

LEGISLATIVE COUNCIL

Friday, 27th November, 1992

The President (The Hon. Max Frederick Willis) took the chair at 10.30 a.m.

The President offered the Prayers.

PETITION

Forestry Commission

Petition praying that the Forestry Commission of New South Wales be reformed in accordance with the recommendations of the Public Accounts Committee and that the House urge the Government to act immediately for the good of our environmental heritage and the health of the plantation timber industry, received from the **Hon. R. S. L. Jones**.

TREASURY CORPORATION (AMENDMENT) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [10.35]: 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 New South Wales Government is committed to extending the best private sector financial management practices to the public sector. This promotes public sector financial efficiency.

Accordingly, the Government now proposes to update certain aspects of one of the most important Acts governing financial operations of public authorities - the Treasury Corporation Act 1983. The amendments are of a technical or machinery nature and aim to maintain financial legislation which meets current practical requirements.

The Treasury Corporation (Amendment) Bill covers two matters of a machinery nature in connection with Treasury Corporation's (TCorp's) financing operations. TCorp has been providing financial services to the State on an economical and cost-effective basis since its inception in 1983 and the amendments enable TCorp to continue developing this role.

A statutory corporation such as TCorp may only exercise the functions

conferred on it by legislation. On several occasions this has prevented TCorp from pursuing the objectives for which it exists as some activities required of a modern TCorp are not contemplated in the original legislation.

The Treasury Corporation (Amendment) Bill provides TCorp with ongoing power to engage in activities that accord with its original objectives, namely the provision of financial services for the benefit of the Government and public sector bodies. This will remove the need for TCorp to identify a specific head of power in the Act for such activity. TCorp will have the same legal capacity, power and authority as a company under the Corporations Law to pursue its objects but will remain subject to the ongoing direction and control of the Treasurer.

For those people dealing with TCorp protection will be provided by new provisions that

Page 10240

remove the need to inquire into TCorp's power to enter into these dealings.

The other relevant proposal in the Treasury Corporation (Amendment) Bill is the conferral of clear power on public authorities and other public bodies to appoint TCorp as their agent for any purpose.

TCorp currently possesses the power to participate with public authorities in managing their assets and liabilities. This is usually done through "derivative" risk management instruments such as swaps, options, forwards and futures, defined in the Public Authorities (Financial Arrangements) Act as "financial adjustments". This amendment confers power on public authorities and other public bodies to appoint TCorp as their agent to enter into these and other arrangements, allowing them to draw on TCorp's expertise in minimising financial risk. I table a summary of the bill.

I commend the bill to the House.

The Hon. M. R. EGAN (Leader of the Opposition) [10.35]: The Opposition supports the bill.

The Hon. R. S. L. JONES [10.35]: The Australian Democrats also support the Treasury Corporation (Amendment) Bill, which is essentially a housekeeping bill. It will extend the powers of TCorp. I urge the Treasurer to keep a careful eye on TCorp with these new expanded powers. With those comments, the Australian Democrats support the legislation.

Reverend the Hon. F. J. NILE [10.36]: The Call to Australia group supports the Treasury Corporation (Amendment) Bill. The bill is part of the Government's program of extending the best private sector financial practices to the public sector, which will promote public sector financial efficiency. This particular bill will help to bring about those improvements. We support the bill.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [10.36], in reply: I thank honourable members for their support of the legislation and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COMMONWEALTH POWERS (STATE BANKING) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [10.37]: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of the Bill now before the House is to empower the Reserve Bank of Australia to undertake prudential supervision of the State Bank of New South Wales. This will replace the informal supervisory arrangement which has operated since 1964.

Page 10241

Under this informal arrangement, the State Bank has voluntarily conformed with the greater part of the Reserve Bank's requirements. However, it is important from the market and consumer point of view that the State Bank be seen to be subject to the formal supervision of the Reserve Bank.

At present such formal supervision by the Reserve Bank is precluded by Section 51 of the Constitution. This Section prevents the Commonwealth from legislating in relation to State banks operating within the limits of the State concerned. To overcome this barrier the Bill will refer specific powers to the Commonwealth to enable it to legislate for matters relating to State Banking in relation to the State Bank.

The referral of powers to the Commonwealth is not limited to prudential supervision alone because this in itself is difficult to define. In effect the Bill provides for the State Bank to be brought within the legislative scheme which regulates private banks in Australia.

It must be stressed that the proposal to refer top powers over the State Bank to the Commonwealth in no way reflects any concern about the financial position of the State Bank. The reality is that the Reserve Bank has informally undertaken a prudential supervision role for a considerable period of time and the proposal simply formalises this role.

