Cemeteries Board should bear the cost of this very expensive exercise. If 40 bodies are involved, as the Hon. Dr Arthur Chesterfield-Evans has suggested, and that figure is multiplied by \$20,000, we are talking about a cost of around \$800,000.

The Hon. Ian Macdonald: And that does not include reinterment costs.

The Hon. PETER BREEN: Whatever the cost is, it is close to \$1 million. On that basis, I will not be supporting the amendment. I want to repeat the remarks I made earlier in relation to the work that has already been done at the time when WIN Stadium was built and human remains were found. The remains were covered in concrete and plastic and preserved in a particular way that would be disturbed if this amendment were to be passed and the terraced area were to be dug up. As I said before, that is a good reason not to support the amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.46 p.m.]: I think that the estimate of \$20,000 for removing human remains is an absurd scare tactic. The suggestion that removal of a concrete slab, a relatively small amount of builders rubble and then a body would cost \$20,000 in this area but only \$1,500 in an area that has to be excavated is an exaggeration to create fear. I do not believe that the Catholic Cemeteries Board should pay for this. It involves a development of the trust and the trust would have to pay for it. Obviously the Government would underwrite that.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.46 p.m.]: In relation to the points made by the Hon. Dr Arthur Chesterfield-Evans, I reiterate that the Government met with the descendants of those buried at the site. The statements that have been made by the Hon. Dr Arthur Chesterfield-Evans in relation to that meeting are inaccurate. They do not reflect correctly what occurred at that meeting, at which I note the Hon. Dr Arthur Chesterfield-Evans was not present. The Government made an offer, a compromise position, whereby lot 1, the terrace, would be dug up and any bodies found underneath exhumed and reinterred.

This would have cost several hundred thousand dollars and caused considerable delays, in addition to being objectionable to those who did not want the bodies disturbed but preferred that they remain under the concrete. I reiterate the trust's commitment that the bodies beneath the site will not be disturbed. In response to the offer from the Government, the descendants indicated that the Government's offer was not acceptable. It was the position of the descendants, rather than the Government, that the situation was all or nothing. A decision needed to be made. Accordingly, as stated earlier, the Government indicated to the Democrats that it would be pointless to pursue a policy that none of the parties wanted to pursue.

The Hon. RICK COLLESS [4.48 p.m.]: The Opposition will not be supporting this amendment, for the reasons I outlined earlier. I was pleased to hear the Hon. Ian Macdonald reaffirm that the bodies beneath the terrace will not be disturbed. That was the issue the Opposition was most concerned about. If the bodies were to be disturbed, the Opposition may well have taken a different stance to this amendment. Given that the Catholic Church is comfortable with the assurance that the bodies will remain there undisturbed, and the Parliamentary Secretary has given a commitment that they will not be disturbed, the Opposition sees no reason to remove and rebury the remains of those buried under lot 1.

The Hon. ALAN CORBETT [4.49 p.m.]: The Parliamentary Secretary, on behalf of the Government, has given that commitment. Is the Parliamentary Secretary able to tell us what supervision will be present on the site to ensure that the bodies are not disturbed? Is the Hon. Ian Macdonald able to tell us how the descendants of the people who may be buried on the site can be assured that the bodies will not be disturbed? Can he suggest who may be invited to be present at that time so that they can watch what is going on?

Reverend the Hon. FRED NILE [4.50 p.m.]: The descendants have stated that they are happy to support the amendment. There is some debate about whether they said "all or nothing". The Hon. Ian Macdonald has obviously been briefed on that. They are now saying that they did not make that a condition and they would be happy to accept the Government's offer in relation to the terrace. That is what the amendment is dealing with. The Hon. Ian Macdonald spoke as if the amendment dealt with the whole area.

The Hon. Ian Macdonald: No, I said lot 1.

Reverend the Hon. FRED NILE: Yes, lot 1 is just the terrace.

The Hon. Ian Macdonald: That is just what I said. Hundreds of thousands of dollars would be involved because that area is under a lot of concrete and fill. The Catholic Church does not want it dug up. That is my understanding.

Reverend the Hon. FRED NILE: The second amendment deals with the whole area. This amendment deals only with the terrace. The descendants were happy to accept the Government's offer. If the Government could renew that offer, they could then support this amendment. This amendment is really the Government's offer in the form of an amendment.

The Hon. ALAN CORBETT [4.52 p.m.]: I asked the Parliamentary Secretary how we can be sure that the bodies will not be disturbed. I would like an answer.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.52 p.m.]: I said something to the Hon. Alan Corbett privately but I am happy to put the Government's position on the record. Lot 1 is covered by a considerable amount of concrete and fill. The various relevant authorities in Wollongong will be monitoring precisely what goes on there. I am assured, and I can assure the honourable member, that there will not be any disturbance of the bodies underneath.

The Hon. Alan Corbett: Who are the relevant authorities?

The Hon. IAN MACDONALD: It would be the trust, the council and the department.

The Hon. RICK COLLESS [4.53 p.m.]: I reiterate my earlier comments about the relationship between the trust, the department and the descendants. In relation to the concerns expressed by the Hon. Alan Corbett, the trust has an important role to play in making sure that what occurs is above board and transparent. The people concerned should know about it. The trust has a responsibility to the people of the area, the people buried there and their descendants. And the department has a responsibility to make sure that the trust honours its commitments in that regard. Much better communication should occur between the trust, the department, the community and the descendants.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 8

Dr Chesterfield-Evans
Mr Corbett
Mr R. S. L. Jones
Mrs Nile
Reverend Nile
Mrs Sham-Ho
Tellers,
Mr Cohen
Ms Rhiannon

Noes, 24

Mr Breen	Mr Harwin	Ms Saffin
Dr Burgmann	Mr Hatzistergos	Mr Samios
Ms Burnswoods	Mr M. I. Jones	Mr Tsang
Mr Colless	Mr Lynn	Mr West
Mr Dyer	Mr Macdonald	
Ms Fazio	Mr Oldfield	
Mrs Forsythe	Mr Pearce	<i>Tellers,</i>
Mr Gallacher	Dr Pezzutti	Mr Moppett
Miss Gardiner	Mr Ryan	Mr Primrose

Question resolved in the negative.

Amendment negatived.

The Hon. PETER BREEN [5.00 p.m.]: I advise the Committee that I do not move the amendments circulated in my name.

Schedule 1 as amended agreed to.

Schedule 2

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.01 p.m.], by leave: I move Government amendments Nos 5, 6, 7 and 8 in globo:

No. 5 Page 6, schedule 2 [1], line 8. Omit "Issue C". Insert instead "Issue E".

No. 6 Page 6, schedule 2 [2], proposed section 4 (4) (c), lines 20-22. Omit all words on those lines. Insert instead:

- (c) does not involve any commercial activities, and
- (d) subject to the preceding paragraphs, is consistent with any applicable plan of management adopted under the *Crown Lands Act 1989*.

No. 7 Page 6, schedule 2 [2], proposed section 4 (5), lines 23-30. Omit all words on those lines. Insert instead:

- (5) Nothing in subsection (3) or (4) prevents the granting of, or affects the power to grant, easements through, on, in or above the public park to permit the overhang of any structure or the roof of any building erected on the trust lands of the Wollongong Sportsground Trust.

No. 8 Page 7, schedule 2. Insert after line 25:

12 Council must prepare draft plan of management

- (1) The Council must prepare a draft plan of management for the land described in the First Schedule as soon as practicable after the commencement of this section.
- (2) Division 6 of Part 5 of the *Crown Lands Act 1989* applies to and in respect of a draft plan of management prepared under this section in the same way as it applies to and in respect of a draft plan of management prepared by a reserve trust under that Act.
- (3) Without limiting section 112 (4) of the *Crown Lands Act 1989*, the draft plan of management must include a provision for the delineation of the boundaries of the land (whether by means of a fence or otherwise).

Government amendment No. 5 removes the road from lot 3, as has been discussed. Amendment No. 6 responds to the Greens concerns, as outlined by the Hon. Ian Cohen, and prevents commercial activities in the park. Amendment No. 7 will simply fix the overhang of the roof over the Wollongong Entertainment Centre. Amendment No. 8 requires council to prepare a draft plan of management; that is, it will be mandatory not discretionary. The Government's amendments are in consideration of the Greens concerns.

The Hon. RICK COLLESS [5.02 p.m.]: The Opposition supports Government amendments Nos 5, 6, 7 and 8.

The Hon. IAN COHEN [5.02 p.m.]: The Greens support these amendments, particularly No. 6, the objective of which was originally proposed by the Greens. It is essential that parkland be protected from inappropriate commercial development. The amendment will ensure that the council does not approve any further proposals for commercialisation of the park. The Greens thank the Government for taking note of our concerns.

The Hon. PETER BREEN [5.03 p.m.]: I support Government amendments Nos 5, 6, 7 and 8. In doing so, I draw attention to amendment No. 7, which will insert the following subsection:

- (5) Nothing in subsection (3) or (4) prevents the granting of, or affects the power to grant, easements through, on, in or above the public park to permit the overhang of any structure or the roof of any building erected on the trust lands of the Wollongong Sportsground Trust.

This is intended to provide for an existing overhang that is part of the entertainment centre complex. I point out that this section of the bill includes a much wider provision for granting easements, and that is to be removed. Therefore, if the roadway that has been moved to the east of the land is subsequently found to be in an inconvenient or incorrect position and it becomes necessary to relocate part of that roadway back over the cemetery, that will require not only the granting of a development consent by council but also a reference to Parliament. I make it perfectly clear that any attempt by the council, the trust, or anyone to try to impose an easement over the cemetery for pedestrian or vehicular access will have to be approved by the Parliament.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.04 p.m.]: That is absolutely correct; any change would require a legislative change.

Amendments agreed to.

The Hon. IAN COHEN [5.04 p.m.]: I advise the Committee that I will not move Greens amendments Nos 4 and 5 as circulated. I move Greens amendment No. 3:

No. 3 Page 6, schedule 2 [2], lines 16 and 17. Omit "that in the Council's opinion provide community benefit". Insert instead "(being activities that involve a quiet appreciation of the environmental qualities of the land and that respect its spiritual relevance)".

The bill allows the council to limit use of the land for passive recreational activities, which, in the opinion of the council, provide community benefit. This provision could be used to allow inappropriate use of the park. The amendment requires the council to manage the land for passive recreation in accordance with the Crown Lands Act. The amendment will protect the park from activities that could damage its natural and spiritual values. I commend Greens amendment No. 3 to the Committee.

Reverend the Hon. FRED NILE [5.05 p.m.]: The Christian Democratic Party supports Greens amendment No. 3. I hope that the result of its acceptance is not the construction of a beer garden, with tables and chairs, et cetera, on top of the cemetery.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.05 p.m.]: The Government opposes Greens amendment No. 3, for the reasons I have outlined in considerable detail.

The Hon. RICK COLLESS [5.06 p.m.]: The Opposition opposes Greens amendment No. 3.

The Hon. PETER BREEN [5.06 p.m.]: I oppose Greens amendment No. 3. The land is already designated as a rest park. The only purpose of the new regulations under the Crown Lands Act is to overcome the problem with the roadway. There is no question that the land has to be used for the purposes of a rest park. The addition of the words referring to community benefit detract from the existing zoning. On that basis I oppose the amendment.

Amendment negatived.

Schedule 2 as amended agreed to.

The CHAIRMAN: Order! Greens amendment No. 6 cannot be moved because it conflicts with Government amendment No. 7, which has been agreed to.

Title

The Hon. Dr BRIAN PEZZUTTI [5.08 p.m.]: I had intended to move an amendment to change the title of this bill because I think that the term "Roman Catholic" is outdated. The Catholic Church is the universal church.

The Hon. Amanda Fazio: It is the church of Rome.

The CHAIRMAN: Order! Interjections are disorderly.

The Hon. Dr BRIAN PEZZUTTI: Whilst the Pope is in Rome and is the bishop of Rome and is the head of the Catholic Church, he is not the head of the Roman Catholic Church. I rang the bishop's secretary in Wollongong, who was not keen on changing the title. I also contacted Father Brian Lucas of the archbishop's office in Sydney. I am keen on changing the title for two good reasons. First, all of the trusts that hold the church's property in the title of the Roman Catholic Church do so to distinguish it from all the other types of Catholic Church nominations in Australia such as the Anglo-Catholic Church, to which the Hon. Patricia Forsythe tells me she belongs, and various other churches.

Second, someone in Melbourne, who is not a member of the Catholic Church as we know it, owns the title, or the name, the Catholic Church of Australia. It would be a dash confusing and would cost a large amount of money to change a whole range of title deeds and trust funds. I hope that at some stage the Catholic Church in

Australia, under the leadership of Archbishop Pell as its primate, will see fit to truly reflect the aspirations of Catholics in Australia and change the title. We all find the title a little colonial. It should be changed to the Catholic Church in Australia. Until that happens, considerable costs and other difficulties will continue to apply.

The Hon. Henry Tsang: Australian Catholic.

The Hon. Dr BRIAN PEZZUTTI: That is what I am. I am a member of the Catholic Church in Australia. I am part of the Catholic Church in England and the Catholic Church in Ireland. I am part of the universal church, which is what Catholic means after all. It is unfortunate that it cannot be changed because of major practical difficulties but I hope that in future it can be. I have a message from the archbishop's office for the Hon. Michael Egan, which I will give him when he appears later.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.10 p.m.]: It is a pity that the Hon. Dr Brian Pezzutti does not have the opportunity to move a motion to that effect. I would happily vote in support of it.

Title agreed to.

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

FISHERIES MANAGEMENT AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary), [5.12 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill makes various changes to the *Fisheries Management Act 1994* to ensure the effective operation of fisheries management in NSW.

These amendments are part of the ongoing reform of fisheries legislation, which aims to keep it up-to-date and deal with complex management issues and a dynamic resource.

In 1997 the Carr Government amended the objectives of the *Fisheries Management Act* to give first priority to the conservation goals.

Under this Government, the old-style approach of fisheries management has gone forever.

We no longer tolerate fisheries management based on short-term thinking.

Today's fishing should never take place at the expense of tomorrow's.

The Government is now taking this a step further.

The legislation's objectives already recognise the need to promote viable commercial fishing and aquaculture industries—as well as promoting quality recreational fishing opportunities.

However the current objectives don't explicitly acknowledge the amenity value of our estuaries, coastline and inland rivers to the non-fishing public.

Nor do they formally recognise the value of a well-managed fisheries resource to those that indirectly depend on sustainable fishing activity—such as bait and tackle shops, seafood merchants, tourism interests and the hospitality industry.

This Bill expands the current objectives of the legislation to formally recognise the importance of fisheries management in providing social and economic benefits for the wider community of New South Wales.

Importantly, this amendment does not override the clear objective to conserve the resource in accordance with the principles of ecologically sustainable development.

The Act's conservation objectives continue to have first priority.

The threatened species provisions in the *Fisheries Management Act* set out a comprehensive framework for the identification, protection and recovery of threatened aquatic species.

These provisions complement—and to a certain extent mirror—provisions in the *Threatened Species Act 1995* applying to terrestrial life.

Under the current framework, a listing may be made for a local population of a species, an entire species in NSW, or for an "ecological community".

The term "ecological community" refers to a number of species of fish and/or marine vegetation occupying a particular area.

An "ecological community" may be listed as endangered if it is a type of ecological community that is likely to become extinct in NSW if the factors threatening its survival are not addressed.

There are currently no ecological communities listed as endangered under the *Fisheries Management Act*.

However, the independent Fisheries Scientific Committee is currently considering the listing of the Murray and Murrumbidgee Rivers, downstream of the major impoundments, as an endangered ecological community.

The Committee has already decided that the listing should proceed, but it is presently reviewing that decision at the request of the Minister for Fisheries.

I am informed that it is likely that the Committee will re-affirm its earlier decision and proceed to list the Lower Murray Aquatic Community as endangered.

The imminent listing of the first endangered ecological community under the *Fisheries Management Act* has given the Government an opportunity to review how the provisions of the Act will apply in this situation.

Once an ecological community is listed as endangered, it becomes an offence to harm any fish or marine vegetation that are part of that ecological community.

The Act sets out a sensible range of defences to any prosecution under this provision, to ensure that the provision is workable, and can be meaningfully enforced.

For instance, routine agricultural and aquacultural activities can still be carried out without attracting a penalty under this provision of the Act.

As the provisions currently stand, the 'harming' of any member of any species that forms part of the endangered ecological community is an offence—whether or not the actual species concerned is itself threatened in any way.

The Government believes that an activity that would harm an individual fish may not need to be banned, if the species of the fish is not endangered, and the activity is unlikely to stop the recovery of the endangered ecological community.

In such circumstances, the Director of NSW Fisheries is currently able to issue licences to individuals who wish to carry-out such activities free from the risk of prosecution.

Unfortunately, this is not a practicable way of allowing an activity carried out by a large number of people to continue.

For instance, if the listing of the Lower Murray as an endangered ecological community were to go ahead, it would become an offence to catch a single fish of any species that forms part of that community.

This would effectively stop recreational fishing in much of the Murray and Murrumbidgee Rivers—even for species such as golden perch, which are abundant throughout the system.

It would also abruptly halt the new inland commercial yabby fishery—a species which, when conditions are suitable, is in plentiful supply.

A ban on harvesting species such as these is quite unnecessary because the decline in this ecological community has generally been attributed to habitat changes rather than overfishing, and only a limited number of species in that community are regarded as individually threatened.

Such a ban would do nothing, moreover, to assist the recovery of the Lower Murray aquatic community.

Certainly, the Government does not support a ban on recreational fishing in the Murray and Murrumbidgee Rivers.

Recreational fishing in these waterways is already heavily regulated, and anglers themselves have embraced opportunities to improve the sustainability of their sport.

Fishing for seven key threatened species is already banned—with the support of anglers.

Strict bag and size limits are in place to help sustain natural populations of the species anglers target.

For example, anglers must return any Murray cod smaller than 50cm, and anglers are restricted to a bag limit of two over this size—with only one allowed over 100cm.

Anglers are also prohibited from using nets, and are restricted in their use of fishing rods and hand lines.

The 22 commercial fishers licensed to catch yabbies in the Lower Murray and Murrumbidgee rivers are also strictly regulated, and by-catch of other native species is not tolerated.

With bans on fishing for species potentially at risk from overfishing—and with strict controls on the species legally targeted by anglers—there is simply no need to ban fishing in these rivers.

However, the current legislation does not deal adequately with this situation.

It is not practicable for every fisher to apply for an individual threatened species licence and be individually assessed for their potential harm on an endangered ecological community.