The proposal is a logical outcome of the process of commercialisation and corporatisation of the State Bank that has been supported by successive governments in the State and is fully in accord with the recommendations of the Commonwealth Government's Martin Inquiry.

I must point out that, from New South Wales' perspective, the Bill contains two precautionary measures.

Firstly, the referral of powers to the Commonwealth specifically excludes giving the Commonwealth the power to determine whether the State Bank should carry on the business of banking. This is to avoid the situation where a referral of power occurs but the Commonwealth then declines to license the Bank. However, provision is made for the State to terminate this exclusion at a later date once the Bank is licensed.

Secondly, the Bill provides for the State to terminate the referral at any time by a proclamation from the Governor. While such a termination is not contemplated it is a precautionary device in the event that inappropriate use is made by the Commonwealth of the powers conferred upon it.

The referral of powers under the Bill is designed to place the State Bank on the same footing as all licensed banks in Australia.

This approach is consistent with the findings of the Martin Inquiry into the Australian Banking Industry. The Inquiry recommended that such referral of powers take place. The South Australian and Western Australian Governments are both understood to have entered into formal agreements with the Reserve Bank in relation to their own state banks.

The advantages to New South Wales and to the State Bank of placing the State Bank under the prudential supervision of the Reserve Bank are twofold:

Firstly, it will enhance market and public confidence in the Bank by formalising the role of the Reserve Bank as the prudential supervisor.

Secondly, it will assist placing the State Bank on an equal footing with the licensed banks.

The State Bank in general conforms to the Reserve Bank prudential requirements. However, one area where there is not conformity is with respect to the requirement to hold non callable deposits with the Reserve Bank. This requirement will be phased in over a three year period.

The referral of power will not have any adverse effect on the State's interests.

The current system of financial monitoring of the performance of the bank, undertaken by the Government Trading Enterprises Monitoring Unit will be continued. Indeed the formalisation of the Reserve Bank's prudential supervision role should enhance the financial monitoring.

The referral of powers will not have any effect on the State Bank's current exemption from Commonwealth income tax. The status of the State Bank as a public authority is in no way affected

Page 10242

by the referral and hence the exemption under the Income Tax Assessment Act will remain in force.

The proposed legislation is a logical extension of the commercialisation and corporatisation of the State Bank.

I commend the bill to the House.

The Hon. R. S. L. JONES [10.38]: The Australian Democrats support the Commonwealth Powers (State Banking) Bill, I might say enthusiastically in this case. The bill will empower the Reserve Bank of Australia to undertake prudential supervision of the State Bank of New South Wales. It is about time this happened with the State Bank. I am pleased that the bank has increased its performance in the last reported period. Recently in the *Sydney Morning Herald* it was announced that the bank, which is wholly owned by the New South Wales Government, had lifted after-tax earnings from \$20 million in 1990-91 to \$26 million in 1991-92. Unfortunately, the non-performing loan portfolio still stands at \$1 billion. I would like to know when that \$1 billion worth of non-performing loans will be written off, maybe at 10 per cent per annum. That is the dark cloud hanging over the State Bank. I have asked questions about the non-performing loans before. Recently Mr Greiner said that his only regret about his time as Premier of this State was that he did not privatise the State Bank. It may well be that if he had managed to privatise the State Bank in 1988 or 1989, it would have been privatised before it became evident that the bad debts held by the bank were increasing. Nevertheless, I hope that this bank will come out of the red and will at least be seen to be producing profits; that these billion dollars in non-performing loans will either come good or be written off over a very long period, which I doubt; and that the bank will come to help. The Australian Democrats have been opposing the privatisation of the State Bank because it believes the State Bank performs community service obligations for the New South Wales community, as it was originally designed to do. The Australian Democrats hope that the State Bank stays in the hands of the people, and I suspect that with the current level of earnings at \$26 million it would not be profitable for this Government to attempt to sell off the bank. By the time it does become profitable no doubt the numbers will have changed in both Houses.

The Hon. M. R. EGAN (Leader of the Opposition) [10.40]: The Opposition supports the bill. It simply refers a power to the Commonwealth Parliament which it does not now have under the Commonwealth Constitution, namely, the power to make laws in respect to State banking. This legislation will mean that by law - by the referral of that power to the Commonwealth Parliament - the legislative arrangements of the Commonwealth Parliament for the prudential supervision of private sector banks will also apply to the New South Wales State Bank. Of course by agreement that has been the case since 1964, so it is a little difficult to understand the purpose of this legislation. I am quite surprised that the Hon. R. S. L. Jones is so enthusiastic in his support for the bill. I would simply point out that this referral of power, which, under this legislation, can be withdrawn at any time, really seems to be somewhat unnecessary but the Opposition certainly has no objection to it.

The Hon. R. S. L. Jones made some comment about the financial performance of the State Bank. As yet we have not seen the annual report. The comments made by the Hon. R. S. L. Jones were based on some scrappy documents, virtually no more than a press release which the bank puts out well before its annual report. Although, it will be interesting to look at the State Bank's annual report when it is published and to go through it with a fine tooth comb - as I did last year when I found that the profit the bank had reported came about simply because the State Bank reduced the provisions for employee entitlements, such as superannuation, by tens of millions of dollars. It was

Page 10243

only by that device that the State Bank was able to report a profit. Like the Hon. R. S. L. Jones, I am very much looking forward to examining the annual report of the State Bank. Any comments that members might have about its financial performance should be left until that time.

The Hon. J. F. RYAN [10.42]: I am pleased that members of the Opposition

and the crossbenches support this legislation because, although it will not have a major impact, it is, nonetheless, an important element of microeconomic reform to have all banks supervised according to common terms. Let me respond to some of the allegations made across the Chamber in the past couple of minutes regarding the State Bank. The Leader of the Opposition attempted to make some point of the fact that the annual report for the State Bank has not yet been published. I am advised that the State Bank legitimately has until February next year to produce that report; therefore, one ought not presume anything untoward because that report is not yet available. The subject of non-performing loans was raised by the Hon. R. S. L. Jones, yet even he conceded that the problem of non-performing loans is not a problem unique to the State Bank. In fact, it is common to almost the entire banking sector.

One thing that can be said about the State Bank is that it has probably controlled that problem better than most other banks - certainly such banks as Westpac and the ANZ. The performance of the State Bank could be described as, though difficult, nonetheless spectacularly better than that of other banks. I invite a comparison of performances between that of the State Bank of New South Wales and those of the State Bank of Victoria and the State Bank of South Australia. I acknowledge that that may not be saying much, but the State Bank certainly stands head and shoulders above those banks in terms of their performance. In any event, I am informed that the State Bank has made a provision of \$700 million for non-performing loans, and that amounts to 6 per cent of its total assets. One would have to concede that that issue is being managed properly and conservatively. The final issue to which the Leader of the Opposition referred was the profit of the State Bank being largely due to the reduction of employees' entitlements to superannuation schemes. The only reason any person might be concerned about that is if that person regarded a bank as some sort of welfare organisation whose chief role is the provision of superannuation. However, that is certainly not the case. The chief role of a bank is to make a profit for its shareholders and to provide good service to its customers - there is no doubt the State Bank is doing that.

If it has reduced its superannuation costs, it is doing nothing different from that which is being done by most other corporations and organisations throughout the whole of the New South Wales and the Australian economy. In any event, simply being able to reduce superannuation costs to generate a profit would not have been sufficient if other aspects of bank management had not been kept in check. Though I am pleased that other members of the Opposition support this bill, I am disappointed that they seek to damage the economy of New South Wales and the value of the State Bank by seeking to make cheap points about availability of the annual report for the State Bank, and to refer to an issue such as non-performing loans which, as I said, while it is an issue for the whole banking sector, puts the State Bank in good stead rather than in a poor light. In any event, I do not imagine that the State Bank would be announcing a projected profit increase for the following year if its annual report gave an indication otherwise. I thank the members of the Opposition for their support of the bill.

Reverend the Hon. F. J. NILE [10.46]: The Call to Australia group supports the Commonwealth Powers (State Banking) Bill. The object of the bill is to
Page 10244

empower the Commonwealth Parliament to make laws with respect to State banking within New South Wales, but only in so far as it applies to State Bank Limited, by referring the power to the Commonwealth Parliament under section 51 (xxxvii) of the Commonwealth Constitution. The Call to Australia group agrees with the bill in principle. Our only concern is that the State Government should always be wary - and I know they have been, are and should be in the future - of transferring any powers to the

Commonwealth. States should maintain whatever powers the States have and guard those powers with great diligence.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [10.47], in reply: I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CENTENNIAL PARK AND MOORE PARK TRUST (AMENDMENT) BILL

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [10.49]: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is introduced to extend the maximum lease term under the Centennial Park and Moore Park Trust Act from eight to twenty years. The Centennial Park and Moore Park Trust is a statutory body which was established under the Centennial Park and Moore Park Trust Act 1983 and is today responsible for the significant urban parkland area comprising Centennial Park, Moore Park, Queens Park and the E. S. Marks Field. In December 1991 this House supported a bill which provided for the vesting of Moore Park and the E. S. Marks Field with the trust, the renaming of that trust to the Centennial Park and Moore Park Trust to more accurately reflect the lands it managed. At the same time provisions were also sought to extend the maximum lease term from eight to twenty years, however, this section of the bill was withdrawn by the then Minister for the Environment as the member for Bligh believed that long leases would result in further alienation of these significant parklands. This is not the case. The action taken by this Government in vesting Moore Park and the E. S. Marks Field with the trust now means these lands cannot be sold, resumed, or appropriated without an Act of Parliament.