For those reasons, the Government is proposing a more workable arrangement, one that would allow the activities of a class of persons to be assessed together and, if appropriate, approved together.

For example it would allow the activities of recreational fishers in the Murray and Murrumbidgee rivers to be assessed as a group and their activities approved as a group.

The proposed mechanism is similar to one already in place in Victoria.

This solution was originally suggested to the Government by the Fisheries Scientific Committee—the group of independent scientists charged with determining the status of the Lower Murray ecological community.

The Minister for Fisheries would be able to make an order allowing an activity to continue, however a species impact statement would need to be prepared and assessed.

The species impact statement would assess the cumulative impact of everyone involved in the activity, not just the impact of individuals.

This approach would remove any existing requirements for all fishers to individually apply for a licence, and substitute a far more efficient mechanism.

This more sensible approach is likely to be particularly important in regional areas that rely on recreational fishing for their tourism industry.

This proposal has been discussed with the Fisheries Minister's advisory councils on conservation, recreational fishing and commercial fishing—I am informed that none have objected to the proposal.

The Fisheries Scientific Committee has formally advised the Fisheries Minister of its support for this approach.

Aquatic reserves are one of the three types of marine protected areas found in NSW—the others are marine parks, and the marine components of national parks or nature reserves.

Aquatic reserves are similar to marine parks in concept, but are much smaller and often have secondary objectives relating to the protection of species or key habitats.

It has been a commitment of this Government to reform the aquatic reserves program so that these reserves form an integral part of the State's system of marine protected areas.

This Bill will upgrade the protection available to aquatic reserves, to bring them fully in-line with our growing network of marine parks.

The first such change relates to mining.

This Government recognises the need to protect highly prized locations in our natural environment from mining activity.

In fact, in 1987, it was the current Premier—then Environment and Planning Minister—who first introduced legislation to ban mining within national parks.

A decade later—in 1997—it was the Carr Government who introduced historic legislation to create the State's first system of marine parks—with a similar prohibition on mining activity.

The Bill includes a ban on prospecting or mining for minerals in aquatic reserves, except as expressly authorised by an Act of Parliament.

Other changes give the Minister for Fisheries a role in the development approval process, where there is likely to be an impact on aquatic reserves.

The Bill ensures that appropriate regard is given to the objectives of the *Fisheries Management Act*, and the management plan of an aquatic reserve, when such decisions are made.

The Bill also enables the Minister for Fisheries to put temporary management measures in place, if required, in order to protect the values of an aquatic reserve.

These proposals mirror equivalent provisions already present in marine parks legislation, and ensure consistency between different categories of marine protected areas.

Controlling fish diseases is an essential part of managing our resources.

The State has an obligation to maintain disease lists that are consistent with national and international requirements.

Some of these provisions, however, are causing problems for industry and need to be addressed.

For example, existing provisions prohibit the sale or movement of oysters affected by diseases.

For most diseases these restrictions are sensible.

In the case of QX disease and winter mortality, however, these prohibitions are causing unnecessary difficulties for farmers.

This is because moving the oysters is a practical way of managing these diseases, and a safe practice when carried out under strict movement controls.

While QX disease has a limited distribution, winter mortality is common—particularly in southern NSW.

As these diseases are not known to cause any harm to humans, affected oysters should also be allowed to be sold where suitable.

The proposed amendments will allow certain diseases to be exempted from these sale and movement prohibitions, and will ensure that oyster farmers can adopt sensible stock management practices without unnecessary legal impediments.

There are currently six commercial fisheries classified as "category two share management fisheries".

In each of these fisheries, the Government is working with the participants to prepare a management strategy and an environmental impact statement.

Both documents will be publicly exhibited before the management rules for the fishery are finalised.

Once a management plan is put in place for each fishery, the participants will receive secure 15 year commercial fishing shares—similar to a lease—giving them much greater certainty to plan ahead and make investment decisions.

These shares will be issued to fishers on a provisional basis over the next year or two.

A share appeals panel will hear any appeals from fishers who have concerns about their provisional share allocation.

The Government is eager to give commercial fishers in each of these fisheries the security of a management plan—and their 15 year renewable lease—as soon as practicable after the environmental impact statement has been exhibited and determined.

However, the possibility exists that even after the great majority of share allocations have been made—a small number of unresolved appeals may unnecessarily delay the commencement of the share management plan and the security that it brings.

This Bill allows share management plans to be introduced before all appeals are finalised.

It also provides commercial fishers with certainty that appeals lodged prior to the making of any share management plan will not be affected when the management plan commences.

This will give greater security to fishers overall by allowing each management plan to commence in a relatively short period after the finalisation of the environmental assessment process.

Following a recent review of penalties applying throughout the legislation, a number of changes are proposed to provide for greater internal consistency within the Act, and to provide greater consistency with penalties imposed in other Acts.

The Bill increases the penalties for offences relating to harming marine vegetation, unlawful dredging and reclamation, violating fish passage, unlawful commercial fishing in prescribed waters and for breaches of compliance audit requirements.

These changes signify to the Courts and the community the seriousness the Government places on protection of our fisheries resources.

Bringing about consistency of penalties between Acts will also enhance the integrity of the penalty provisions.

The Bill also contains a number of other minor amendments designed to generally improve the operation and clarity of the Act.

Taken together the amendments contained in this Bill will provide for enhanced protection for fish habitats, greater security for industry, and improved management of the fisheries resource.

This will benefit everyone who cares about our fisheries resource and help ensure that our fragile aquatic environment is conserved for future generations to enjoy. I commend the bill to the House.

The Hon. JENNIFER GARDINER [5.12 p.m.]: On behalf of the Coalition I speak to the Fisheries Management Amendment Bill. This is an omnibus bill, which originally was urgent because of an aspect dealing with threatened species, to which I shall refer in detail later. Before I go through the provisions of the bill I will comment on concerns by stakeholders surrounding the introduction of the bill. Many groups vitally interested in fisheries management were taken by complete surprise when I faxed to them the notice of motion of the first reading of the bill when it was introduced in the other place. Many communities in New South Wales are concerned about the Carr Government's claim that it consults widely on the impact of legislation, but there is almost universal cynicism about the Carr Government's meaning of the word "consultation".

The Minister for Fisheries has written to members of this House claiming that there was consultation with advisory councils on the bill. However, a reading of the paperwork sent to fisheries advisory councils, which was circulated, indicated references to possible minor amendments to the fisheries legislation. It was marked "not government policy" and was treated as a confidential document. Therefore, the branding of this document touting changes to this Act as confidential meant that the proposal was not really talked about by management advisory committees. It is not correct to say that there has been widespread or proper consultation about its provisions, which has presaged much of the comments preceding debate in the Legislative Council.

Advisory councils and commercial fisheries were handed the document at the beginning of an Advisory Council on Commercial Fishing [ACCF] meeting so there was not adequate time for discussion. That technique is used so that advisory councils have to wade through a large bundle of papers in a short time. One stakeholder is the Professional Fishermen's Association, and Mr Graeme Byrnes of that association wrote to members of this House about the lack of consultation. On 27 November the Minister for Fisheries wrote to me in an attempt to repudiate Mr Byrnes' version of the so-called consultation process. The Minister stated:

Mr Graeme Byrnes is an elected member of the Council and a senior officer of ProFish (the Treasurer). He regularly brings up issues of concern to ProFish as Council business.

Mr Byrnes was sent an eight-page summary explaining the proposed contents of the above Bill on 6 August 2001.

The paper was subsequently discussed at the Advisory Council on Commercial Fishing on 20 August 2001—two weeks later. There can be no legitimate suggestion that Mr Byrnes was taken by surprise by this discussion.

Whilst Mr Byrnes decided not to attend the advisory council meeting, he would have received the agenda papers (which listed the item for discussion) prior to the meeting. He would have also received the draft minutes after the meeting—the minutes record the Council's decision on the proposals.

The Minister then outlined matters he said were brought to the attention of the ACCF. In response to the Minister's letter Mr Byrnes took the opportunity to write to me. I regard consultation surrounding fisheries legislation as so important that I will read onto the record that response. In a letter to me dated 2 December Mr Byrnes stated:

I have been provided with a copy of a letter from Minister Obeid to you dated 27 November 2001. In the Minister's letter he makes a totally false and unworthy accusation against me in my capacity as a representative member of the Advisory Council on Commercial Fishing [ACCF]. He is implying that I am misrepresenting my position as a member of the ACCF.

I am aghast at the Minister's personal attack on me. It appears to me as though the Minister is desperately looking for some one to blame for his failure to conduct a proper and genuine consultation process. I will not be a "scape goat" for the Minister's failings.

I believe I [and generations of my family before me], are well regarded in the fishing industry and the community-at-large. We pride ourselves on being forthright and honest in our dealings. This has been recognised over many years through various appointments such as 14 years as a member of the Lake Illawarra Authority, twice elected estuary fishers representative from the south coast to the Estuary General Management Advisory Committee [EGMAC], elected to the ACCF by members of the EGMAC, elected to the NSW Seafood Industry Council, elected to the Board of Directors of Ocean Watch P/L and, even appointed by the Minister's own department to sit on the selection panel for the appointment of independent chairs of all MACs.

I will not stand by and see all this sullied for political purposes.

In his letter the Minister asserts that I am misrepresenting my position as a member of the ACCF. The Minister claims "*He regularly brings up issues of concern to ProFish as Council business.*" This is totally false.

I represent, as a member of the ACCF, the EGMAC. Over the last 4 years as a member of the ACCF I make a particular point of only placing matters on the ACCF agenda that are either specifically from a meeting of the EGMAC, at the direction of the EGMAC or are matters of concern to the EGMAC. I do not "regularly" bring up issues of concern to ProFish [or any other group for that matter] as the Minister claims.

At a recent meeting of the EGMAC I reported to the MAC events of the previous ACCF meeting and expressed my total frustration with the "process" of consultation. I indicated to the members of the EGMAC my inclination to resign from the ACCF in protest.

All industry members of the EGMAC indicated similar experiences regarding consultation and indicated their support for whatever I may decide in this regard. That decision has now been made much easier for me and I will discuss this matter with members of the EGMAC at our next meeting.

Fundamentally, consultation has to be worth it. There must be a recognition from all sides of the various needs, concerns and aspirations of those involved. There must be open and honest dialogue and dealings. Each others vision and long term goals must be placed on the table for all to see. What began so brightly at the beginning of Minister Obeid's stewardship of the fisheries portfolio has now faded into total darkness. Political imperatives and "spin doctoring" is now the order of the day. Our industry is now blamed for all the sins of the "fishing world". From destruction of habitat, depletion of stocks, supplying product of little

worth to the economy of NSW, being the reason why all recreational fishers can't catch a fish, etc. It is only a matter of time no doubt before we get the guernsey for the hole in the ozone layer too.

I look forward to a time of change—of openness and honesty in these matters—when we are freed from the reign of these "turbulent priests". Six p.m. March 22nd 2003 can not come quickly enough.

Yours sincerely
Graeme Byrnes
Estuary General Management Advisory Committee

I read that letter onto the record because it draws together in a single piece of correspondence the extraordinary frustration in the fishing world at the consultation process undertaken by the Minister in relation to legislative change. There has been a war of words about the bill's provisions prior to its introduction, and I believe something must be done to put meaning back into the fisheries consultation process. However, it is patently obvious that such improvements will not occur courtesy of the current Government. I will outline some of the bill's quite extensive provisions. The bill changes the objects of the Fisheries Management Act by adding to the secondary objects of the Act a particular object, which is:

(g) to provide social and economic benefits for the wider community of New South Wales.

That is a reasonable addition to the Act as the Government has realised that, as it is presently worded, the Act contains no explicit acknowledgement of the amenity value of estuaries, coastline and inland rivers to those who do not necessarily go fishing. The current objects do not formally recognise the value of a well-managed fisheries resource to those who depend indirectly on sustainable fishing activities, such as bait and tackle shops, shop owners, seafood merchants, tourism interests and the hospitality industry. I have often referred in the House to the economic and social benefits of fishermen's co-operatives, and I trust that these important businesses and others up and down our coastline will derive some comfort from the addition to the objects of the bill of specific recognition that the fisheries resource can and does provide social and economic benefits for the wider community of New South Wales.

Another part of this amending bill relates to the extraterritorial enforcement of fisheries legislation. The Commonwealth Government has not taken responsibility for recreational fishing in Commonwealth waters and has apparently indicated to the States that it does not intend to do so. Stakeholders and the community do not readily understand this state of affairs. Some people may be unaware that New South Wales bag and size limits apply to recreational fishing and charter fishing boats in waters adjacent to New South Wales and outside our territorial waters. New South Wales has bag and size limits for many species that are primarily caught in waters further than three miles offshore, including tuna species and some marlin species that are protected completely from commercial fishing. This amendment spells out in the legislation the fact that recreational fishing bag and size limits and other rules that apply to recreational and charter boat fishing also apply outside the three nautical mile limit. However, as the next amendment states, the New South Wales legislation is intended to have extraterritorial application only insofar as the State's legislative powers permit.

One much-discussed provision—which is more specific than existing provisions concerning the closure of waters to commercial fishing—relates to section 20 of the Act and, as far as the Government is concerned, aims to toughen provisions, particularly penalties, relating to the sale of fish on the black market. I am sure that all honourable members would like to see that activity stamped out, and this legislation will increase penalties substantially. Some stakeholders fear that this provision could extend the power of the fisheries Minister to close fisheries as incorporated in section 8 of the Fisheries Management Act. They believe this clarification of section 20 may be detrimental to some commercial fishing interests. Therefore, I am pleased to note that the Government has taken some of those concerns on board and that the Minister has agreed to delay commencement of this part of the bill until 1 January 2003. I anticipate that the Minister, or the Parliamentary Secretary in his absence, will place that commitment on the public record in replying to the second reading debate.

I thank the Government for taking those concerns into account. The delay in implementing that part of the bill will allow further consultation with affected stakeholders about which offences might attract higher penalties and the like. Another provision of the bill seeks to incorporate in the Act a definition of the purpose of fishing fees. The Carr Government previously inserted recreational fishing fees in division 4A of the Act, but a Coalition government will abolish the general recreational fishing licence. This amendment spells out the purpose of fishing fees, namely:

The purpose of fishing fees is to provide revenue to assist activities supported through the recreational fishing trust funds established under Division 3 of Part 8, including the following:

- (a) enhancing recreational fishing,
- (b) carrying out research into fish and their ecosystems,
- (c) managing recreational fishing,
- (d) ensuring compliance with recreational fishing regulatory controls.

The Government, in its mad rush a year ago to bring in a general recreational fishing fee, failed to spell out the purpose of fishing fees. This amendment fills that gap. The Treasurer's contribution to the fishing debate is to use the angling community as a milch cow to provide revenue. That is what general recreational fishing is about. The words "to provide revenue" are the most important words in this amendment. The list of items of government expenditure now being picked up by anglers grows nearly every week. I will refer to that later in my contribution.

Another important provision in this amendment bill relates to the impact of making a share management plan and the issue of appeal rights. Share management plans will commence in the six major saltwater commercial fisheries in 2003. Provisional shares are likely to be issued to eligible persons participating in those fisheries during 2002 and 2003. Participants have a right under section 84 (1) to appeal a decision not to issue provisional shares or to issue less or different shares other than those that were sought by the applicant. It is possible that a small number of appeals against decisions not to issue provisional shares or about the nature of provisional shares issued may still be before the share appeals panel when the management plan for each fishery commences. The Act needs to be amended to clearly state that the making of a share management plan does not quash any existing appeals before the share appeals panel.

Whilst no new appeals could be made to the share appeals panel once the plan has been made, existing appeals lodged within relevant time limits should be able to be dealt with by the panel, even if the management plan has commenced. This approach allows the management plan to be finalised in order to provide certainty and security to the industry, even though a small number of appeals may still be pending. This amendment enables the existence of provisional shares even though a management plan has been made, allows the regulations to provide for transfer rules for shares under appeal after the plan has been made, and confirms that the State does not have any liability for the cancellation in any form of such provisional shares or to individuals whose appeals are not finalised prior to the termination of a fishery.

The commercial fishing industry has expressed some concern about the Government's agenda as to this amendment. The industry was concerned that rights to compensation envisaged by the Fisheries Management Act 1994 may be jeopardised in an underhand way. It is true that if the Carr Government had taken the industry into its confidence, the fears surrounding this bill may not have arisen in the first place or with such great frequency. I place on record the anxiety of the industry about that provision. Another important provision of the bill deals with section 58, which relates to public and industry consultation on share management plans. Currently, eight commercial fisheries are subject to the share management scheme. Two of those fisheries are covered by statutory management plans, which we have talked about many times in this House over the years. The other six fisheries are significant in size, and their plans are expected to commence in 2003. Section 58 of the Act as it stands requires the Minister to:

... give the public an opportunity to make submissions on any proposed amendment plan for a fishery or proposed new plan and to take any submission that is duly made into account.

The Minister is also required to consult the management advisory committee of a fishery and any other relevant commercial or recreational fishing industry bodies about any proposed management plan for a fishery or proposed new plan. The Government points out that the procedure in section 58 predates the broader legislative amendments that were inserted as a consequence of the Fisheries Management and Environmental Assessment Legislation Amendment Act, which we debated a year ago. The recent provisions required the first management plans in each of the six share management fisheries to be the subject of an environmental impact statement and other public consultations under part 5 of the Environmental Planning and Assessment Act.

As a management plan would have the same objectives and performance indicators as the management strategy and the plan would implement the strategy the Government maintains, a duplicate process under section 58 is unnecessary. The Government said that a second smaller scale and narrower public consultation process would not serve any useful purpose other than to comply technically with a provision that, in this respect, is now redundant. The amendment the Government wants would remove the obligation to exhibit a draft first management plan in a share managed fishery if a management strategy has been prepared for that fishery and a determination has been made pursuant to division 5 of part 5 of the Environmental Planning and Assessment Act.

The Opposition and some stakeholders are concerned, however, that because of the Carr Government's stretching of the meaning of the word "consultation", any watering down of the consultation provisions needs to be treated with great scepticism. We believe that the current provisions in the Act should be retained. Whilst it may be true that the provision would streamline the consultation process, because of a lack of confidence in the Government's actions I will move for the omission of that Government amendment. Another section of import, section 84, relates to the making of appeals. That part of the Act sets out that an appeal cannot be made to the share appeals panel after the making of a share management plan for the fishery to which the appeal relates. However, the making of a scheme management plan does not affect any appeal that was made but not finally determined before the making of the plan.