The rationale for seeking an increased lease term is that there are now several significant commercial community recreation facilities under the trust's control. The golf club house and tennis centres are two such examples. The upgrading of these facilities, which are in a highly deteriorated condition, is essential if they are to operate to their full potential and remain available to the public in the long term. These facilities are extremely important to the future management of Moore Park because of the recreational opportunities they provide and the considerable scope they have to generate sizeable revenue for the trust which, in turn, can be used to maintain and enhance trust lands. Within the relatively short period of time that has elapsed since the trust assumed responsibility for the E. S. Marks Field and Moore Park a more streamlined and effective approach to the management of these

important parks has occurred. A plan of management outlining how the parks should be developed and managed in the future has been completed and adopted. In addition, a comprehensive park improvements program which provides for the installations of new park furniture, signage, fencing, tree planting, irrigation, and cycle paths has commenced.

Despite these achievements a considerable amount more could have been achieved if the trust had been permitted to offer maximum leases of twenty years. Any long term lease would include significant safeguards and requirements on the lessee to perform in accordance with the trust requirements. A longer term lease will provide for a continuity in the management of these facilities and accordingly the trust will be able to ensure that the development that takes place is to the ultimate benefit of the community. To avoid any further deterioration in these highly used facilities and to ensure their timely and appropriate redevelopment it is imperative that the current maximum lease term be extended to twenty years.

I commend the bill.

The Hon. DELCIA KITE [10.50]: The Minister for Planning and Minister for Housing is seeking to extend the leases over land administered by the Centennial Park and Moore Park Trust from eight years to 20 years. It is hoped that commercial operations, such as the golf clubhouse, the pro-shop, the driving range, the tennis centre and various commercial arrangements which have had the advantage of operating in two of the State's most historic public parks, will ensure continued equal access and services to the public in return for the Government's favours. There is no objection to the extension of the lease for the purposes of providing greater security of tenure to those commercial operations, although most of the consumers of the services provided do not enjoy the same assurances for their incomes at this time. The Opposition supports the bill.

The Hon. R. S. L. JONES [10.51]: In supporting the Centennial Park and Moore Park Trust (Amendment) Bill I acknowledge the hard work of the honourable member for Bligh, who I regard as the guardian of Centennial Park, the showgrounds and Moore Park. When this matter was brought up a year ago, her constituents referred to the problems that could arise if the lease was extended for 20 years. The honourable member for Bligh believed that this might well entrench these organisations in the park and enable them to get a permanent foothold. The Government has had negotiations with her and I understand she and her constituents are now happy to allow this legislation to pass. This will assist in the upgrading of facilities. The Australian Democrats hope and expect that the present facilities will remain open to ordinary members of the public, not just tourists with very fat wallets. The Australian Democrats support the legislation.

The Hon. J. F. RYAN [10.52]: The Public Accounts Committee of this Parliament prepared an extensive report on the commercial use of the services provided by the National Parks and Wildlife Service. The concluding remarks in that committee's report can be reasonably summarised by stating, "We have to use our national parks and wildlife or we will lose them". One important point in that report, which was endorsed by all honourable members, was that significant conservation gains can be made if we allow commercial activity not only within recreation areas such as Centennial Park and Moore Park but also within national parks. There is no conflict per se between commercial activities and the role of conservation. The report pointed to many good reasons to encourage commercial activities within parks and recreation areas. I do not

regard tourists as people with fat wallets. Tourists are important supporters of these facilities. By encouraging tourists we enhance public support for conservation in general. Tourists should not be seen as the bad guys; they provide important financial support for the continued preservation of important facilities such as these. Tourists should not be discouraged.

Page 10246

Where the activities of tourists are not incompatible with the need to preserve these areas, tourists should be encouraged and welcomed. The Government and I dissociate ourselves from the statement that tourists are simply people with fat wallets. Another good reason for having a close relationship between the user-pays system and the use of recreation resources is that frequently the only cost in maintaining those resources comes from the fact that tourists visit them. So it is perfectly appropriate that the costs of maintaining those resources should be met by the people who make use of them. In most cases our national parks have no preservation costs; they look after themselves. If visitors are encouraged to look at these resources, it is important that they bear some of the costs involved. Many members of Parliament have made a career for themselves by inventing problems and then seeking to address them.

One point that can be made about this bill is that the Government intended to take this action almost 18 months ago. Because people chose not to listen to briefings, because they took a number of matters out of context and because that created a problem, somehow they believe they should get some the credit. Those same people are now conceding that no problem existed in the first place. While some honourable members might admire the honourable member for Bligh for the way in which she looks after her constituents, it must be remembered that Centennial Park and Moore Park belong not only to the constituents of Bligh or the residents of the eastern suburbs but to all the people of New South Wales. Accordingly, it is important for the Government to look after these resources. I give no credit to any member of Parliament who seeks to exploit issues and then seemingly gain credit merely for taking on board what the Government wanted to do in the first place. I support the bill and thank members of the Opposition for their support.

Reverend the Hon. F. J. NILE [10.55]: The Call to Australia group supports the Centennial Park Trust and Moore Park Trust (Amendment) Bill. The object of this bill is to extend to 20 years the maximum term for which a lease may be granted over land under the Centennial Park and Moore Park Trust Act 1983 by the Centennial Park and Moore Park Trust. The Call to Australia group also supports the remarks that have been made by the Hon. J. F. Ryan. If the original bill had gone through, it would not have been necessary to print a second bill and to have a debate on it. Difficulty has arisen because people have been jumping at shadows. Often they do not realise that their actions can have an effect opposite to that which they are seeking to achieve. If the maximum term for a lease was eight years, the facilities that are already there would become an eyesore; they would collapse and would not be of use to anyone. We would then hear complaints about harm to the environment, and the Government would probably be attacked for allowing that situation to develop. I support this bill particularly because, as an ex-student of Cleveland Street Boys High School, I regularly played football and cricket at Moore Park and Centennial Park and have many happy memories of those times.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [10.57], in reply: I thank all honourable members for their contributions and remarks. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Page 10247

ENDANGERED FAUNA (INTERIM PROTECTION) AMENDMENT BILL

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing)
[10.58]: I move:

That this bill be now read a second time.

The Government is wholeheartedly committed to the introduction of comprehensive and effective legislation for the protection of endangered fauna in New South Wales. However, as has been indicated by the Premier, it has not been possible to do so before the end of this year as the Government wishes to continue examining and reworking its natural resources package. In order to ensure that development activities continue throughout the State and that appropriate protection is given to endangered fauna while the Government is continuing with the development of its natural resources package, it is essential that those provisions of the Endangered Fauna (Interim Protection) Act 1991, which expire on 1st December, 1992, are extended until 1st October, 1993. The bill extends until 1st October, 1993, only those provisions in the Endangered Fauna (Interim Protection) Act 1991 which are set to expire on 1st December, 1992. The Endangered Fauna (Interim Protection) Act made certain permanent legislative amendments which are not affected at all by the 1st December, 1992, sunset clause. Those provisions remain unchanged by this bill until the Government introduces its own endangered species legislation. Since the commencement of the Endangered Fauna (Interim Protection) Act 1991 certain stop-gap licences have been issued, principally to the Forestry Commission, authorising the taking or killing of endangered fauna which is essential for the carrying out of its activities. These licences cover ameliorative actions to be taken to mitigate the impact of activities on endangered fauna and their habitat.

Parliament recognised the very specific circumstances of the timber industry by passing the Timber Industry (Interim Protection) Act after the Endangered Fauna (Interim Protection) Act. Accordingly, this bill is a continuation of Parliament's expressly stated intention in the Timber Industry Act in that those stop-gap licences already issued to the Forestry Commission will continue in force until 1st October, 1993. While this measure is necessary to provide continued security to the timber industry, it should be noted that even though the bill extends the duration of the stop-gap licences already issued, the permanent amendments made by the Endangered Fauna (Interim Protection) Act and the National Parks and Wildlife Act will necessitate the preparation of fauna impact statements in order that general licences may be issued to replace these stop-gap licences. Accordingly, it is anticipated that fauna impact statements will continue to be prepared during 1993, resulting in the replacement of stop-gap licences with general licences under the National Parks and Wildlife Act. The Minister reiterated that the sole purpose of this amendment bill is to provide for continued development activity together with protection for endangered fauna while the Government actively pursues its natural resources package with a view to bringing revised legislation before the House in 1993. I commend the bill to the House.