The Government amendment seeks to state clearly that the making of a shared management plan does not quash any existing appeals before the share appeals panel. Whilst appeals could not be made to the share appeals panel once the plan has been made, existing appeals lodged within the relevant time limits should be able to be dealt with by the panel even if the management plan has commenced. The Opposition appreciates the intent of this amendment but, as I just stated in relation to section 52A, we have some concerns about its import, particularly its possible impact on compensation rights for commercial fishers.

Another important provision relates to diseases declared for the purposes of division 4, which deals with diseased fish and marine vegetation. The amendment proposed to division 4 of the Act, which relates to aquaculture management of diseased fish and marine vegetation, is important to the aquaculture industry and, in particular, the State's important oyster industry. The Act enables the declaration of fish for marine vegetation as diseased, the creation of quarantine areas and the regulation of the treatment, sale or disposal of diseased fish and marine vegetation. The Act, as currently worded, prohibits the sale of fish known to be infected with a declared disease and prohibits the stocking of fish into any waters if the fish are known or suspected to be infected with a declared disease. This part of the Act has been shown to be impractical. For example, Sydney rock oysters can be infected with a declared disease called winter mortality. This disease is endemic in New South Wales waters and is harmful only to Sydney rock oysters.

The oyster industry has long pointed out that this restriction on the sale and movement of oysters is unnecessary. The industry believes such restriction actually runs contrary to best practice, so far as stock management is concerned. The amendment to the Act proposed in this bill enables declarations of fish or marine vegetation with diseases to specify circumstances in which restrictions on the sale or movement of diseased fish or marine vegetation do not apply. The Opposition supports the oyster industry in lobbying the Carr Government, over a long time, to have this amendment inserted into the Act.

Another important part of the amending bill relates to aquatic reserves. The provisions relating to aquatic reserves are elaborated upon by this bill. The Government has published aquatic reserves consultation papers and, in the course of dialogue with the public and some interest groups, anomalies have been identified between the mix of controls which apply to marine parks and those which apply to aquatic reserves. There are currently eight aquatic reserves, although the Government has promulgated suggestions for a further 22, 15 on rocky foreshores and seven in estuaries. They have created quite a bit of discussion in the community.

The amendments seek to emulate provisions in the Marine Parks Act which allow for a faster response by the government of the day to deal with what are described as short-term or unforeseen management requirements. As with many other parts of the bill, it is possible that a number of groups interested in the management of aquatic reserves and the like may not have been involved in consultation on these provisions. One group that members of the Opposition have made sure they have consulted with is the Minerals Council. My colleague the Deputy Leader of the Opposition, as shadow Minister for Mineral Resources, has had discussions with the Minerals Council. The council is not opposed to the passage of this amendment.

However, it does make the point, as does the Opposition generally, that there is a question mark about the possible conflict in relation to the mineral resources portfolio and the fisheries portfolio being held by one Minister, because inevitably on occasions there can be a clash of interests between those two portfolios. The bill contains quite a number of other provisions, one of which includes the topic of fishways. As we have discussed in this House previously—particularly those of us who have served on the Legislative Council Standing Committee on State Development fisheries inquiries—it is essential that our native fish have free passage to move upstream or downstream, and sometimes travel very great distances to spawn.

Over the years the construction of dams, weirs and floodgates have impeded the free passage of fish in the case of many coastal inland species. The Act requires the construction of fishways in certain circumstances

and also prohibits the blockage of fish passages in some other circumstances. These amendments change the penalties for breaches of those provisions as between corporations and individuals. There is a heavier burden upon corporations that are in breach of the fishways provisions than is the case for individuals. We support those changes. Another provision relates to clarification of the use of money in trust funds to be used for species impact statements.

This amendment provides that costs incurred in connection with a species impact statement—this relates to the threatened species provisions of the Fisheries Management Act—prepared in relation to a ministerial order made under part 7A, division 6, part 7A in respect of a fishery, may be paid or reimbursed from a trust fund that relates to the fishery. One of the interesting features of this amendment is that the Carr Labor Government keeps loading up the fishing trust funds with expenses. This time it is the cost of species impact statements, which is to be paid or reimbursed from a trust fund. As I said earlier, the fisheries trust funds are becoming convenient pockets of cash into which the Carr Labor Government dips its fingers at every opportunity.

As OceanWatch submitted to me in expressing concerns about provisions in this bill, the proposal that the funds to undertake a species impact statement in relation to a ministerial order should come from an associated fishery trust fund raises concerns, as the costs associated with the undertaking of an environmental impact statement are generally worn by the proponent. Why should the costs of a species impact statement not be covered by the proponent in this context? OceanWatch has flagged that concern. It goes to the general point that the Treasurer regards fisheries trust funds as a convenient source of transference of other expenses to the sometimes unsuspecting angling public. Another provision relates to hot pursuits. These two provisions in the amending bill tighten up the wording of the Act in regard to the waters to which the Act refers. It is a fairly straightforward amendment.

The bill contains some provisions relating to offences that increase the penalty for failure to retain documentation necessary for a compliance audit. The penalty will now be different for a corporation as distinct from an individual. That is consistent with the earlier amendment I referred to and is consistent with commonsense. The maximum penalty is currently 200 penalty points but that will increase to 2,000 penalty points for a corporation and 1,000 penalty units in other cases. Another amendment relates to membership of a total allowable catch committee [TACC] and filling of vacancies in the office of members of the TACC. At the moment the Act states simply that if the office of a member becomes vacant, a person is required to be appointed to fill the vacancy subject to the Act. This amendment adds another subsection in the following terms:

- (2) a person is not required to be appointed to fill a vacancy in the case of a member who is appointed under section 27 (1) (i) if there are at least four remaining members of the TACC.

I have not received any adverse comments on that provision, which is really a tidying up of those total allowable catch committee provisions. As I said at the outset, one of the drivers of this legislation was the need to make some amendments to the threatened species provisions in the Fisheries Management Act. I think that the timing of this bill was probably dictated by the dilemma that the Government faces with the imminent listing by the New South Wales Fisheries Scientific Committee of the Lower Murray Drainage Aquatic Ecological Community as an endangered community. The House might recall that in September I asked the Minister for Fisheries a question without notice with regard to any listing of the aquatic ecological community in the natural drainage system of the lower Murray River catchment as an endangered ecological community. I asked him:

Could the Minister guarantee that recreational fishing will not be banned or further restricted in the Murray River and its tributaries as a consequence of such listing?

Of course the Minister was unable to give such a guarantee. He could not give such a guarantee because the Act dictated that he could not. More than a year ago, in fact on 20 November 2000, the Fisheries Scientific Committee wrote to the Minister for Fisheries, although it had no obligation to do so. The Fisheries Scientific Committee is an independent body whose job relates purely to science; it does not have to advise the Minister for Fisheries on his legislation, which he has to abide by, or anything else. However, as I said, the Fisheries Scientific Committee wrote to the Minister for Fisheries and advised him that it had recently begun considering the option of listing the lower Murray-Darling fish community as an endangered ecological community.

The committee pointed out that there were, in its view, a number of reasons for considering such a listing. Those included the presence of a number of endangered or vulnerable species in that community, such as trout cod, silver perch, southern pygmy perch, Murray hardyhead and a river snail. Another of those good reasons was the threats identified as affecting those and other species in the community, such as flow regulation,

barriers to movement and migration and other forms of environmental degradation. A further reason was the fact that the community is listed as threatened in the Victorian tributaries of the Murray River. Those were the reasons that the Fisheries Scientific Committee thought such a listing should be considered. The committee went on to say:

When reviewing the legislation that applies to communities listed as endangered, the Committee identified potential difficulties that would arise.

The principal difficulty identified is that once a community of fishes is listed as endangered, it would be an offence to harm any member of that community, and the defence of 'routine fishing activities' would not apply. Hence fishing for any species included in that community (such as golden perch in the Murray River) would be illegal.

The Victorian government has addressed this problem by issuing special orders (termed Governor in Council Orders) that allow recreational fishing for some of the species in the Murray River community mentioned above. These orders are similar to the 'licence to harm a threatened species' that was issued recently to permit the taking of silver perch by recreational fishers in some stocked impoundments in NSW.

The FSC does not normally concern itself with the management implications of its considerations or decisions. However, given the serious implications of this issue, the committee has resolved to seek [the Minister for Fisheries'] advice on how best to proceed with consideration of nominations for endangered ecological communities.

Options that the FSC has discussed include:

- Amending the legislation,
- Issuing 'licences to harm' any recreational and commercial species included within an endangered ecological community, but which are not threatened species
- excluding these species from the definition of the community.

Each of these options has both strengths and weaknesses, and the FSC has no firm view on the best way forward.

The committee invited discussion with the Minister. That communication, sent last year, was signed by Dr Andrew Sanger, Chairperson, the letter notes, of the Fisheries Scientific Community. I think it should be the Fisheries Scientific Committee. Obviously, the Government was faced with a dilemma. There was a lot of concern, and that prompted my question to the Minister several months ago. That concern was particularly evident in the south-west of the State, in communities like Deniliquin. There were public meetings and so on, with people trying to work out what were the implications for all sorts of activities in the whole of the south-west of the State, including recreational angling in the river system. For example, one correspondent, Mr John Lolicato of Barham, wrote to the Deniliquin newspaper about this issue. What he said summed up many of the expressions of opinion and concerns about the provisions of the Act as they are at the moment:

After reading the front page of last Friday's *Pastoral Times* regarding the listing of the Murray River system as an endangered ecological community, I have finally decided that I have had a 'gutful' of the never ending propaganda that is being rammed down our throats by bureaucrats, politicians and the urban-based media.

This listing is just another classic example of bureaucrats starting to believe their own propaganda, without having any consideration for the ramifications of their decisions to the local communities.

To be fair to the Fisheries Scientific Committee, I should point out that the people of Deniliquin and district did not know that the Fisheries Scientific Committee was concerned about the implications of the possible listing. Of course, that did not come to light until much later. John Lolicato continued:

Decisions are being made out of a textbook, usually on the other side of the Great Dividing Range, by people that will never feel the effects of their 'hairbrained' ideas.

One of the main reasons for the listing was based on the dubious River Survey, conducted by the Fisheries, that concluded there were very few native fish surviving in the Murray system.

At the same time as these clowns were telling us that most native fish were on the point of extinction, many local fishermen were claiming some of the best catches in recent times (as was proven by photos in the *Pastoral Times* at that time).

Sure, there are some problems with the Murray system but we are certainly not in the class of the Ganges or Nile Rivers, as some bureaucrats would have us believe.

Instead of focusing on the negatives, how about looking at some of the positive points.

1. The Murray system has had environmental flows long before it became fashionable.
2. Local communities are adopting initiatives such as Land and Water Management Plans.
3. Security of water is provided by upstream storages—previously the River has been known to run dry.

4. Being able to get an economic return for water helps to fund the operation of the River and other environmental initiatives.
5. After 200 years of human habitation water quality really isn't that bad and it would vastly improve if the Goolwa barrages were removed.

For 20 years I have been involved with various community organisations ranging from Landcare to Irrigation representative groups. But I, like many others, am starting to question the amount of difference that we really make on the government's numerous so-called community representative groups, especially when the majority of members of those groups are bureaucrats or people not affected by the decisions that are made...

Over the last few years it does not appear to matter how much input our local representatives have, the decisions seem to have already been made, usually on political grounds and not much to do with practicality or commonsense.

Some Government departments need to attempt to retrieve some credibility with local communities, and this could start to be achieved by scrapping the Endangered listing, caveats on 10 year water plans and the cap on off-allocation flows, but most of all by providing a secure property right to irrigators to acknowledge that they do have a future in the region.

Of course, that is an issue throughout the State, in the Namoi Valley and lots of other areas, not just in the lower Murray, Murrumbidgee and Edwards rivers areas. He continued:

If the NSW government is serious about River health then it must listen to the local communities and allow them to have ownership of the decisions that need to be made.

I have selected that letter from any number of contributions to local newspapers stating how concerned people were about the implications of the proposed listing by the Fisheries Scientific Committee of the aquatic community of lower Murray River drainage. The threatened species provisions, as currently in force, mean that the clock is ticking, and angling—as was pointed out in the letter from the Fisheries Scientific Committee—will be deemed to be illegal later this month if the Act is not amended. It is a shambles of a situation that has led us to this point.

The Government was alerted to this issue more than a year ago by the Fisheries Scientific Committee. Eventually a communication was circulated to advisory councils of the proposal to make some minor amendments to the legislation. Then, all of a sudden, this amending bill appeared. The bill was introduced in the Legislative Assembly—which was a quite interesting process in itself. A Parliamentary Secretary tabled the bill in that place and delivered the second reading speech. The Clerks of the Parliament made available copies of the bill. But then it was discovered that the incorrect version of the bill had been promulgated, and there was a mad scramble to recover the wrongly promulgated copies. So there was a major mixup in Government in preparing for this debate. The same has occurred with other legislation in this place in recent times.

All this could have been avoided had the Carr Government and the former Minister for Fisheries, Mr Bob Martin, heeded the remarks of the shadow Minister for Fisheries, Mr John Turner, to the Legislative Assembly on the threatened species provisions of the Fisheries Management Act back in October 1997. The Opposition believed there were inherent difficulties in the implementation of the provisions. Mr John Turner said, "I fear that some of the terms and descriptions used in that part of the Fisheries Management Amendment Bill relating to threatened species will lead to significant disruptions to both recreational and commercial fishing in New South Wales and could lead to a litigious situation."

He went on to say that whilst the Opposition agreed with the process of nomination and determination as set out in the bill it had a number of concerns about the time it could take to work through such processes. The Opposition moved amendments in both Houses to try to make the threatened species provisions more workable, but they were not agreed to. So the Opposition warned of the potential problems with these provisions when Mr Martin legislated. This is another natural resource regime in which the practicalities of everyday life potentially clash with theory translated into a statute. This was pointed to by the Liberal and National Opposition. If we had been listened to in 1997 the main thrust of this bill we are debating—

The Hon. Dr Brian Pezzutti: If they had listened in 1994, they would have got it right too.

The Hon. JENNIFER GARDINER: As usual, the Hon. Dr Brian Pezzutti is correct about that as well.

The Hon. Doug Moppett: He is very perspicacious.

The Hon. JENNIFER GARDINER: He is a very perspicacious man. There is a lot of concern about this issue in the south of the State. I will move a major amendment in Committee to deal with another concern

about the bill. A group of commercial fishermen have a case on foot in the Land and Environment Court that is due to be heard at the end of January next. The group's legal advisers think that the case possibly could be subverted by the passage of threatened species legislation unless the provisions were able to be applied only to the area that will be listed imminently by the Fisheries Scientific Committee, the fresh waters of the lower Murray Basin.

To assist the commercial fishing industry the provisions of the threatened species legislation, in the immediate period anyway, should be quarantined from the legislation. That would mean that the litigation could go ahead unimpeded. It is important that people get a fair say and justice in the courts and are not railroaded or sidelined by the actions of this House. Although the Opposition will move a couple of important amendments, in the main we support the many omnibus provisions of the bill in tidying up various aspects of the Act that have come to light in the last year or so that need clarification and amplification. I look forward to the remaining debate on the bill.

The Hon. IAN COHEN [6.05 p.m.]: The Greens have substantial concerns about the bill. However, we welcome the Government's plan to list the lower Murray and Murrumbidgee rivers as an endangered ecological community. As a result of damming and irrigation upstream, river flows have been significantly reduced. The environment in and around these rivers is subject to significant stress. I draw the attention of the House to a transcript of a 7.30 *Report* item that quotes Richard Kingsford and Michael Troy:

Murrumbidgee is the Aboriginal word for big water, but after a century of dam building and irrigation, one of Australia's most important rivers appears to be in big trouble. A report by the New South Wales National Parks and Wildlife Service warns of ecological collapse, with much of the river's wildlife deserting it. The Lower Murrumbidgee wetlands at the end of the system used to be compared to Kakadu. But the report claims in the past two decades, waterbird numbers have crashed by 80 per cent. Two years ago, more than 2 million megalitres of water, or four times the volume of Sydney Harbour, was diverted from the river. There are challenges to the stark report but its author claims it's a clear warning about the huge environmental cost of development in fragile parts of Australia. ... The Murrumbidgee is probably one of the poorest rivers we have in Australia, unfortunately, and ... you're probably looking in the critical ward of a hospital in terms of its health. ... It's a disaster environmentally and a disaster economically for all the landholders and producers. ... Since 1983, wetlands ecologist Richard Kingsford, has been recording the changes to the Murrumbidgee using aerial surveys, satellite technology and field studies.

But his report, handed to the Government recently, paints a bleak picture ... what we're seeing here on the Murrumbidgee is perhaps one of the worst examples of river system collapse in the country ... 1,690km long, the Murrumbidgee begins in the hills of the Great Dividing Range and heads west to the Hay Plains, where it spreads out to form the Lower Murrumbidgee Wetlands before eventually joining up with the Murray and flowing into the sea near Adelaide.

The once-mighty river is fed by reliable winter and spring rains and the melting snow from the Alps ... much of that water is captured in the Burrinjuck and Blowering dams.

It's used to supply Canberra's water needs and those of the Riverina irrigation district, one of the main food bowls for Australia.

Richard Kingsford went on to say:

We've seen a massive drop, 80 per cent decline, and that's occurred, not just water birds in general, it's occurred for the fish-eating species, it's occurred for the duck species, for the migratory wading birds, some of which come from the Northern Hemisphere, and also for the herbivorous water birds.

Michael Troy later said:

The findings raise serious concerns about all future irrigation developments, going to the heart of the question as to whether nature and intensive agriculture can co-exist.

Richard Kingsford also said:

There's a vast black box flood plain eucalypt forest here and these plants are used to getting their feet wet at least once every 7 to 10 years, and these particular trees here have probably not had any water for 20, 25 years and you can see, they're starting to lose their crowns, there's not a lot of vegetation in the tops of the trees, and, over 50 or 60 years, all of these trees will probably eventually die.

It is clear that there is serious damage to the inland rivers of this State. Agriculture and the resulting salination and the loss of natural flows to the rivers have resulted in the areas being in crisis. Very few areas around inland rivers have not been altered in some way through damming and impoundment. Many ecological systems are under severe threat at present. However, the listing of these rivers is only the first step in bringing about sustainability in inland river management. Unless listing is accompanied by significant changes in management practices, the decline of ecosystems will inevitably continue.

The result is likely to be the eventual disappearance of whole ecosystems, including the fish that depend upon a healthy environment for survival. The Government claims that the bill simply allows existing recreational fishing to continue until species impact statements are conducted. The Minister claims that the bill will allow fishing of only species that are not endangered to continue. The Greens do not agree with this approach because it means that the Government is taking a business-as-usual approach. The Greens want the Government to implement the precautionary principle and recognise that the common species of today are the endangered species of tomorrow. Even if it is true that these species are not currently endangered, if the present management regime continues it is likely that they will become endangered in the near future.