The Hon. JAN BURNSWOODS [11.1]: The Opposition supports the Endangered Fauna (Interim Protection) Amendment Bill 1992. Indeed, the Opposition welcomes it because essentially the bill will extend until 1st October, 1993, the operation of certain provisions of the Endangered Fauna (Interim Protection) Act 1991 that are due to expire on 1st December this year; and it will extend until October 1993 the duration
Page 10248

of Forestry Commission licences to take or kill endangered fauna, issued under section 120 of the National Parks and Wildlife Act 1974, after the commencement of the Endangered Fauna (Interim Protection) Act. The introduction of this legislation represents a huge backdown by the Government - which is something that has occurred often during the past year and in particular over the past few weeks. This bill is an admission that the Government was wrong when it made hysterical comments a year ago about the effects of the endangered fauna legislation introduced by the Opposition. At that time the Government said it would cause tremendous disruptions and job losses in the timber industry throughout New South Wales. There was allegation after allegation that jobs would be lost here and there; a total of 6,000 was mentioned. Workers in the timber industry were persuaded that this incredible threat hung over them. There were demonstrations and massive campaigns. A large demonstration was held in Macquarie Street.

All of those allegations were so much rubbish. It is incredibly difficult for the Government to produce evidence of even one job loss resulting from this legislation. All the claims made a year ago were nonsense. I would like to refer to what I said a year ago when speaking to the 1991 amendment bill. On 12th December, 1991, I spoke in support of the Endangered Fauna (Interim Protection) Bill, as it was then. I spoke about the process that had been followed and, in particular, the extensive discussions that had taken place between the Australian Labor Party and the non-aligned Independents and various members of the Government. The then Minister for the Environment, Mr Tim Moore, the Independents and the Labor Party had reached agreement and produced a bill with which we were all happy and which we saw as playing a crucial role in protecting endangered fauna in this State. Members of the National Party - the ones who were so unhappy then and were leading the great campaign of protests - had been left out of those discussions. They spent most of their time screaming and yelling on the sidelines. Despite the campaign of fear and intimidation they waged, they lost the battle. Almost a year later, I think most honourable members, if they are honest, would admit that they were very pleased that the National Party lost that battle.

When I spoke to the bill almost a year ago I pointed out that Australia has an absolutely appalling history of the extinction of native fauna species and that in the last 200 years we have lost 20 mammal and 10 bird species, more than have been lost in any other continent. I pointed out then that we are renowned for our unique flora and fauna and that we owe it to future generations as well as to our own to preserve the biodiversity of the continent. I pointed out also that over the past several years increasing demands have been made by the community that governments act to protect endangered species. Fortunately, action has been taken by both Federal and State governments to protect flora and fauna. At that stage the bill had arisen very largely from the Government's amazing overreaction to the court's judgment in the Chaelundi State Forest case. The Government's overreaction to its defeat in the court on that occasion was not dissimilar in some ways to its reaction in the last few months to its defeat in the courts on the question of superannuation rights for workers in the public sector. Perhaps fortunately, this year the Government's reaction has not been quite so irrational, although there are certain parallels in the Government's continual attempts to solve problems on the hop and to act without much thought or without consultation with the workers involved and the other interest groups in the community. It became even more irrational when the courts found

that its actions have been totally improper. That has happened most recently in relation to the superannuation scheme. There was a similar but very much worse example a year ago. The Act that was passed in December last year was designed to deal with the forestry industry and, in particular, as the Opposition pointed out on so many occasions, the continual flouting of any of our wildlife protection laws by bodies such as the Forestry Commission. The Forestry Commission's history is a particularly sad one.

Page 10249

The Hon. R. J. Webster: Here we go, bash the timber workers again.

The Hon. JAN BURNSWOODS: I am not bashing the timber workers, as the Minister suggests. I have a great deal of sympathy with the timber workers. I thought I said very clearly that the body that worried me was the Forestry Commission. The timber workers have been the victims of the incompetence, the inefficiency and even the conspiracy theorising of the Forestry Commission, just as our endangered flora and fauna have been. The timber workers have been misled; they are continually told, for instance, that legislation to protect endangered fauna is the source of threats to their jobs. The Forestry Commission has continually glossed over the fact that it is impossible for timber workers' jobs to survive year after year so long as our native forests are being logged, without any concern for replacement planting, without any concern for proper management of forestry resources, and without any sustained investigation by the Forestry Commission of alternative timbers and of much better use of forest resources, where those resources can be harvested without damage to the environment.

In this State all of the parties concerned could agree that it is possible for logging to take place in some areas and that it is out of the question for logging to take place in other areas where there is danger to the environment and to flora and fauna. The Government and the Forestry Commission should have taken the lead in setting up decent consultative processes, rather than continually acting as if they were protecting their own empires and no one else had a right to make comment on management. It seems to me that the Forestry Commission's problems have largely resulted from incompetence rather than from a difference in view as to the need for wildlife protection. If the Government really has concern about good economic management in this State, as it continually tells us it has, I recommend that one government body to which it could turn its attention is the Forestry Commission, which is long overdue for reform in a number of ways. I challenge the Government to do something about that organisation and leave alone some of the other areas in which it has been less successful in intervening.