The Minister claims that Murray cod are abundant. Although it may be true that that fish is relatively abundant in part of its range, there is no doubt that the species is in trouble generally. The decline of a species means that in the few areas where it remains abundant a very careful management regime must be put in place. Management must aim to build up numbers of the species so that it will eventually recolonise in other areas where it has become scarce. To allow fishing of any species to the point where it becomes threatened is a crisis management approach that makes no sense ecologically or economically. The main problem with the bill is that it allows the Minister to exempt recreational fishers from observing the requirements of the Act. The bill will undermine the Government's efforts to save rivers from further decline. It is simply impossible for the Government to properly manage rivers while it continues to allow fishing that targets species such as the Murray cod, which are in decline.

The Government's bill relies on a discredited regulatory technique. The Government claims that a species impact statement will be produced to determine sustainable levels of fishing. However, there are many examples of approved activities that cause serious damage to endangered species populations and habitats, in spite of species impact statements being prepared. For example, at Manly the Government allowed development of habitat of a threatened bandicoot population. That development was approved despite the preparation of a species impact statement and a recovery plan. Threatened species legislation cannot succeed in preventing species extinctions and ecosystem decline unless it is accompanied by behavioural change. Ecological communities that are currently threatened will not recover unless all forms of exploitation are reassessed. The Minister claims that the tourist throwing in a line has a negligible effect on the environment. However, the reality is that substantial numbers of recreational fishers, combined with irrigation and pollution, have an extremely serious effect. It has a cumulative impact. The problem with this bill is that it largely ignores cumulative impact.

The Greens understand the concerns of the inland communities whose economies depend on tourism, including fishing. However, the long-term effects of continuing river decline will be disastrous for those communities. It is essential that an adequate conservation regime is implemented now to protect the future viability of the fish populations and their habitat. The Environment Liaison Office [ELO], which has consulted various groups, forwarded a letter to me dated 14 November, under the signature of Kathryn Ridge. The letter stated:

The groups are most concerned with the provisions which allow the Minister to authorise a class of persons to harm or damage a threatened species, population or ecological community, either by removal of species or damage to habitat.

I have amendments in that regard, which I will move later. I understand that the Minister will not support them. The letter from the ELO continued:

The Minister is responding to concerns raised by the Fisheries Scientific Committee. While their terms of reference do not prescribe their taking into account social and economic factors, they believe the listing of the Lower Murray and Murrumbidgee Rivers as an endangered ecological community will have an undue impact on recreational and commercial fishers. As a result they may be reluctant to list such communities as the process will become heavily politicised ...

This power is extremely broad and much wider than that required to achieve the policy objective. There would be no limit on the Minister or a future Minister exempting recreational fishers state-wide, or commercial fishers state-wide at some future date. It includes allowing damage to habitat.

A representative of the Nature Conservation Council of New South Wales Inc. wrote:

In our view section 222A does not provide adequate protection for threatened species in the face of the broad discretion in section 221A. These concerns are strengthened by section 221E, which states that when making the order the Minister must merely "take into account" whether the action that would be allowed by the order would be likely to:

- "irretrievably reduce the long-term viability of the species, population or ecological community in the region", or
- accelerate the extinction of the species or ecological community.

Kathryn Ridge further wrote:

In our view the section 221IE should be amended to prohibit the Minister from making such an order if the species impact statement indicates that the actions that would be authorised by the order may:

- "irretrievably reduce the long-term viability of the species, population or ecological community in the region", or
- accelerate the extinction of the species or ecological community.

If, as the Minister's office indicates, section 222A already achieves this policy outcome, the Government has no basis for opposing this amendment.

Regarding aquatic reserves, the ELO wrote:

The ELO Group welcomes the Minister's prohibition of mining in aquatic reserves and further changes which bring Aquatic Reserves more in line with Marine Parks under the *Marine Parks Act*. The direction of this group of amendments is positive as it gives a new role to Fisheries to officially oppose or modify development affecting aquatic reserves that are on land which are not actually owned by Fisheries (thus other development consent processes can operate without impediment).

It should be noted that the Minister has recently carried out consultation on the proposed reservation of 22 areas, and apart from Cabbage Tree reserve at Manly, every aquatic reserve will allow recreational fishing to continue. Recreational fishing is also allowed in every existing aquatic reserve in NSW, apart from two.

Additionally, the scientific report prepared by Nick Ottway showed that out of the areas assessed for nomination, many areas were threatened by development adjacent to the aquatic reserve, particularly from stormwater run-off ...

The groups believe the Minister for Fisheries should have a concurrence role over development where the consent authority is a local council or state government agency or Minister.

The groups also believe that all development handled under Part 4 of the EP&A Act within an aquatic reserve should be designated development, where the activity is likely to have a significant effect on the environment. Also, no development should be allowed in an aquatic reserve until the Land of Management has been finalised ...

The Minister's Office states that NCC should have been advised of the legislative changes via our representatives on the Advisory Councils. Our nominees to the Advisory Councils said that the briefing was in the last moments of each meeting with very little explanation apart from NSW Fisheries tabling the document and stating that it related to some minor amendments to the Act.

The FRCAC was not briefed nor consulted on the proposed amendments.

The Greens welcome the provision in the bill that prohibits mining in aquatic reserves. However, the bill does not go far enough. Recreational fishing is permitted in those reserves, and that will not assist in achieving conservation outcomes. It is also counterproductive for fishers. Marine protected areas result in improved fishing outside the protected area as species that thrive in the protected area move to other waters. An article written by James Woodford in the *Sydney Morning Herald* on 28 November stated:

For nearly three decades the ocean off Bouddi National Park on the Central Coast, has been one of the few places in the state spared from commercial and recreational fishing, a marine haven whose biodiversity has stunned scientists.

The blanket ban on fishing in the 287-hectare Bouddi Marine Extension has had a profound impact on fish stocks, resulting in more species, larger fish and huge populations compared with nearby areas, a scientific study has revealed.

The research was carried out by the head of the School of Science and Technology at the University of Newcastle, William Gladstone, comparing Bouddi to two areas subjected to heavy fishing ...

Bouddi, which was gazetted in 1971, boasted 63 per cent greater species richness and up to 1340 per cent greater numbers of fish. Dr Gladstone found that the most common fish in the Marine Park also turned out to be those much liked by anglers, such as blackfish.

Red morwong and blackfish were significantly larger in the reserve than in non-protected areas ...

"In the protected area you are likely to see about 12 blackfish per 125 metres," Dr Gladstone said. "In the protected areas it's about one. Bouddi is probably pretty close to what an unfished area would have looked like." ...

Dr Gladstone said he also supported having more areas where fishing was banned. Such marine reserves helped "seed" adjacent areas.

That is the basis for a sensible approach to fishing management. It is vital that we maintain and develop no-take zones in as many places as possible so as to enrich other commercial and recreational fishing areas and provide more fish and better habitat. Representatives of the fishing industry have expressed concerns to me about the lack of consultation on the bill. The Minister relies on the fact that the bill was put on the agenda of advisory council meetings. However, it is apparent that there was no real attempt to get feedback from the groups

represented on his advisory bodies. It is of great concern that the Minister has failed to properly consult the community on this important bill and other fishery issues. I quote from a letter written by a commercial fisher, Mr John Smythe of the FRCAC, to the Minister for Fisheries:

Since the announcement of Recreational Fishing Areas for region 8 I have been pondering my role as a representative of commercial fishers in the consultation process.

At FRCAC we discussed the Community Consultation report for Region 8 and expressed concern over the conduct of the Merimbula meeting.

However, we also noted that the majority of submissions came in favouring the 2nd option of retaining commercial fishing, as was the case for Region 2.

I am aghast that a number of late submissions have been recognised as part of the process, after FRCAC had deliberated on the CC reports on Region 8.

Were commercial fishers given this opportunity?

Clearly they weren't, as although they do not like the consultation process, they went along with it believing that they were participating in a legitimate consultation process.

By the acceptance of late submissions from those with a clear vested interest you have "moved the goalposts".

The consultation process is a farce and as such I am ashamed to be participating in a process that will put people out of work for reasons not based on sustainability or environmental issues.

I have spent time away from my family and work to attend every meeting and hopefully provide relevant advice on the issues at hand.

I am no longer willing to partake, as a commercial fishing representative, in a process which has done nothing but add insecurity to the industry members and their families and has in fact created a division between commercial fishers who have for years been the backbone of small, coastal communities.

At that point Mr Smythe resigned in protest from the FRCAC. It is unfortunate that some of the old habits of past fishing Ministers continue, in particular, the abandonment of commercial fishers and redirection towards the amateur and recreational fishing lobby, which is seen as having the potential to attract extra votes. The Minister has not taken a strong enough conservation stance to enable this great resource to be shared in the community. The Greens have serious concerns about the bill and hope that the Legislative Council will support our amendments and those that will be moved by the Hon. Richard Jones. I understand that the Government will not support the Greens amendments, but I hope the Opposition will give them favourable consideration. We will carefully consider the Opposition's amendments in an endeavour to come up with a bill that strikes a reasonable balance between social justice and the conservation objectives in marine, estuarine and inland environments.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [6.25 p.m.]: I speak in support of the Hon. Jennifer Gardiner on this bill in my capacity as shadow Minister for mineral resources. I should like to say a few words about schedule 1 [12] to the bill as it has implications for the mining industry. The Opposition has no immediate problems with this measure. We acknowledge the need to upgrade the protection available to aquatic reserves and to legislate the process necessary for individuals carrying out other developmental work within aquatic reserves. The Opposition has received assurances from the Minister's office about the intent of the bill and, therefore, accepts the ban on prospecting or mining for minerals in these aquatic reserves. Furthermore, we support legislating a role for the Minister for Fisheries in the development approval process where there is likely to be an impact on aquatic reserves.

It is clear that an upgrade in the protection of aquatic reserves will bring these reserves into line with the network of marine parks and will standardise the protection and activity in these reserves across both the Marine Parks Act 1997 and the Fisheries Management Act 1994. The Opposition is satisfied that this measure will provide the necessary protection within aquatic reserves. However, there is growing concern about the obvious conflict in portfolios held by Ministers. This bill is a case in point. The Hon. Eddie Obeid currently holds two portfolios: Mineral Resources and Fisheries. The Minister is lucky this time as the implications of protecting aquatic reserves from mining will not adversely affect the prosperity of the mining industry or the fishing industry. But how long will it be before there is a clear contradiction between the two portfolios, when the Minister will have to sacrifice the prosperity of one industry at the expense of the other?

People are concerned about our environment and, therefore, are concerned about the preservation of aquatic reserves. Similarly, miners and mining companies are interested in pursuing their rights. These rights must be objectively addressed, and I am afraid that the Minister cannot provide that objectivity if he represents

both sectors. Such conflict is rife within the Carr ministry. Minister Amery until recently held similar diametrically opposing portfolios. Any farmer knows that issues pertaining to the agricultural portfolio are often at odds with ongoing issues within land and water conservation. The Opposition applauds the decision to strip Minister Amery of the land and water conservation portfolio. However, along with many other people, we do not agree with the decision to give such an important portfolio to that bumbling former education Minister, John Aquilina, who is unlikely to have ever stepped out into the country, let alone visited any of the rural areas where this portfolio will have most impact.

The Hon. Jennifer Gardiner: Why put him out to pasture and inflict him on country people?

The Hon. DUNCAN GAY: As the Hon. Jennifer Gardiner says, does the Government have such a set against country people that it has to give a tired, failed Minister such an important portfolio? Having consulted with all relevant parties, including the New South Wales Minerals Council, the Opposition is satisfied that schedule 1 [12] to the Fisheries Management Amendment Bill will not adversely affect the mining industry. Therefore, we will not oppose the bill.

[The Deputy-President (The Hon. Janelle Saffin) left the chair at 6.30 p.m. The House resumed at 8.15 p.m.]

The Hon. Dr BRIAN PEZZUTTI [8.15 p.m.]: In speaking to the Fisheries Management Amendment Bill I draw the attention of honourable members to a bit of history. In 1994 the Hon. Ian Causley was the Minister for Fisheries—he was re-elected as my local member with a substantial majority at the recent Federal election, which heralded the triumphant return to Canberra of Prime Minister John Howard.

The Hon. Duncan Gay: Especially in the Clarence.

The Hon. Dr BRIAN PEZZUTTI: He did very well in the Clarence, but he also carried Lismore, which is more important. The standing committee that I have served on for many years, sometimes as the chair and currently as deputy chair, held an inquiry into fisheries in 1997 because the the Minister for Fisheries, the Hon. Bob Martin—old fisheries inspector that he was—did not agree with the 1994 Act that had been passed by the New South Wales Parliament. In 1994 the Hon. Ian Causley, being a good Minister, consulted widely in regard to the Fisheries Management Act. From memory, there were more than 70 amendments to the bill, which the Minister was happy to accept after consultation with the environmental groups, the New South Wales Conservation Council and others because he was not wedded to a particular philosophy.

Ian Causley came to the view that the best thing to do would be to give people ownership of the resource and an investment in it, to ensure that the resource was well managed—subject, of course, to the Environmental Planning and Assessment Act. Then Bob Martin came on the scene. Honourable members should be aware that on 20 and 21 June 1995 the Premier of New South Wales, Bob Carr, hosted an international conference in Darling Harbour and invited people from all over the world to come to see what was in store for them in New South Wales. The introduction to the conference was delivered by Roger Wilkins, the Director-General of the Cabinet Office. There were a number of important speakers, but I was particularly drawn to a document entitled "From Red Tape to Results", which was a guide to best practice relating to government regulation. The document stated in part:

An excellent example of a 'market-based' regulatory solution is the new fisheries management system for New South Wales. Under the old system the fish resource was protected by restricting access to the industry through licensing the number of participants, by strict controls on the equipment that could be used, imposing size limits on fish and by seasonal and area closures. This approach was cumbersome and unduly restrictive on fishers. By controlling their use of technology it limited potential to increase efficiency. The system was also ineffective in protecting the fish resource from overexploitation. Fishers who wished to expand their catch simply fished more.

Under the new system created in the Fisheries Management Act 1994, fishers will receive shares which will entitle them to a certain proportion of the fish available. The shares will be tradeable. Now fishers who wish to increase the size of their catch beyond their share entitlement will have to bid for additional shares in the fish stock. This will provide much more effective protection against overfishing, as it is now in the commercial interests of fishers to protect the value of their shares by reporting to the authorities anyone suspected of catching more than their shares entitled them to catch. Previously all fishers had an incentive to catch as many fish as possible before their competitors did so.

That is what the Premier said about the Act passed by the Fahey Government, with Ian Causley as Minister for Fisheries. In came Bob Martin as Minister for Fisheries. Bob, being the old fishing inspector that he was, really liked the draconian approach. He decided to continue with restricted fisheries, in spite of the Act that he had to administer.

The Hon. Doug Moppett: You would have thought he was some big copper or something, the way he went on.

The Hon. Dr BRIAN PEZZUTTI: I just think he was a dill. However, the important thing was that an inquiry was held into fisheries management resource allocation in New South Wales. The reference, of course, came from this House. It was initially headed up by the quite remarkable chairman at the time, the Hon. Patricia Staunton. Many members of this Chamber will remember how redoubtable that particular member was. She took to the issue with some gusto, and released report No. 14 of the Standing Committee on State Development in 1997 entitled, "Interim Report on the Fisheries Management Amendment (Advisory Bodies) Act 1996".

The Hon. Jennifer Gardiner and I served on that committee through thick and thin. That report was all about the Minister, as required under the Act, setting up fisheries management councils to advise him on what should be done in each fishery. By that stage the Minister had made a singularly uninformed decision to expand and change the old rules about the abalone share managed fishery. That caused a great deal of consternation. I suspect that it was to pay off some of his old mates. We kept asking for the regulations that the Minister was required to bring forward but they never came.

The only response available to the committee was to produce an interim report to let the Parliament know how intransigent the Minister was. Once the committee received the regulations it could go into the inquiry proper. We had meetings throughout New South Wales and all over Australia. This is a little history lesson. Jeff Angel spoke to the committee about the way Minister Martin was carrying out his functions. On 2 April Dr Angel said:

The Total Environment Centre in association with other groups such as the Australian Conservation Foundation was engaged in quite intensive negotiations for the Fisheries Management Act 1994. During those negotiations we also developed a very constructive relationship with commercial fishermen.

This is what happens when a constructive relationship is developed. Dr Angel continued:

We were particularly pleased with a number of the outcomes of the legislation: total allowable catch provisions, particularly the factors to be considered under section 30 such as the precautionary principle; the provision for management plans; and habitat protection measures. Certainly the relationship between environmentalists and commercial fishermen reached a new level. However, as is perhaps apparent in the legislation, the recreational fishing sector was not a particular part of those negotiations and despite our efforts to improve the legislation in regard to controls on recreational fishermen, we failed to do that. To that extent the provisions of the Fisheries Management Act have a bias towards commercial fishing controls and a lack of attention to recreational fishing controls.

The Hon. Ian Cohen asked Jeff Angel:

In your capacity as a conservation lobby group, have you had any productive communications with the Minister or senior managers of his department? Have you received any feedback that there is light at the end of the tunnel?

Dr Angel said:

No, there is no light at the end of the tunnel under the current Minister and his administration.

The commercial fishermen are feeling much the same about the current Minister. Mind you, he had a lot of catching up to do to get the Carr Government back to acting within the legislation that it had in place. Martin tried to change the Act by returning to restricted fisheries. This House would not have a bar of it and amended his bill. But he put in a little sweetener to encourage the Hon. Ian Cohen and perhaps the Hon. Richard Jones and others and to assuage his backbench. Conservation was to be made part of the bill. The Hon. Jennifer Gardiner spoke at length about the Government getting that wrong. Instead of amending the threatened species Act to include fish the Minister invented his own. That is where most of the problems have come from. That is why we have to deal with this legislation.

As the Hon. Jennifer Gardiner stated, we warned about this in 1997. In spite of that, those parts of the bill passed. The Hon. Richard Jones voted for the amendments this Chamber passed. He and the Hon. Ian Cohen are now trying to amend the bill before us tonight. They could not do it then because the Minister would not have a bar of any amendments. The part of the bill that we did not accept was not proclaimed and so the Fisheries Management Act was left substantially unchanged. The furry animals part of it—in other words, the threatened species part—was put into place but it is very flawed, which is why we are here tonight trying to fix it.

The Hon. Richard Jones: They are not all furry.

The Hon. Dr BRIAN PEZZUTTI: No, they are not all furry—some have fins. But it is a shame that they were not included in the threatened species legislation as it was because that has quite a different regulatory

process. It would have been quite acceptable. All major players appeared before the inquiry. The Minister had quite unceremoniously dumped the previous well-respected, highly consultative chief executive of Fisheries New South Wales. He was not even called in. When the new Minister got his chance he dumped Dr Glaister, who had shown himself to be a closed bureaucrat incapable of consultation. So the Hon. Eddie Obeid, the current Minister, did the same as the previous Minister. I think Dr Glaister was sacked even without an interview.

The Hon. Jennifer Gardiner: It became a tradition.

The Hon. Dr BRIAN PEZZUTTI: Yes. I hope that the current director-general, who is in the gallery this evening, does not face the same fate if there is a new fisheries Minister, because it seems to be a tradition with the Carr Labor Government. In the inquiry it became obvious that Dr Glaister and the department were not prepared to consult and were quite incapable of consulting and following the Act of Parliament that they were there to administer. History is repeating itself.

There should be a budget for that amount of money. Was a budget produced? Of course not. Was that budget viewed by the people who were meant to approve it? No, not at all. Nothing has changed. The Minister for Fisheries then did something quite extraordinary: He decided that he would fix up recreational fishing rights by simply removing them and producing rights to regulate the fishing industry. He produced a plan without consulting the management advisory committees. The recreational fishermen took him to court because he had not complied with the Act; he had not carried out an environmental impact statement or held proper consultation.

The Hon. Jennifer Gardiner: On sustainable fisheries and tourism.

The Hon. Dr BRIAN PEZZUTTI: That is right, on sustainable fisheries and tourism. The Minister broke the law and the recreational fishermen reacted by taking him to the Land and Environment Court—and they won. Having produced closures to the advantage of buying out space for recreational fishermen, the Minister has done the same thing. He now wants to avoid complying with the Environmental Planning and Assessment Act, which Dr Glaister was particularly pleased about when negotiating with commercial fishermen and sustainability.

The Minister is now trying to use this bill to avoid his responsibilities under the Environmental Planning and Assessment Act and to avoid litigation against him by the commercial fishermen because he had not carried out an environmental impact statement in giving out all those recreational licences. That is how the Carr Government's system works: If it cannot blunderbuss its way through, it changes the law, and does it retrospectively. The Government was not prepared to live with an Act that had everyone agreeing to it. Of course, every Act needs revision from time to time. This Act is all about the Minister trying to avoid the provisions of an Act which is fair and produces sustainability. I understand that the Hon. Jennifer Gardiner proposes to delete that part of the Act, and the Minister will have to carry out a proper environmental impact statement.

This substantial report was received with considerable acclaim by the people of New South Wales. The report was tabled in this House in November 1997 after a lot of work had been done. The previous report, tabled in July 1997, included comments by the committee regarding the Minister's proposal to introduce advisory bodies as provided for in the Fisheries Management Amendment (Advisory Bodies) Act 1996. The Hon. Ian Cohen, the Hon. Jennifer Gardiner, the Hon. Tony Kelly and I held a number of inquiries, including an inquiry into Aboriginal fishing rights, and we produced a report. But the Hon. Tony Kelly, who is a different kettle of fish, was not prepared to wear the thrust of the Hon. John Johnson and the Hon. Ian Macdonald, who was wedded to the Fisheries Management Act. We concluded that we should go back to the Fisheries Management Act, and not go beyond the law—or ultra vires, a term used by the Hon. Patricia Staunton.

The Hon. Tony Kelly: Not quite in those words.

The Hon. Dr BRIAN PEZZUTTI: The Hon. Pat Staunton would use those words, and she would use stronger words. In that report the Hon. Jennifer Gardiner and I produced a dissenting statement in the following terms:

The Standing Committee is concerned that the Share Management Fisheries Review Committee undertook only a very limited, and possibly selective, consultation before reporting to the Minister. The Standing Committee views this as a serious shortcoming and considers that it accounts for much of the stakeholder suspicion surrounding the Review Committee's report and

recommendations. The Standing Committee also considers that the "progressive implementation path" would not necessarily lead to implementation of share management in all fisheries, despite the Review Committee writing that it did not consider not implementing SMF as an option. After considering the voluminous evidence before it, the Standing Committee believes share management to be the appropriate fisheries management outcome for New South Wales. *It is obvious that in spite of the "review" the Minister is isolated in his attempt to pervert the intent of the Act by way of so-called "progressive" implementation.*

When the Hon. Eddie Obeid became Minister for Fisheries he picked up the baggage of four years of bad faith with recreational fishers, commercial fishers and people from the environmental groups. Each issue of the *Government Gazette* contained page after page of regulations closing or opening something. I remember that every time the mullet ran on the South Coast, the Aboriginal fishermen would miss out because the Minister closed the fisheries for various reasons—because it was Friday, because it was Saturday or because it was Tuesday. It was hard to tell what his reason was.

The Aboriginal community in that area relied upon that fishery, and had been fishing there since the 1970s. Dr Refshauge, the Minister for Aboriginal Affairs, would not respond to the committee's request for an Aboriginal fishing strategy. He would not even talk to the former Minister, Mr Martin, about that matter. Of course, there is still no strategy in place. The Hon. Jennifer Gardiner and I had a strategy, as did the committee—and we still do. The Government has no strategy. It has no policies whatsoever, except those it steals from the Coalition. Honourable members should understand that there is a finite resource that can be improved by better environmental management. The Minister has not spent money to fix up the fish breeding sites, the waterways, the weirs, and so on. He is simply trying to return to the conditions that existed in 1995 and start all over again. But time has moved on.

I commend the amendment proposed by the Hon. Jennifer Gardiner, the shadow Minister for Fisheries. However, I am concerned that the Minister acts within the provisions of the Environmental Planning and Assessment Act in trying to fix up all of the problems that he has created, and continues to create, as he tries to play off one side against another. The Minister is trying to buy out the fisheries by offering compensation, but he keeps losing money from the budget. Instead of using taxpayers funds he is using a new form of taxation which is delivering him about \$6 million a year. The Treasurer cut the budget so the Minister rips money from fishermen by introducing licences.

The Hon. Tony Kelly: Don't you believe him?

The Hon. Dr BRIAN PEZZUTTI: No, I do not, and I never did. The Hon. Jennifer Gardiner and I rejected the licence in 1997—and we still reject it. But that \$6 million is new taxation imposed by this Government—and it is good at doing that.

The Hon. Richard Jones: It is a user-pays fee.

The Hon. Dr BRIAN PEZZUTTI: It is not a user-pays fee because the money does not go to the user at all.

The Hon. Richard Jones: It does, in a roundabout way.

The Hon. Dr BRIAN PEZZUTTI: No, it does not, not even in a roundabout way. Where does one see inspectors protecting the resource from environmental degradation? It does not happen.

The Hon. Richard Jones: There are 200 inspectors.

The Hon. Dr BRIAN PEZZUTTI: This whole fishing issue is still in the melting pot. The Minister has recreational fishermen fighting with commercial fishermen. He has environmentalists off to the side having a snipe. There is not the settlement or certainty that we had in 1994, when we were moving forward. Ian Causley was an intelligent Minister who listened, and he had a good department.

The Hon. Jennifer Gardiner: He was a greenie.

The Hon. Dr BRIAN PEZZUTTI: The Causley family has been farming successfully in that area for 130 years and they are still doing very well. As farmers they deal with many areas of environmental protection, particularly acid sulfate soil, which is responsible for dead fish in the Clarence, Richmond and Tweed rivers. The Hon. Richard Jones knows that only too well because he has seen the dead fish. Both he and the Hon. Ian Cohen were on the boat when we dipped the pH meter into the water and it showed a pH level of 2—the water

contained more acid than vinegar. That is why the fish were dying. This Minister has not conducted any research. Robert Hill and the Federal Government are spending money on research into acid sulfate soils, but not this Government.

The Hon. Richard Jones: More's the pity.

The Hon. Dr BRIAN PEZZUTTI: Absolutely. It is sometimes worthwhile bringing history to some of these debates because the Minister still has not learnt. It is a pity he did not take any notice when he was a member of the committee.

The Hon. Jennifer Gardiner: He did not come to the committee.

The Hon. Dr BRIAN PEZZUTTI: No. He was highly critical of Minister Martin and that is a shame. I will not quote the questions and the comments of the Hon. Eddie Obeid because that would take too long at this stage. I am hopeful that he can learn, and try to fix these problems without taking the quick solution. If he has problems he should receive advice or engage Paul Crewe as a consultant and undergo the proper consultation to get it right. Everybody wants the Minister to get this right. He should move positively towards the goals that we were trying to achieve in 1995.

Debate adjourned on motion by the Hon. Peter Primrose.

POLICE SERVICE AMENDMENT (PROMOTIONS AND INTEGRITY) BILL

Bill introduced and read a first time.

Declaration of urgency agreed to.

Second Reading

The Hon. MICHAEL COSTA (Minister for Police) [8.44 p.m.]: I move:

That this bill be now read a second time.

This bill improves the integrity and efficiency of the police promotions process, ensuring promoted officers commence duties in the new positions as quickly as possible in accordance with corruption-resistant selection procedures. Since I took up the position of Minister for Police I have been talking to local police and community members to see what the Government can do to help police better serve the people of New South Wales. Police have constantly raised concerns about the delays in the current police promotions system. These delays prevent police from moving into new jobs and they can lead to instability of staffing arrangements and low police morale.

Half of the local area commanders surveyed as part of the qualitative and strategic audit of the reform process of the New South Wales Police Service, overseen by the Police Integrity Commission, have cited promotion and appointments as key priority areas where improvements are needed. The delays in the current system, coupled with concerns about the integrity of promotions raised by the police Special Crime and Internal Affairs Orwell investigation and the Police Integrity Commission's Jetz inquiry, showed that the Government and the Police Service needed to sweep a new broom through the promotions system. We need to put the best officers for the job out on the street and remove delays that sap police morale.

The Government's introduction of the Police Service Amendment (Selection and Appointment) Act in December last year has improved the flexibility of the police promotions system and promotional appeals. There has been a 21 per cent reduction in the rate at which appeals are lodged against the commissioner's selections for promotion, with the rate of persons selected for the job who are finally appointed after appeals rising from 90 per cent to 95 per cent. However, as the former Minister for Police stated when that legislation was introduced, further improvements to the promotions system are needed.

The Police Service's Executive Director of Human Resources Services has advised me that it is not unusual to take eight months for a position to be filled from the date a vacancy is advertised, with advertising itself sometimes taking several months from a vacancy arising. The current provisions of the Police Service Act 1990, coupled with the current promotions appeals system and industrial issues, have prevented officers from being moved into the positions they have been selected for whilst lengthy integrity and appeals processes take place. This needs to change, with there being appropriate safeguards to protect officers who move into a new job if their selection is overturned on appeal.

In April 2001 the Police Service commenced a Special Crime and Internal Affairs investigation codenamed Orwell into police abuse of the promotions system. On 26 June the former Minister for Police made an order under section 142 (1) of the Police Integrity Commission Act authorising Special Crime and Internal Affairs officers to take part in a joint task force with the Police Integrity Commission, codenamed Operation Jetz, to investigate whether certain members of the Police Service had engaged in misconduct in respect of the Police Service promotions system. The Police Integrity Commission commenced public hearings on 20 August. Those hearings have demonstrated that police officers have distributed confidential promotions material to assist the promotion of their associates and for personal gain.

The number of officers who have engaged in misconduct in respect of the promotions system will not be able to be determined until the Police Integrity Commission issues its report on the Jetz inquiry and any further Special Crime and Internal Affairs investigations in this area are finalised. Commissioner Ryan is of the view that he would be derelict in his duties if he were to make permanent merit-based appointments whilst the integrity of the promotions system is under question. The commissioner has therefore determined that no further promotions will be advertised in that filling of all vacant positions where advertising has closed will be made by way of temporary appointment under section 66 of the Police Service Act.

Other vacancies may also be filled by way of temporary appointment, as necessary. The Government and Related Employees Appeals Tribunal [GREAT], which has stayed its hearing of police promotional appeals, will resume hearing matters from 17 December 2001. Legislation must be progressed this session that will restore faith in the integrity of the promotions system and make it more efficient. That is what this bill does.

Whilst the bill is an important part of the reforms to the police promotions system, reform will not be effective without changes to the manner in which the promotions system is administered. I must pay tribute to the members of the Police Service, the Police Association and the Ministry of Police who, through the tripartite committee on human resources issues, have developed a new model for selecting the best police officers for the job, taking on board the comments of the qualitative and strategic audit of the reform process of the New South Wales Police Service and the views of police officers raised in the "2000 Police Service Survey Report into the Selection/Promotion Process".

Before I discuss the key provisions of the bill, I will outline the important administrative reforms that will commence on 1 January 2002. These changes will make the police promotional selection process the most rigorous and objective in the New South Wales public sector. They also make significant improvements to the integrity and security of the selection system. Key administrative reforms include the introduction of a prequalifying assessment test that will assess common selection criteria and technical knowledge. Fifty questions that will be asked from a prequalifying assessment must be passed before an officer is eligible for promotion. The application process will be improved. Names on application forms will be replaced by barcodes so that the selection panel cannot be accused of bias, comments on an applicant's suitability will be provided by a three-person command management team rather than by a single officer, and each part of the application process will be given a percentage weighting.

There will be improvements to the assessment centre process. The written component will be barcoded for anonymity purposes, assessment centre material will be colour coded and numbered to detect and deter leaks of material, there will be increased use of non-police assessors, police volunteers for role-play exercises will be replaced by external role players, there will be improvements and ongoing assessor training, and a senior assessor will be appointed to train assessors and monitor their performance. The objectivity and comprehensiveness of the selection process will be improved by weighting each stage of the process—prequalifying assessment, application, assessment centre and interview—rather than relying only on performance at interview. This approach is consistent with the recommendations of the qualitative and strategic audit of the reform process of the New South Wales Police Service. The service will conduct an annual survey to monitor police confidence in the promotions process. The Police Integrity Commission will provide integrity reports within two weeks of the preferred applicant being identified rather than within two months, as is currently the case.

I will now address the provisions of the bill. Schedule 1 amends the Police Service Act 1990. The bill enables all applicants for police promotional positions, from sergeants to the commissioner, to be asked to sign a statutory declaration that they have not engaged in misconduct generally or a specified form of misconduct. Any officer who does not sign is ineligible for promotion. However, because a refusal to sign cannot be treated as an admission of guilt, the bill provides that a refusal to sign cannot be considered for any other purpose. An officer who knowingly and falsely swears that he or she has not engaged in misconduct commits an offence punishable by up to five years imprisonment. These provisions, which apply to any person eligible for promotion at the time of commencement, are provided for at schedule 1 [3], [5], [18], [22] and [29].

The message is clear: only officers with a clean slate need apply for promotion. Those officers who are tainted and who seek to conceal their conduct will be weeded out of the service. Whilst the commissioner routinely asks the Police Integrity Commission and Special Crime and Internal Affairs for integrity reports on preferred applicants—and the Police Integrity Commission and Special Crime and Internal Affairs provide those reports—the Act does not generally require this. The bill makes it clear that the Minister, in appointing the commissioner, and the commissioner, in appointing any police officer or member of the Police Service senior executive service, must obtain Police Integrity Commission and Special Crime and Internal Affairs reports before an officer is promoted. These arrangements need to be enshrined in legislation to ensure that they are continued.

To avoid any conflict of interest a deputy commissioner must provide the commissioner with an integrity report on the preferred applicant for the position of Commander of Special Crime and Internal Affairs. The integrity report provisions that apply to any person eligible for appointment at the time of commencement are in schedule 1 [1], [2], [7] to [9], [12] to [14] and [29]. New sections 71B and 77B in schedule 1 [20] and [23] introduce an integrity "cooling-off" period to allow the commissioner having regard to new integrity information to withdraw a selection up until the time of permanent appointment or the hearing of any promotional appeal by the Government and Related Employees Appeal Tribunal [GREAT]. The Police Service Act currently does not allow for such a deselection and the commissioner must progress the appointment of an officer whom he knows to be of dubious integrity. When a selection is withdrawn the commissioner may select the officer with the greatest merit from among the remaining applicants. The bill makes it clear that a deselected officer, as well as all other eligible officers, maintain full promotional appeal rights to GREAT. The new provisions apply to officers who are selected or subject to non-heard appeals at the time of commencement. Schedule 1 [19], [20] and [23] prescribe the circumstances in which an officer may cease to be selected for a position.

It is essential that the Police Service is able to deal quickly with an officer who is found to have gained his or her promotion through misconduct. Officers who have rorted their promotion should be stripped of that promotion immediately. The current appeals system in respect of employee management action or removal under sections 173 and 181D of the Act means that officers who have rorted their promotions can remain in their position, and continue to draw their higher salary, whilst Industrial Relations Commission appeal hearings are ongoing. The time taken to remove officers from positions that they had gained wrongfully may paralyse management within parts of the service and have an adverse effect on morale, with junior officers knowing that they are serving under officers of questionable integrity.

The bill at schedule 1 [27] introduces a new division 2A of part 9 of the Police Service Act, which allows the commissioner to make a revocation order to revoke the promotion of an officer before any Industrial Relations Commission appeal is heard. That division also allows additional action to be taken under sections 173 or 181D if appropriate. Otherwise the new division mirrors the scheme for reviewable management action under section 173 and division 1A of part 9. The Industrial Relations Commission has appropriate powers to remedy any inappropriate revocation audit being made. Schedule 2 amends section 40 (3) of the Police Integrity Commission Act 1996 to make it clear that evidence given before the Police Integrity Commission may be considered in making a revocation order and in any subsequent review of that order. Schedule 1 [25] and [26] make important reforms to the police promotions appeal process before GREAT.

In 2000, appeals were lodged against 373 of the commissioner's 553 appealable selections, or 67 per cent. All appeals were withdrawn in 83, or 22 per cent, of the 373 matters. There were 1,396 appeals lodged in total, meaning that each position appealed against had 3.75 appeals lodged against it. Of the 290 positions for which appeals were heard, appeals were upheld in 57, or in 19.6 per cent, of cases. Of these figures, the commissioner's selection was appointed in 90 per cent of cases. To date in 2001, 114 of the commissioner's 249 appealable selections were appealed, or 46 per cent. All appeals were withdrawn in 32 of the 114 matters, or 28 per cent. There were 328 appeals lodged in total, which means that each position appealed against had 2.87 appeals lodged against it. Of the 82 positions for which appeals were heard, appeals were upheld in 12, or 14.6 per cent, of cases. According to these figures, the commissioner's selection was appointed in 95 per cent of cases.