I turn now to the detail of the bill. The 1991 Act made a number of changes to the previous legislation. Two of those changes were expressed to expire on 1st December, 1992, or any earlier date on which replacement species protection legislation was enacted. The Government has not managed to come up with replacement species protection legislation; hence the need for it now to extend the legislation that a year ago it was convinced was going to be the end of the world. The first of the temporary changes brought about by the 1991 Act was the inclusion of a defence to the offence in section 98 of the National Parks and Wildlife Act 1974 of taking or killing protected fauna, other than endangered fauna; that is, generally native fauna that is not endangered. That defence enables a person to carry out development in accordance with a development consent under the Environmental Planning and Assessment Act 1979, or an activity in respect of which part 5 of that Act had been complied with. The defence was necessary because the Endangered Fauna (Interim Protection) Act 1991 extended the meaning of take or kill fauna to include "significant modification of the habitat of the fauna which is likely to adversely affect its essential behaviour or pattern". The bill extends the date on

which the defence expires until 1st October, 1993.

The second of these temporary changes that were brought about by the Act late last year was an amendment to the Environmental Planning and Assessment Act 1979 which included the additional requirement for a fauna impact statement for development consent and for any environmental impact statement under part 5 of that Act. The Endangered Fauna (Interim Protection) Act made that requirement for all protected fauna, but the Timber Industry (Interim Protection) Act 1992 limited its application to

Page 10250

endangered fauna. The bill extends the date when the requirement expires until 1st October, 1993. The other changes made by the Endangered Fauna (Interim Protection) Act 1991 are not temporary and are not affected by the bill. They include the extension of the definition of take or kill; the establishment of an independent scientific committee that recommends the listing of endangered fauna; the requirement for a fauna impact statement for a general licence to take or kill endangered fauna whether or not in pursuance of development consent, et cetera; the power to issue stop work orders to prevent development that is likely to significantly affect the environment of endangered or other protected fauna; and the extension of the Act to amphibians.

Under the category of extended licences the 1991 Act imposed restrictions on general licences issued by the Director of National Parks and Wildlife after the publication of a new schedule of endangered fauna. The Act commenced in December 1991, but the new schedule was not published until the end of February this year. A number of general licences have been issued since the commencement of the Act - to the Forestry Commission and others - to take or kill endangered fauna in connection with existing forestry and other operations. Those licences are of limited duration; the bill will extend the duration of them until 1st October, 1993. The bill finally makes it clear that the licences remain subject to the provisions of the National Parks and Wildlife Act relating to the cancellation or variation of licences. As I said earlier, the provisions of the take or kill licences that have operated this year - contrary to all the statements made by Government members in the latter part of 1991 and early 1992 - have enabled the timber workers about whom the Minister professes to be so concerned to continue logging in a variety of areas. They have enabled environmental impact statements to be prepared and basically they have enabled the industry to continue, as members on this side of the House said it would be able to continue. We kept on denying the need for the beatup by the Government last year and early this year. The Act has worked well, as we said it would. The Government's actions in extending the existing Act reinforce the point that we were making at that time. It is always pleasant to be proved right. Nevertheless, I remained concerned at the amount of dissension in the community fostered by the Government - particularly the National Party wing - and the sort of disruptions that were forced on communities, especially in the logging areas.

The Hon. R. J. Webster: The honourable member did not like the timber workers calling for Bob Carr's scalp, did she?

The Hon. JAN BURNSWOODS: The Minister interjects and shows again how concerned he is at the beatup the Government engaged in, which was so false, artificial and damaging.

The Hon. R. J. Webster: Tell that to the timber workers, the former Labor supporters.

The Hon. JAN BURNSWOODS: Of course the Labor Party did not like hearing what some of the timber workers were saying, but as we said to them at the time,

they were saying things that they had been told by an unholy alliance of the Forestry Commission, the Government, and certain logging companies, which in many cases were using the beatup about this legislation as justification for jobs that were disappearing in any case. I remember hearing the arguments about particular mills that would be closed down because the effect of the Labor Party legislation allegedly would be to stop any logging in their vicinity. In most cases, on investigation it turned out either that there was no threat to the mills or to the jobs in them, or in fact the threat had come not from any legislation introduced by the Labor Party, with the support of the Independents and Page 10251

the Democrats, but from the habitually bad management of forest resources in this State by the Forestry Commission and the bad planning and the greed of some, not all by any means, of those in the timber industry and those running the mills.