Notwithstanding recent improvements, police use promotion appeal processes more than the rest of the entire public sector combined. In the 18 months between 1 July 1998 and 30 June 2000, 927 promotional appeals were lodged by members of the Public Service Association while 1,396 appeals were lodged by police officers in 2000 alone. Some 46 per cent of those appeals were subsequently withdrawn. The rate of police promotional appeals has significant resource implications for the service and for GREAT. It must also be

remembered that, while police are attending appeal hearings, they are not performing their normal policing duties. The high rate of appeals also causes delays to the progression of appointments, with a random sample of police promotional appeal matters suggesting that appeals take an average of 82 days to be finalised, with a delay of three to four months not uncommon.

The bill provides that police officer promotions appeals will be heard by a single independent chairperson, with Police Service and Police Association representatives being removed from the appeal panel. This decision was informed by the Report on the Qualitative and Strategic Audit of the Reform Process of the New South Wales Police Service, the evidence given before the Police Integrity Commission Jetz inquiry, and the advice of the service, the association, and a former senior chairperson of GREAT, Mr John Lynn. GREAT will still be able to call on employer and employee interests to advise in a matter, if it considers that is appropriate. The bill also requires all evidence given in police promotions appeal proceedings to be given under oath. This provides a disincentive to providing false information as to integrity or in support of an appeal.

Whilst many appeals are genuine, others appear to be opportunistic. The relatively large percentage of cases in which appeals are withdrawn suggests a significant number of frivolous appeals. There is a category of appellant that adopts a "scattergun" approach by lodging appeals against all officers selected for positions the appellant applied for. This practice encourages selected officers to mount protective appeals against less preferred positions they applied for. The lodging of frivolous appeals has cost implications, slows the appeal process and causes additional distress to officers selected for positions. The bill, therefore, allows GREAT to dispose of any police appeal it regards as frivolous or vexatious or where it is satisfied the appellant is not able to put forward an arguable case in favour of his or her appointment. Similar powers exist in respect of police promotional appeals under the Northern Territory Police Administration Act.

The bill also requires the basis of the appeal to be particularised in writing at the time it is made, with such further written particulars to be provided from time to time as required by GREAT. The level of particularisation required is to be determined by GREAT. This will deter officers from lodging purely opportunistic appeals. Schedule 1 [26] is a key provision of the bill. It allows the commissioner to recommence the selection process where he is unable to support the appointment of a person whose appeal is upheld by GREAT. This is in recognition of the fact that the commissioner will not always be in a position to provide GREAT with adverse integrity information concerning an appellant, as GREAT would be obliged to provide that material to the appellant and give him or her a chance to answer it. This could seriously compromise current Police Integrity Commission or Special Crime and Internal Affairs investigations into police misconduct. The commissioner should not be put in a position where he must either compromise integrity investigations or promote an officer he knows to be corrupt.

The commissioner, who is ultimately accountable for the management of the service, should retain a discretion not to appoint a successful appellant. These provisions of the bill will be closely monitored during the 2002 review of the Police Service Act to ensure they are operating effectively. Schedule 1 [24] is a purely housekeeping amendment that removes the redundant right of appeal to GREAT for promotions within the rank of constable. Schedule 3 of the bill amends the Government and Related Employees Appeal Tribunal Act 1980 to allow for the part-time employment of GREAT chairpersons. These provisions ensure maximum efficiency and flexibility in GREAT appointments and will allow a part-time chairperson to be appointed to assist to clear the backlog of police appeals currently in the system.

Schedule 1 [15] is critical to reducing delays in getting police officers into their jobs quickly. It allows the commissioner to safely place a preferred applicant pending integrity clearances or a selected officer pending appeals into a position that he or she has won prior to receipt of integrity clearances and resolution of appeal action. As a matter of practice, it is unlikely officers will be placed in their new position prior to receipt of an integrity report, as the Police Integrity Commission and Special Crime and Internal Affairs have agreed to provide such reports within two weeks of the person having been identified as the preferred applicant. This process has obvious implications for preferred applicants who are temporarily appointed but not permanently appointed for integrity or appeal reasons, particularly if they have relocated to take up a new position.

On the basis of 2001 data, this would occur in up to 7 per cent of cases, with 5 per cent of the commissioner's selections overturned at GREAT and 1 to 2 per cent of officers debarred on integrity grounds. It is intended that the proposed changes to the GREAT appeals system and the administrative changes to the selection system will further reduce the likelihood of a temporarily appointed officer not being permanently appointed. However, to address this issue, the bill provides safeguards to ensure a preferred applicant or selected officer who relocates on a temporary appointment has his legitimate rights protected. The bill requires the

commissioner and relevant officer to enter into an agreement as to which command the officer will serve in if the officer is not permanently appointed. For example, the officer could stay in his new command, return to his original command or transfer to a command mutually agreed between the officer and commissioner.

Where an officer relocates upon not being permanently appointed, the service is to bear the cost of this relocation in accordance with relevant industrial agreements for transferred officers. The commissioner cannot involuntarily transfer an officer who he has agreed may stay in the command to which he or she has relocated for a period of three years, unless that transfer is for misconduct or unsatisfactory performance under section 173 of the Act. Under the new system, officers will be placed in their new jobs within 21 days of selection. This will result in a decrease in officers who have not undergone any merit or integrity testing filling promotional positions on a higher duties allowance. This new system will not reduce delays in the promotions system if positions left by preferred applicants or selected officers under the new provisional appointment arrangements cannot be backfilled.

Failing to take this step would simply cause delays in the system to be transferred from one rank down to the next. Schedule 1 [15] and the new definition of "vacant position" at schedule 1 [11] allow for this. Schedule 1 [10] introduces eligibility list arrangements for Police Service Senior Executive Service positions, consistent with arrangements for the general public sector under the Public Sector Management Act 1988. Schedule 1 [17] extends the life of non-executive police officer eligibility lists from six months to one year. This additional flexibility will enable eligibility lists to be used more frequently and positions to be filled much more quickly. This amendment, coupled with the service agreeing to advertise known future vacancies in advance of a vacancy actually arising, means that some positions may be able to be filled on the day they become vacant.

Items [4] and [6] of schedule 1 make housekeeping amendments to better reflect changes to Police Service Senior Executive Service appointment arrangements introduced in 1996. The bill has been developed by the Police Service, the Police Association and the Ministry for Police, in consultation with key stakeholders, including the Police Integrity Commission, GREAT, the Department of Industrial Relations and the Public Sector Management Office. The bill provides a major overhaul of the police promotions system, improving its integrity and efficiency. These reforms must be in place by 1 January 2002 so that the current freeze on permanent appointments can be lifted and the integrity of the new selection system can be guaranteed. I commend the bill.

Debated adjourned on motion by the Hon. Doug Moppett.

TRANSPORT ADMINISTRATION AMENDMENT (RAIL ACCESS) BILL

Bill received and read a first time.

Motion by the Hon. Michael Costa agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

CRIMES AMENDMENT (SEXUAL SERVITUDE) BILL

JUSTICE LEGISLATION AMENDMENT (NON-ASSOCIATION AND PLACE RESTRICTION) BILL

UNIVERSITIES LEGISLATION AMENDMENT (FINANCIAL AND OTHER POWERS) BILL

HIGHER EDUCATION BILL

WOLLONGONG SPORTSGROUND AND OLD ROMAN CATHOLIC CEMETERY LEGISLATION AMENDMENT (TRANSFER OF LAND) BILL

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

FISHERIES MANAGEMENT AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. RICHARD JONES [9.10 p.m.]: This bill amends the Fisheries Management Act to provide for orders to be made to allow groups of people to carry out activities that affect threatened species, populations

or communities and enable regulations to be made to prohibit commercial fishing in specified waters. The bill upgrades the protection available to aquatic reserves by banning prospecting or mining for minerals in them, giving the Minister a role in the development approval process where impact on aquatic reserves is likely and allowing the Minister to put temporary management measures in place to protect the values of aquatic reserves. It allows aquatic reserves with declared diseases to be exempted from sale and movement prohibitions and share management plans to be introduced whilst appeals regarding allocations are still in process, and makes penalties for offences consistent with similar offences within the Fisheries Management Act and other legislation.

The bill also allows certain seafood diseases to be exempted from prohibitions against sale and movement that are said to be causing unnecessary difficulties for farmers. Seafood with diseases not known to affect humans will therefore be allowed to be sold and consumed. The independent Fisheries Scientific Committee decided that the Murray and Murrumbidgee rivers downstream of the major impoundments should be listed as an endangered ecological community. While the Minister for Fisheries has requested the committee to review the decision, the committee is expected to proceed with the listing. This will mean that it would become an offence to harm any fish or marine vegetation that is part of that community.

The Minister has argued that this would stop recreational fishing in much of the Murray and Murrumbidgee rivers, even for species such as golden perch, and halt the new inland commercial yabby fishery. The Minister also argued that a ban on harvesting such species is quite unnecessary because the decline in the community can be attributed to habitat changes not overfishing and only a limited number of species within the community are regarded as individually threatened. The Minister therefore wants to be able make an order allowing the activities of recreational fishers in the Murray and Murrumbidgee rivers to continue once they have been assessed via a species impact statement.

The Minister has apparently based this proposal on suggestions put forward by the Fisheries Scientific Committee, and the proposal has apparently been discussed with and not opposed by the Fisheries Minister's advisory councils on conservation, recreational fishing and commercial fishing. The Fisheries Scientific Committee is considering listing the lower Murray-Darling fish community as an endangered ecological community because it contains a number of endangered or vulnerable species such as trout, cod, silver perch, southern pygmy perch and Murray hardyhead; the threats—flow regulation, barriers to movement and mitigation and other forms of environmental degradation—affecting these and other species in the community are common to all; and the community is listed as threatened in the Victorian tributaries of the Murray River.

The committee, however, has also identified the potential difficulties that would arise from such a listing, making fishing for any species in the community illegal. The committee also noted the action taken by the Victorian Government—the introduction of Governor in Council orders that allow recreational fishing for some of the species in the Murray River community—to address those difficulties and discussed the options available to address those difficulties here in New South Wales: options such as amending legislation, issuing licences to harm for recreational and commercial species in endangered ecological communities but not threatened species, and excluding such species from the definition of community.

While the committee has registered its support for proposed changes to the New South Wales Act that allow orders to be made relating to exempting particular species or activities from the protective constraints of listing under threatened species provisions, in a letter to the Director of New South Wales Fisheries stamped "received 5 September 2001", it has also made it clear that those proposals were put forward by New South Wales Fisheries. The committee also made it clear in that letter that, should such changes be introduced, it would like to be consulted on all orders prepared to exempt particular species or activities from the protective constraints of listing under threatened species provisions.

This is a reasonable request, as any advice provided by the committee would no doubt be crucial to and assist the Minister in his deliberations on ministerial orders, and should therefore be accepted by the Government. I and the environment groups are, however, concerned that the ministerial orders that can be made authorising a class of persons to damage the habitat of or harm a threatened species, population or ecological community had the potential to substantially undermine threatened species protection in New South Wales. We are also concerned that an order could be made that would adversely impact on current proceedings in the Land and Environment Court. The case in question is by the ProFish group against the Minister for Fisheries and is listed for hearing on 30 January 2002.

ProFish has taken the Minister to court for his alleged failure to conduct environmental assessments or to complete an environmental impact statement [EIS] for recreational fishing, particularly in waters proposed for

the exclusive use of recreational fishers. While ProFish has been advised by its barristers that it has a strong case, it has also been advised that if the proposed changes proceed, their litigation could fail. That is primarily because a major part of the upcoming case rests upon the impact of recreational fishing on threatened species and the Minister's obligations under the Environmental Planning and Assessment Act 1979 to consider those impacts as the law currently stands. The proposed ministerial power to make orders exempting recreational fishers from provisions contained in the Threatened Species Conservation Act could, in effect, also serve to exempt the Minister from obligations under the Environmental Planning and Assessment Act 1979 and thereby undermine one of the major strengths of the ProFish case.

Such an effect can come about as the provisions relating to ministerial orders in this bill could be applied to all areas where commercial fishing is presently conducted in New South Wales. The provisions are also not limited to the context in which they have been proposed, dealing with complications arising from the listing of endangered ecological communities, and they allow the Minister to make interim orders permitting harm without environmental assessment. While the changes proposed in this bill may not be designed to adversely affect this court case, there is no doubt that they have the potential to weaken the ProFish case for injunctive relief. Not only would such a development be inappropriate, it would contravene the longstanding and integral separation of powers that exists between Parliament and the judiciary.

This bill should not, therefore, be considered or passed until the Land and Environment Court case has run its course. If, however, this bill is to be proceeded with at this stage, it is absolutely crucial that the Fisheries Scientific Committee is consulted on any ministerial orders proposed to be made under this legislation. It is also extremely important that any expert advice provided by the committee made public together with the reasons why ministerial orders are made; and that interim orders not be remade unless a species impact statement has been initiated and a time limit set for the preparation of species impact statements. I intend, therefore, to move amendments that will insert such requirements. I understand that the Government will accept those amendments, and I commend the Minister and his adviser, Aaron Gadiel, for their foresight in that regard.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.16 p.m.]: There are some aspects of the bill that the Australian Democrats support, and there are others that give rise to some concern. Specifying the purpose of the salt and freshwater fishing fees, which are dealt with in proposed section 34AA, and the prohibition of certain activities through aquatic reserve notifications in proposed subdivision 3 of division 2 of part 7 of the Act are positive aspects. The prohibition on mining in aquatic reserves referred to in proposed subdivision 2 is very encouraging, and the Government should be congratulated on that. However, the Nature Conservation Council has expressed some concern about proposed section 197C, which I will return to later.

As I mentioned, the Democrats do not agree with some aspects of the bill. New section 221IA provides that the Minister may issue an order authorising a class of person to permit harm to threatened species. The powers given to the Minister under the proposed section are very wide and lacked clear definition. Another is the cynical attempt of the Minister to deny commercial fisheries their due compensation under the share management arrangement that currently exists in section 52A. The Democrats were very supportive of the implementation of the share management scheme for commercial fishers because it provided an equitable arrangement in paying out commercial fishers operating in fisheries that have been unsustainably exploited. However, because of a court case, the Minister has decided to cover himself for any liability by amending the Act. Section 58 of the Act relates to public and industry consultation. In that regard ProFish stated:

The proposed changes will result in the Department of Fisheries preparing a management plan without any consultation with the elected Management Advisory Committee [MAC]. The experience to date with both the Estuary General and Estuary Prawn Trawl MACs has seen detrimental changes proposed by the department that would amend work practices to a level that would result in these fisheries becoming cottage industries and part-time businesses with potentially adverse impacts on the environment.

I think some credit is due to the Minister. He is trying new and interesting ways to improve the sustainable management of fisheries in New South Wales. However, his methods have been called into question lately. The stakeholders are complaining that the Minister does not consult them. In the past three weeks my office has received many faxes, letters and emails from commercial fishers. An email I received from Mr Robert Smith, a gentleman who heads a political party that was established as a reaction to the Minister's management of New South Wales Fisheries, stated:

The Fishing Party is deeply concerned with the way in which Minister Obeid is blatantly and arrogantly making decisions regarding changes to the fishery management and shift in resource allocation in NSW, through the deceitful, deliberate and suspicious way of his public consultation processes.

That is strong stuff. I quote again:

It seems that the system of public consultation into this publicly owned resource is a farce, with the results being predetermined. Members of the Minister's own assessment committee have even voiced this concern, which should be further investigated by the proper authorities. Other evidence of this can be seen with the involvement of the Australian Fishing Tackle Association heavily involved with distributing conflicting documents on how submissions should be filled in. This leads to innuendos of AFTA and the Minister doing deals.

I have also received a letter from Mr John Smyth, who was a commercial fisher with the Fisheries Resource Conservation and Assessment Council. He wrote:

Since the announcement of the recreational fishing areas for Region 8 I have been pondering my role as a representative of commercial fishers in the consultation process. At FRCAC we discussed the community consultation report for Region 8 and expressed concern over the conduct of the Merimbula meeting. However, we also noted that the majority of submissions came in favouring the second option of retaining commercial fishing, as was the case for Region 2.

I am aghast that a number of late submissions have been recognised as part of the process. Were commercial fishers given this opportunity? Clearly they weren't, as although they do not like the consultation process they went along with it believing they were participating in a legitimate consultation process. By acceptance of late submissions from those with a clearly vested interest you have "moved the goalposts".

The consultation process is a farce and as such I am ashamed to be participating in a process that will put people out of work for reasons not based on sustainability or environmental issues. I have spent time away from my family and work to attend every meeting and hopefully provide relevant advice on the issues at hand. I am no longer willing to partake as a commercial fishing representative in a process which has done nothing but add insecurity to industry members and their families. It has in fact created division between commercial fishers who have for years been the backbone of small coastal communities.

I hereby resign in protest from FRCAC.

Yours sincerely

John Smyth

That too is pretty strong stuff. Another letter I received, from Sharon Coombs, Manager of the Wallis Lake Fishermen's Co-operative, stated in part:

There are many issues contained within the proposed amendments that have the potential to have severe ramifications on not only commercial fishing and the primary industry that is the supply of fresh local seafood to local communities and Sydney Fish Markets but the matters of unemployment by associated local businesses closing as a result of loss of supply and infrastructure.

We are also very concerned that an amendment to a bill could provide one Minister with absolute power for regional closures and other decisions without having to go through the public consultation process and involve all stakeholders within any given region with the opportunity to be involved denied. This is not a due process of law and unconstitutional.

The changes to the management plans and management strategies are such that again the Minister can make decisions in isolation without any consultation or input from the people or communities that it will affect. This is not due process, nor does it consider the many and varied needs of communities and the local businesses. It favours one small segment of the community only, and statistical support of this sector is scant without a properly considered management plan.

Sharon Coombs is also secretary of the New South Wales Fishermen's Co-operative and Director of the New South Wales Seafood Industry Council. I have also received faxed copies of letters that the Minister has sent out to members of advisory councils informing them of draft working papers on proposed changes to the Fisheries Act. I am getting confused messages from the electorate and from the Minister. I am also curious about new section 221B, which enables the Minister to make what he considers a minor amendment to a ministerial order without conforming to any of the requirements of subdivision 1A. I understand that the definition of a minor amendment is entirely at the discretion of the Minister. Can the Minister please elaborate on what he has in mind by using the term "minor amendment"? The Australian Democrats have some reservations about this bill and will move amendments, which I will speak to at the appropriate time.

Reverend the Hon. FRED NILE [9.24 p.m.]: The Christian Democratic Party supports the Fisheries Management Amendment Bill. The bill will amend the Fisheries Management Act 1994, which governs the management and conservation of the State's commercial and recreational fisheries. The bill will adopt a suggestion of the Fisheries Scientific Committee to provide for orders to be made which would allow a group of people to carry out nominated activities that may affect threatened species, populations or communities. Species impact statement will be prepared and considered as part of a public consultation process. The bill will also upgrade the protection available to aquatic reserves to bring them fully into line with marine parks. This includes a ban on prospecting or mining for minerals in aquatic reserves. It also gives the Minister for Fisheries a role in the development approval process where there is likely to be an impact on aquatic reserves. It will also allow temporary management measures to be put in place if required in order to protect the values of an aquatic reserve.

The bill will allow aquatic species with certain declared diseases to be exempted from sale and movement prohibitions: for instance, in the case of diseases that are not harmful to humans and/or where the disease is already widespread. The bill will allow share management plans to be introduced whilst appeals regarding share allocations are finalised, and will provide that people who lodge an appeal prior to the making of any share management plan will retain their appeal rights after the management plan has commenced. This will help ensure that commercial fishers in each of these fisheries receive the security of a management plan—and their 15-year renewable lease—as soon as practicable after the environmental impact statement has been exhibited and determined. There will also be an increase in penalties for certain offences to ensure consistency with similar offences under the Fisheries Management Act and with other legislation.

A problem with considering any bill associated with the Minister for Fisheries—whether it is the present Minister or previous Ministers—is that there are conflicting statements, opinions and correspondence. As I have said before, this makes it very difficult to determine the truth of various statements and whether the legislation is as harmful as has been alleged or has positive aspects. This is not very helpful for members, especially crossbench members. For example, Mr Graeme Byrnes stated that the Minister had purged the Advisory Council on Commercial Fishing of ProFish members. On 27 November the Minister wrote to me stating that Mr Graeme Byrnes, far from being purged, is an elected member of the council and a senior officer, as treasurer, of ProFish. He regularly brings up issues of concern to ProFish as council business. Mr Byrnes also claimed that he had not had any briefing or consultation.

The Minister stated that Mr Byrnes was sent an eight-page summary explaining the proposed contents of the bill on 6 August 2001. That summary was subsequently discussed at the council on 20 August 2001, two weeks later. Therefore Mr Byrnes was not taken by surprise. He did not attend the meeting, which would have made it difficult for him to fully understand what was going on. That is an example of the kind of problem that we have in determining where the truth lies and whether to support legislation. I have said on a number of occasions that fisheries should be efficiently managed and straightened out, so to speak. It seems that if we are not careful—this may be the case with the present group of changes—the amendments will have the opposite effect to that intended and cause more confusion and in the long run could have negative impacts on people involved in the fishing industry. That is my concern. The Christian Democratic Party supports the bill.

The Hon. DOUG MOPPETT [9.29 p.m.]: I do not intend to speak for any great length of time. I think it would be true to say that my colleague the Hon. Jennifer Gardiner has sedulously set out the difficulties of the present. It would be equally true to say that the House has had the benefit of the contribution of the Hon. Dr Brian Pezzutti, who set the fishing industry in a sort of historical context going back to the landmark bill of 1994. By interjection, I described that bill as being in the halcyon days of agreement within the industry. I did not add those words, but I do now, because there is no doubt that, despite early apprehensions when the bill was first signalled, when it came to be passed into law the fishing industry was united in a way that certainly was hailed then as a rare occasion—as if the industry had ever been united before. Since then it has been very much fractured by the subsequent administration of Ministers Martin and subsequently Obeid.

It is often said that fishermen are like farmers. I think there are valid comparisons to be made in their outlook on life and in their phlegmatic resignation to industry vicissitudes, which turn very much with the weather. However, there certainly are striking differences. One of the most striking differences is that fishermen have never owned the resource from which they derive their incomes. They did not, and do not, really have a proprietary ownership in the fish stock. They certainly do not own the oceans in which their operations are conducted.

The Hon. Dr Brian Pezzutti referred to the horizon that was glimpsed in the 1994 bill, which envisaged that proprietary rights would be granted for two reasons. The first was that that was seen as the only way in which to introduce restrained management that would lead to a sustainable catch from what was recognised by everyone as a diminishing natural resource. The second reason was to recognise the fact that people who might spend a lifetime in the industry had nothing in the form of bankable goodwill or value that could be attached to their business. The whole of the share managed fishery scheme was designed to produce a stable industry—an industry that some people could exit with dignity, but also an industry in which those with the financial capacity and perhaps the skills necessary to compete in a difficult market would be able to continue operating by acquiring rights that were developed under that scheme.

We have realised for quite a while that times have moved on. The Opposition fought the good fight to recapture the first rhapsodies of expectation that were contained in the 1994 bill. But we must now accept that that time has passed and that we must come to terms with the current administration and its aims and

aspirations. But it is remarkable that on each of the occasions on which various amendments have come before this Chamber honourable members have heard—not just from Opposition members who have gone round and tried to whip up hysteria or organised opposition to the bill, but from statements offered voluntarily by people within the industry to members of the crossbench—just how disenfranchised members of the industry feel.

So often industry people hear of these dramatic and sometimes, to them, cataclysmic proposals when those proposals are being introduced in the Chamber as legislation. Yet at other times the Minister has tried to persuade the House that he has set up an effective system of consultation with all of the industry stakeholders—that dreadful word that we use nowadays. But, certainly as far as the professional fishing group is concerned, many of them have felt alienated from the process of developing policy and at times are bewildered by various moves. As I say, we recognise that we have got to move on and make the best of the circumstances that currently exist.

I am delighted to hear that amendments have been devised by the Opposition, and I will look with interest at the amendments that have been put together by crossbenchers to see whether our combined efforts can make an appreciable difference to the bill. I hope that that will lead to better management of our fish stocks and more equitable access to available resources. In the end, I hope that the new definition within the objects of the bill of the social and economic welfare of the State of New South Wales will be better met. We must always recognise that, whilst recreational fishermen are entitled to the attention of the Government, a whole range of people cannot satisfy their demand for fish as a part of their diet by recreational fishing. They are very much dependent on commercial supplies of fish.

I deplore the way in which the Sydney fish market has been transformed from the central point at which the produce of New South Wales was sold—not only to buyers seeking to sell fish products in New South Wales but to other States as well. It is the premier fish market in the Commonwealth of Australia. Increasingly, the Sydney fish market has become, rather than a market for New South Wales produce, an almost international market—a market whose supplies are sourced from other States and from other nations in ever-increasing proportions. This is a matter of great regret to many honourable members.

Whatever has been done to encourage fish stocks in New South Wales, it is hard to escape the conclusion that the effort has been too little and too late. But if this bill will contribute to the fish stocks of this State, we will be pleased to see the bill passed through its second reading stage, with the opportunity given to offer constructive amendments, which will, I know, be offered by the Hon. Jennifer Gardiner on behalf of the Opposition. I hope that the Government has the good graces to accept that its imperfect propositions are capable of amendments and improvement and that the Government will embrace the amendments in the Committee stages.

The Hon. MALCOLM JONES [9.38 p.m.]: In speaking briefly on the Fisheries Management Amendment Bill I will pick up on comments made by the Hon. Doug Moppett that certain sectors of the fishing community felt disenfranchised. I anticipate that one or two problems may arise from the operation of the measures of this bill. I will address those shortly. It is important that there be safeguards for endangered species. It is similarly important that there be regulation of commercial fishing activities. I believe there must be maintenance of recreational fishing for experienced fishermen—or fishers, to use the politically correct terminology—and inexperienced fishermen. Both are important.

I make this differentiation because the two are often quite different. Experienced anglers know how to fish for specific types of fish; they recognise the fish that they catch. Although they are amateurs, they are quite professional in the way they go about their recreational activities. They can be trusted and they will conform to sensible legislation. By comparison, inexperienced fishers are those who tend to go fishing while on holiday or at random. The same sentiments cannot be expressed by that group. However, it must be said that inexperienced anglers do not catch anything like the quantity of fish caught by experienced anglers. I am happy to support the initiatives of Fisheries, but I ask the Minister to make a really meaningful attempt at educating anglers about which fish are appropriate to catch and which are not.

I emphasise that point, because in my experience the Government goes on and on about public consultation. As a member of the crossbench, and someone actively interested in this issue, I find nothing but criticism of the lack of effectiveness of the consultation process. When Government hands down strong legislation, sometimes draconian legislation, it is heralded and advertised in the media in various manners and that message is recognised when it is simple and straightforward. With something as subtle as what sort of fish may be caught, what fish may not be caught, changes to bag limits and that sort of thing, I appreciate that it is difficult for the Government to get its message across. However, the Government tends not to do that effectively. I do not understand why it is so difficult.

When Parliament inquires into various issues, and a hearing is to be held, advertisements are placed in the newspapers. People respond to those advertisements, generally very well. When the closing date for submissions is arrived at we do not hear criticism about that similar to the criticism we hear about the Government's consultative processes. Parliamentary hearings are well addressed but the Government's consultative process is not. The answer may lie in the type of terminology that is used when the Government calls for a consultative process. The Government tends to use politically correct terms, which often does not resound well in the community. In government there are experts who could possibly address this problem, and I ask the Minister, who, sadly is not present during this debate—

The Hon. Michael Egan: But I am here.

The Hon. MALCOLM JONES: You are the Treasurer. You are not the Minister for Fisheries.

The Hon. Michael Egan: No, I am not, but I am the Treasurer.

The Hon. MALCOLM JONES: I acknowledge the presence of the Treasurer in the House tonight. However, I wish that Minister Obeid were present, because I would like him to give a clear undertaking about this. We are coming into the season in which many holiday-makers will go out to catch fish; hopefully there are some left! If this amendment is passed, the responsibility will be placed on fishers to be selective in their fishing practices. For that requirement to work, the fishers will have to be advised effectively and correctly. I ask the Minister to give this House that undertaking.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.44 p.m.], in reply: I thank all honourable members who contributed to debate on this bill, and will respond to some of the issues raised. The consultation on the proposed changes contained in this bill was thorough. New South Wales Fisheries prepared a detailed eight-page consultation paper on the proposed contents of the bill and widely distributed it to members of the Fisheries Scientific Committee and the Minister's four ministerial advisory councils in early August this year. Those four councils—specialising in commercial fishing, recreational fishing, conservation and aquaculture—are each charged with giving comment on legislative changes.

The councils include representatives from a very broad range of groups, including ProFish and the Nature Conservation Council. The New South Wales Minerals Council was contacted directly and has not raised any specific concerns. The Fisheries Scientific Committee provided written advice to the Minister, stating that it was supportive of the changes, making particular reference to the proposed threatened species orders. The Advisory Council on Fisheries Conservation has also been supportive. The other advisory councils raised no objections to the changes. The Minister has advised me that he appreciates the constructive input given by the many people who sit as members of his advisory councils. I am informed that only one or two individuals have made totally baseless assertions about a lack of consultation. The facts, and the written record, make clear that thorough consultation has occurred, and was completed several months before this bill was introduced into Parliament.

There has been some discussion about the existing threatened species framework contained in the Fisheries Management Act, and the current role of the Fisheries Scientific Committee. The Act contains a comprehensive framework providing for the protection and recovery of threatened species. As part of this framework, the Act establishes the independent Fisheries Scientific Committee. This committee is an expert panel of eminent scientists, whose role is to answer scientific questions relating to threatened species. Under the provisions of the Act, the Fisheries Scientific Committee determines the exact scientific status of a species, that is whether it is threatened. It is then the responsibility of the Government to work closely with the community and decide how best to help the species recover.

Clearly, consideration must be given to the social and economic costs of any new protection measures that might be introduced. Ecologically sustainable development requires integrated decision making, with consideration of all the known environmental and economic issues together. No decision on threatened species recovery actions can be taken in isolation from any relevant economic or social considerations. That is why New South Wales Fisheries will work extensively with the wider community on any recovery plan it prepares. I can assure the House that recovery plans under the Fisheries Management Act will be positive documents that bring benefits to regional communities. The proposals will ensure the threatened species framework operates as it was originally intended. These changes do not open the floodgates to mass exemptions from threatened species requirements.

The current Act already contains a list of exemptions, to ensure that everyday life continues when the Fisheries Scientific Committee makes a listing. Routine agricultural, aquaculture and fishing, for non-listed fish,

are already exempted from being automatically impacted by the listing of a species, or ecological community. The philosophy of the legislation is that management decisions should be made by the Government, in conjunction with the community, not by the scientific committee. Our proposed changes are consistent with the way the framework was always intended to work. Concerns have been raised about an interim order being made before a species impact statement has been completed.

The interim order needs to be made up front because Fisheries Scientific Committee listings are usually made with little notice. The committee is obliged to work to very tight statutory time lines for receiving, considering and determining nominations for threatened species listings. For instance, if the listing of the Lower Murray Aquatic Community is to proceed, it is a statutory requirement that the listing must occur during December. Interim orders are sensible measures that allow existing activities to continue for a period whilst the species impact statement are being prepared and considered. Without it, the traditional logic of the threatened species framework is reversed. The activity would first be banned, and only after it was banned would social and economic implications be considered.

Clearly, such an approach would be a nonsense, and would be totally at odds with the integrated decision making required by ecologically sustainable development principles. I will briefly refer to why it would be appropriate for interim orders to remain. In cases where the species impact statement and the subsequent community consultation takes longer than expected, more than one interim order may be required. This could occur, for instance, if a peer review of a draft species impact statement suggests significant changes.

Although the Government will have the power to remake a six-month interim order, the bill makes it clear that an interim order can be made only to permit the assessment of a proposed permanent order. This addresses concerns about interim orders being remade forever. Any future fisheries Minister would be publicly accountable for the way he or she uses the discretion to make interim orders. Some have suggested that the agreement of the Minister for the Environment should be secured before any ministerial orders can be made. The care of fish and marine vegetation is not managed as part of the portfolio of the Minister for the Environment or by the National Parks and Wildlife Service. The National Parks and Wildlife Service has particular expertise in managing mammals, birds and reptiles. It is a fine organisation but it is not resourced to provide advice on fish.

The Government could not accept a change to the bill along these lines because there would be an unacceptable additional cost of setting up a duplicate fisheries bureaucracy within the National Parks and Wildlife Service. Frankly, the communities around the Murray and the Murrumbidgee do not need the added complication of two government agencies managing their local fisheries resource. It has been suggested that the bill, as it stands, would allow potentially unacceptable damage to be done to the habitat of threatened species. The bill does contain a provision that would allow orders to be made permitting a class of people to carry out activities that may damage a habitat of, say, an endangered ecological community. This is necessary because there may be some activities that have a low impact on the habitat but, nonetheless, might technically be regarded as damaging to the habitat.

The catchment area for the lower Murray aquatic community covers a massive area: 14 per cent of the State. It is important that this flexibility be available. Significant safeguards are proposed through the requirement to prepare and publicly exhibit a species impact statement and to consider all the issues raised. This approach is not new and there is already an extensive list of exemptions to the threatened species provisions in the Fisheries Management Act. This is not because of any lack of concern for threatened species habitat but because blanket rules that ban all activities are contrary to the principles of ecologically sustainable development. Again, ecologically sustainable development requires that decisions be made weighing up all the environmental, economic and social issues.

I will now refer briefly to the proposed amendments to section 20 of the Fisheries Management Act. The purpose of these amendments is to increase penalties for black-market fishing activity. Black marketing is a serious problem. The use of high-impact fishing gear in unsuitable locations and the capture of undersized or protected species are all features of black-market fishing operations. Stakeholders across the spectrum of the fisheries portfolio have been supportive of increasing the current low penalties for black-market fishing activities to a more realistic level. The proposed penalty is consistent with other environmental legislation. The higher penalty will apply only when the offending contract is prohibited by regulation.

The Government intends to consult with affected stakeholders about which matters should attract the higher penalty. As this process will take some time the amendments to section 20 will not commence until 1

January 2003. The suggestion that the Government cut funding to New South Wales Fisheries when it introduced the recreational fishing licence is completely incorrect. Indeed, this Government has increased its recurrent funding to New South Wales Fisheries every year since it has been elected. This financial year we are providing more financial support to fisheries management and conservation than ever before—thanks, in part to the Treasurer of New South Wales.

The Hon. Michael Egan: What do you mean "in part"?

The Hon. IAN MACDONALD: I do give some credit to the Premier. The introduction of this power to make threatened species orders is not intended to advantage the Government in the current legal proceedings taken by ProFish. The proposed changes do not affect the Government's commitment to prepare an environmental impact statement and fisheries management strategy for recreational fishing. The environmental impact statements will still have to be prepared for recreational fishing and detailed consideration will still need to be given to the impact of fishing on target species, whether or not one of these proposed orders is in place. The Minister has not been advised of any proposals to list endangered ecological communities in saltwater and, therefore, there is currently no requirement to create orders relating to recreational saltwater fishing.

Of course, the bill makes it possible for such orders to be made in the future if the Fisheries Scientific Committee sees the need to list a saltwater aquatic ecological community as endangered. If that occurred, as in the Murray and Murrumbidgee, the Government may need to make interim orders to allow commercial and recreational fishing to continue whilst the full implications are assessed. The only order the Government is presently planning to make relates to inland recreational and commercial fishing. Orders of this kind would be very narrow in application. Their only purpose is to allow an activity that may harm a listed threatened species or community to continue in its current form, subject to a species impact statement. I thank all honourable members for their contributions to this debate and commend the bill to the House.

Motion agreed to.

Bill read a second time.

DEPARTMENT OF THE LEGISLATIVE COUNCIL

Annual Report

The Hon. John Hatzistergos tabled the annual report of the Department of the Legislative Council, Volumes 1 and 2, for the year ended 30 June 2001.

Ordered to be printed.

ADJOURNMENT

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.57 p.m.]: I move:

That this House do now adjourn.

ZIMBABWE

The Hon. MALCOLM JONES [9.57 p.m.]: The current problems in Zimbabwe should be of grave concern to all, especially member nations of the Commonwealth. Robert Mugabe's encouragement of what are referred to as "war veterans" violently seizing farms and land owned by white farmers is very disturbing. Supporters of Mr Mugabe may argue that the lands seized were being returned to indigenous Africans from white colonialists. Mr Mugabe has allegedly corruptly bled Zimbabwe of money and assets to the tune of over \$5 billion. His supporters have little to thank him for.

Since independence—not the Unilateral Declaration of Independence—Zimbabwe has steadily and progressively slid down the scale of deepening poverty. This should not have been the case. Zimbabwe is a wonderful country with an abundance of mainly rural enterprises, which has prospered for most of the twentieth century. Today Zimbabweans are generally poor—except the President, of course. They are impoverished and sadly ravaged by the activities of the government-inspired war veterans, the President ignoring international concerns, and the institutionalised violence. Sadly, Zimbabwe was left without much hope of assistance from external sources.

Irrespective of what happened in the early part of the twentieth century, Zimbabwe has a constitution that protects citizens' rights to personal security and ownership of property. Zimbabwe is recognised as a member of our Commonwealth and, as such, standards are expected. Observing such standards entitle members to assistance and preferential treatment. Mr Mugabe did win a further term of office and has continued to encourage violent racist expropriation of farms.

Although the Government won a democratic election, this behaviour is so detrimental to Zimbabwe that I fear for the nation's future. I do not wish to sound melodramatic, but I spent a lot of time in Africa. I have seen civil war in Africa and I care deeply about that continent's future. The needs of the population are now so dire that I see in Zimbabwe an inexorable journey towards a second civil war. The current behaviour will certainly result in such a catastrophe.

SCHOOL STUDENTS LITERACY LEVELS

The Hon. PETER PRIMROSE [10.00 p.m.]: As a former social worker, something that struck me as being absolutely critical to the advancement of young people and every aspect of their health and wellbeing was the simple issue of literacy. Therefore, I was very pleased to read today that an Organisation for Economic Co-operation and Development [OECD] study has found that the reading literacy levels of New South Wales high school students are among the best in the world. The Premier, the Hon. Bob Carr, said that the OECD's Program for International Student Assessment study found that New South Wales students outperformed those from the United States, Japan, Sweden and Britain. New South Wales results were on par with first-place getters Finland, Canada and New Zealand. On an Australian State-by-State basis New South Wales was second only to the Australian Capital Territory in reading literacy.

The OECD study of 265,000 15-year-olds confirms that few countries in the world are teaching students better than New South Wales, particularly in the area of literacy. When Labor came to office in April 1995 there were no literacy tests after year 5. Today students are tested in the following: years 3 and 5, basic skills test; years 7 and 8, English language and literacy assessment test; year 7, numeracy tests; year 10, School Certificate in English literacy and mathematics; and year 12, Higher School Certificate English. I concur with the views expressed by the Minister for Education and Training, the Hon. John Watkins, that New South Wales teachers should be praised for their role in achieving the outstanding literacy results identified by the OECD study.

In New South Wales today there are 925 reading recovery teachers working one on one with students in 825 schools. The OECD Program for International Student Assessment compared the reading, mathematical and scientific literacy of Australian 15-year-olds with that of those in 31 other countries. Students sat tests developed by international experts to measure how well they could apply knowledge to real-life scenarios. Results show how well students can analyse, reason and explain their ideas—skills that are important in later life. As I said at the beginning of my speech, literacy and numeracy skills are prime indicators of future income levels, health outcomes and mental and other wellbeing of citizens in this community. I again commend the New South Wales Government for achieving such wonderful results.

DEVELOPMENT INDUSTRY SELF-CERTIFICATION POLICY

The Hon. JOHN RYAN [10.03 p.m.]: I am sure that honourable members will have noticed the recent series of articles in the *Sydney Morning Herald* that have highlighted some of the serious deficiencies in the self-certification policies that the Carr Government introduced a number of years ago for the development industry. It has now been discovered that, as a result of those policies, various developers have been able to escape the rigours of building inspections required by local government authorities, and thus a number of shoddy building practices have gone undetected until now. This evening I shall highlight some similar concerns that various constituents have expressed to me about local government inspections that affect residential home-building consumers—these are single-building dwellings that one is likely to find in the inner suburbs.

This particular problem appears also to involve private certification by professionals such as engineers. I welcome the fact that Campbelltown City Council announced recently that it would start auditing some of the private certifications on residential home building works because of complaints it has received about these sorts of inspections. By way of example I refer to the house constructed by the Henley Building Company for Mr Walter Tinyon of Chatswood. A structural engineer recently inspected the house on behalf of Mr Tinyon and found that its foundations are seriously inadequate. The house has not been constructed according to the plans lodged with Willoughby City Council, yet it was certified by private engineering company Donovan and Associates.

I have seen the magnificent certificate provided by the engineering company, but the problem is that it is dated three days prior to the date of an inspection by Willoughby council that noted that the piercing for the slab was incomplete. Therefore, there is little doubt that there is something wrong with that certificate. Donovan and Associates has also provided my constituent Mrs Ann Vukovjcic of Camden with a certificate of structural soundness for the piercing on her house, which is about to topple down the slope on which the building was constructed. An inspection by another structural engineer has discovered that much of the piercing required under the building plans was not completed. I am sure honourable members remember Mrs Irene Onorati from the Building Action Review Group—

The Hon. Alan Corbett: And from correspondence.

The Hon. JOHN RYAN: And from much correspondence. She had a well-documented dispute with a float glass provider that supplied safety glass to her high-rise unit in Drummoyne. As a result of this dispute she made a freedom of information request regarding the Department of Fair Trading and discovered an internal departmental memorandum that highlighted high-level concerns about council inspections of safety glass. This glass is installed in showers, exterior wall panels and so on. It is supposed to meet specific safety standards. The Department of Fair Trading is so concerned about safety glass that it is conducting—in secret, I might add—an inquiry into whether safety glass standards have been adhered to in residential home-building projects.

However, this document indicates that in 1997 or 1999 the Department of Fair Trading was extremely concerned about the failure of council inspections to pay attention to safety glass standards, and probably hundreds of thousands of houses in the Sydney metropolitan area and throughout New South Wales contain glass that the owners believe to be safety glass but that falls far short of the required standard. This means that, instead of shattering into small pieces that will not cause injury when broken, the glass shatters in such a way as is likely to cause injury. That is a significant concern.

I draw attention to the fact that there are enormous concerns about the local government housing inspections upon which most people rely. The structural integrity and, most importantly, safety issues have not been attended to and it is highly likely that the system is not working as well as it should. I sincerely hope that the Government will add to any inquiries that it might plan to institute into private certification in the development industry the question of whether local government inspections of the residential home industry, and particularly inspections done on its behalf by private certifiers, might be in a similarly sad and sorry state.

YOUNG CARERS

The Hon. ALAN CORBETT [10.08 p.m.]: Recently, my wife's son, who is aged nine, attended his first young carers camp for eight to 12-year-olds at Camp Yarramundi outside Richmond. His acceptance and attendance at this camp and my awareness of the need for such camps has motivated me to give this adjournment speech. Carers New South Wales, the peak organisation representing carers in this State, defines a young carer as a child or young person aged 18 years and under who provides support for a family member who has a disability, mental illness or other long-term illness. Young carers may be the sole or primary carer for a parent with a disability or illness or they may help to care for a sibling, parents or grandparents within their household.

In New South Wales at least 54,000 people under 18 years of age have some sort of caring responsibilities. Young carers perform a range of tasks. Children who are the primary carers often perform tasks such as showering, dressing, helping to give medication, banking, supervising, and providing emotional support and other personal care. They often have responsibilities far beyond what is normal for their age. Caring can have both physical and emotional effects on young carers, as well as effects on other areas, such as educational achievement, friendships and employment opportunities.

The physical effects of caring include possible injuries if young people have to lift or transfer a relative. The emotional effects include ongoing grief, fear and anxiety, which can lead to impaired psychosocial development, and in turn impacts upon relationships with others. In some families the role of parent and child may be reversed, particularly if a parent has a cognitive impairment or a chronic or mental illness. Of particular concern also is the effect of caring on children's schooling. Young carers may have to miss school frequently, and can often be late or have difficulty concentrating due to interrupted sleep or an inability to complete homework.

Young carers often miss out on the social development engendered by mixing with their peers after school. They may end up feeling very different from their peers. Once school has finished, young carers may

feel guilty about pursuing a career, moving out of home or doing other things that are a normal part of the post-school transition. At present very little specialised support is available to young carers. A few organisations, such as Gaining Ground in south-west Sydney, provide support programs, and a few disability organisations run sibling camps. However, on the whole, not much support is available for young carers.

One of the few services targeted especially at young carers is run by Carers New South Wales in the form of its Young Carer Program. That organisation runs Young Carer camps in school holidays, produces a Young Carer newsletter and provides telephone support to young carers. It also works to train various community service providers about the needs of young carers and encourages respite services to take into account the needs of carers who are under 18 and thus need different types of respite than the models available to adults. Carers New South Wales Young Carer camps are provided free to the children who attend. In the case of my wife's son, his attendance was proudly sponsored by Hawkesbury Rotary Club.

Young Carer camps do not simply giving them an age-appropriate break from their caring responsibilities. The camps also provide emotional support to these children. Camps allow young carers to make new friends and make them aware that there are other young people in a similar situation, thereby overcoming isolation. They also provide an opportunity for the children to talk about how caring affects them. This provision of emotional support is one of the most crucial elements of the camps. Rarely do young carers get to meet other children with caring responsibilities. Before attending the camps children often think that they are different to their peers, because none of their schoolmates are in similar circumstances.

As the incidence of disability and sole parenthood continues to rise in our society, it is likely that an increasing number of young people will have caring responsibilities. As a result, it will become even more important to provide support for these young carers. I now have a special word for the Treasurer, who is in the Chamber. The Young Carer Program currently receives \$100,000 per year to run the Young Carer camps, produce the Young Carer newsletter and service the entire State. This funding is clearly inadequate. More funding needs to be channelled into this important program to assist young carers with support, to prevent problems with their physical, mental and emotional health and to avoid negative impacts upon their schooling and employment opportunities.

The care of our young people should be of vital concern. Young carers have extra responsibilities and pressure upon them as a result of the illness or disability in their family. Therefore they can be particularly vulnerable and deserve support. I look forward to an increase in the funding from the Treasurer in the next budget.

EDUCATION OF CHILDREN AND YOUNG PEOPLE IN CARE

The Hon. JAN BURNSWOODS [10.13 p.m.]: Tonight I would like to refer to a letter that I recently received from Burnside, UnitingCare, entitled "Education matters: Making a Commitment to Improving Educational Outcomes of Children and Young People in Care". Burnside has been involved with this issue for some time. At the end of October Burnside held a seminar, which was attended by more than 100 representatives of non-government, government and various organisations, to discuss and share information about improving educational outcomes for children and young people in care. On that occasion an address was given by Professor Sonia Jackson, Professorial Fellow of the Institute of Education, University of London. Many members here and elsewhere were involved in the seminar, which was co-hosted by the Committee on Children and Young People. I am a member of that committee, as is the Hon. Peter Primrose, who is present in the Chamber.

Burnside has been involved in the preparation of an issues paper about the educational needs of children and young people in out-of-home care. With a little thought, one would not be surprised to learn that amongst all the other disadvantages faced by children in care and young people leaving care, they suffer from poor educational outcomes. Research undertaken by Burnside shows that more than 75 per cent of young people leaving care do not have any formal educational qualifications at all. Obviously, that includes even School Certificate level. Further, children and young people in care consistently show lower levels of educational competency and personal development than would be expected of students of a comparable age level.

Another telling statistic is that one study found that only half the young people interviewed who had left care had completed year 10. Even omitting formal qualifications, completion rates are very poor. Children and young people in care also have problems of truancy, continually shifting from school to school, gaps in education between leaving one school and starting another and associated problems of discipline, concentration

and poor relationships with peers. Again, a moment's thought would suggest that they may have other obvious and very serious problems. Given their poor educational outcomes, children and young people in or leaving care are more likely than their peers to be unemployed, to be pregnant while still in adolescence, to be homeless while still in adolescence and to engage in various health-threatening behaviour, in particular, smoking and using alcohol and other drugs.

A very important point that comes out of the work done by Burnside is that children and young people in care, when interviewed, consistently say they want and value education and they want to be part of a school community. The Committee on Children and Young People and other committees have an interest in these areas in a variety of ways. In a very small way the current inquiry by the Standing Committee on Social Issues into early intervention for children with learning difficulties has shown up some of the issues here. This is obviously an issue that has been neglected for a long time. It is one of the numerous areas of education where perhaps the numbers involved are relatively small. In many respects, these children and young people fall through the cracks. The Burnside statement calls on the Government to take action on data collection—because we know relatively little about the situation—to take action on a whole-of-government and partnership approach, to improve collaboration, to listen to children and young people and find out what they want and how they see their problems, and to collaborate in the development of an Australian research base. I commend the statement to the House.

SYDNEY STORM DAMAGE

The Hon. PATRICIA FORSYTHE [10.18 p.m.]: As honourable members would be more than well aware, last Monday a significant storm swept through many parts of Sydney.

The Hon. Michael Egan: A terrible storm.

The Hon. PATRICIA FORSYTHE: As the Treasurer said, a terrible storm. It is time that we stopped and looked at the impact of these storms—particularly in my area of Sydney, which is the Ku-ring-gai council area—in terms of council policy. A well-known radio show uses the expression "Why we live where we live." Many people choose to live in Ku-ring-gai because of the bushland surroundings and so-called leafy suburbs. But one need only look at the history of the community through the 1990s and into 2000-01 to see that we have to develop a better balance with nature.

Councils have to do better and revise some of their policies, in particular those relating to tree preservation. I like living where I live because of the leafy nature of the suburb and the number of birds that are attracted to the trees and foliage, and because it is a delightful community of which to be a part. During the 15 years that I have lived there a number of storms have caused enormous damage, as was the case last Monday evening. The problem is not only the loss of power to the community but also the cost of damage that is caused when trees fall into houses, onto cars and across roads. There is the inconvenience caused by blocked roads and the impact of leaves and debris flushed into stormwater drains. These problems have to be put into perspective.

The Hon. Michael Egan: And the threat to life and limb.

The Hon. PATRICIA FORSYTHE: Absolutely. I was going to come back to that, but I can put it into context here. There was the tragic loss of life as a result of the storm in the Hornsby area on Monday night when two young people were killed while sheltering under a tree. In recent months my local council has planted two trees on the footpath in front of my house. I did not think anything of it at the time, but I think back now to the number of trees we have lost during storms in recent years. We lost a paperbark tree two weeks ago on a Sunday afternoon in a storm that lasted for about 15 seconds. It caused damage, albeit minor damage, to the car of a friend who was visiting our house at the time. We are losing shallow-rooted native trees, which are easily uprooted or blown over. They grow quickly and they go quickly.

One only has to take a drive around some of the streets in the suburb in which I live to see the damage that is caused during such storms. My colleague the Hon. Ron Dyer apparently sustained significant damage to his house. And I believe the houses owned by two of the clerks at the table were also damaged. Members of this House know full well the impact such storms can have. It is time that our council took stock of and reviewed its policies. Residents know what the response from the council will be when they ask if they can trim trees or take a tree down. About five years ago my husband asked the council for an indemnity because it said that we could not remove a tree that was clearly rotten and that was dumping branches on the ground; every time we went into the yard there were branches and leaves everywhere.

The council finally said that we could take the tree down. The tree was rotten right through and was dangerous. However, it took us months to obtain the necessary council approval to remove it. Wherever I go people complain that it takes months to obtain council approval to remove a tree. We are happy to continue to plant trees, but councils have to give the benefit of the doubt to residents who may want to trim foliage when they consider there is a problem with overhanging branches. I believe the council has been too indulgent in its belief in a green leafy environment.

The Hon. Michael Egan: That applies to a number of councils.

The Hon. PATRICIA FORSYTHE: It may well apply to a number of councils, but I want to talk about my local council. As a resident in its council area, I have to say that it is time for some balance. It is time we engaged experts to advise us about what we should plant. As I said earlier, councils should give residents the benefit of the doubt—perhaps require them to plant trees in particular areas, but when residents believe they have a problem they should be allowed to trim or remove damaged or dangerous trees. It will not in the long-term cost us our leafy suburb.

WORKERS OUT WORLD CONFERENCE COLOMBIA HUMAN RIGHTS

Ms LEE RHIANNON [10.23 p.m.]: Workers Out is the name of the second world conference of lesbian and gay trade unionists, which will be held in Sydney next year from 30 October to 1 November. It will bring together lesbian and gay workers, trade unionists and other key rights activists from many countries. Workers Out will be part of the social issues program at the Gay Games 2002. The conference, which follows on from the 1998 Trade Unions, Homosexuality and Work Conference held in Amsterdam, has been endorsed by the Australian Council of Trade Unions. Workers Out aims to achieve representation of lesbian and gay workers' rights in union and labour conventions at international level, and in legislative and policy change at a local level. It will feature sector-specific issues around sexuality discrimination and homophobia, regional-specific issues and strategies to develop more formal working relationships with gay and lesbian rights organisations and other relevant activist groups. Workers Out is urging gay and lesbian union members, delegates and officials to attend the conference.

More than 200 delegates from 30 countries attended the first conference, which was held in Amsterdam. That conference laid an excellent foundation for the deliberations that will occur at Workers Out. The 1998 conference closing document called on unions to address issues surrounding discrimination on the grounds of sexual orientation and gender equity at work; formulate equal opportunity policies; use conference networks to encourage international trade union confederations to improve their actions on these issues; integrate defence of gay, lesbian, bisexual and transgender workers rights into the human rights activities and equity programs of national and international trade unions structures; and develop policies on HIV-AIDS and chronic diseases in the workplace. I am pleased to announce that the launch of Workers Out will occur tomorrow night in the President's Dining Room. I understand that everyone is welcome. If anyone is free to attend during this busy time, please contact the President. I am looking forward to joining everyone tomorrow evening for that important launch.

I now wish to refer to a much more sombre issue. Colombia has an election scheduled for next year, but at the moment its civilian population is experiencing extreme acts of violence by army-backed paramilitary personnel. The attacks are increasing. From the beginning of the year until 23 October, 121 trade union activists had been assassinated, 67 had disappeared and there had been 24 registered assassination attempts. These figures are indeed shocking. I have received a document listing the names of those who have been brutally murdered. The list contains details of the work they were involved in.

One person, Manuel Ruiz Alvarez, was murdered on 26 September. He was a deputy in the Democratic Union and a former president of the Cordoba Teachers Association. He was assassinated by paramilitaries in Monteria, Cordoba. On 10 October paramilitaries assassinated an Ecopetrol oil worker. He was a union leader who represented temporary workers. It is a pattern that we have seen time and again: men and women who are leading the workers in an attempt to get better conditions and wages are being mown down in terrible ways and in large numbers. The guarantee of life does not exist in Colombia at the moment. Life is a fundamental right that we in Australia take for granted. An international appeal is under way for people to make themselves aware of the plight of the Colombian people and to demand that the government in that country respect people's lives, allow the election to proceed freely and cease all forms of state terrorism.

Motion agreed to.

House adjourned at 10.27 p.m.