Though the Opposition supports the bill, it has some specific concerns, and in that regard I refer to clause 4. Concern about the bill has been expressed strongly by the conservation movement in this State. I reiterate that clause 4 extends to 1st October, 1993, the current stop-gap licences held by the Forestry Commission of New South Wales. These licences received significant attention this year in assisting the Forestry Commission in the production of fauna impact statements and the transition of those licences to general licences. The stop-gap licences were due to expire on 1st December - that is next week - but this bill seeks to extend that date. However, to date no fauna impact statements have been produced for current logging activities covered by the stop-gap licences. The Opposition is concerned that this legislation is necessary and has been proved necessary by the whole shemozzle in the forestry industry. Though almost a year has passed the Forestry Commission has been unable to get its act together. Despite the statements made by the Minister for the Environment in his second reading speech in the other House, the Opposition remains convinced that the best of intentions - if these matters are not entrenched in the legislation - will not necessarily ensure that the Forestry Commission complies satisfactorily with the timetable to convert stop-gap licences to general licences before the new expiry date of the Act.

A year down the track the Opposition is happy to support Government legislation originally introduced by the Labor Party. However, it will be a matter of great concern if in another year's time it is necessary to further extend the legislation because the Government and the Forestry Commission still have not been able to get their act together. It is great praise indeed that the expiry date of the legislation introduced by the Opposition is being extended by the Government. However, in 12 months' time I do not wish to be referring back to my contributions of this year and last year. The Opposition agrees that at this late stage there is virtually no time for the preparation of fauna impact statements. They should have been produced and exhibited before the expiry of the current licences. Nevertheless, given that the situation is still unresolved, the Opposition accepts the need to proceed. That is not to say it is happy with the way in which the stop-gap licences operate. Originally they were planned to overcome a temporary problem, but they were never designed to go on and on. I refer briefly to what the Wilderness Society said about clause 4. In its letter to the Leader of the Opposition, Bob Carr, it states:

Clause 4 essentially extends those stop-gap licences for another 10 months, postponing long overdue scrutiny on the Forestry Commission's activities in regard to endangered fauna. New South Wales has one of the worst cases of fauna extinctions anywhere in the world in the last 200 years. It is not acceptable to continue our sorry record.

The Hon. R. S. L. Jones: Are we proud of that?

The Hon. JAN BURNSWOODS: As the Hon. R. S. L. Jones said, we are certainly not proud of that. He is not, I am not and certainly the Opposition is not. One wonders whether the Government is concerned about it; certainly one does not have to wonder about the attitude of the Forestry Commission. Everything we heard 12 months ago about the threat to jobs in this State has simply not eventuated.

The Hon. R. J. Webster: Rubbish!

Page 10252

The Hon. JAN BURNSWOODS: The Minister keeps interjecting by saying, "Rubbish". I notice when he made his contribution he did not provide examples of all the dreadful things that were supposed to eventuate. Irrational statements were made about timber workers being used by this Government to mount a campaign against the Opposition. Yet, all these months later, evidence has not come to light to substantiate any of those statements nor has there been evidence of job losses up and down the coast or any of the other crises we heard so much about on that occasion. I return to my earlier point that almost a year later I am speaking about the same concerns. I wish to draw attention to the stark contrast between the second reading speech delivered a week or so ago by the Minister for the Environment and debate on the legislation a year ago. The brief speech delivered by the Minister - and I assume it is the one the Minister rattled through this morning - is a mild-mannered, measured, formal description of what the bill seeks to achieve. This is in contrast to some of the dire statements made in December last year about the results that would flow from the enactment of the Endangered Fauna (Interim Protection) Amendment Act. On that occasion the then Minister for Conservation and Land Management expressed his concerns about how this bill would affect the future of New South Wales. He said:

This bill will only exacerbate [the present economic climate] by creating further uncertainty and instability in the timber-dependent communities of this State. The effect of this bill is to make the National Parks and Wildlife Service the determining authority for all forestry operations. This is ludicrous. It is a totally inappropriate role for the National Parks and Wildlife Service. Such a move would have accord it powers right outside its core responsibilities, making it the arbiter of land-use decisions in isolation from the planning process. That is the problem. There will be no obligation to consider both the economic and environmental factors.

Twelve months ago the Minister tried to beat up a scare campaign. In fact, none of what he said then has happened. The actions of the National Parks and Wildlife Service have by no means been totally outside the actions of other bodies concerned with planning and with environmental and economic factors. At that time the former Minister for Conservation and Land Management became upset and uptight during his presentation in December last year. He further stated:

This bill has the potential to close down the industry. . . We have heard this bill is a way of keeping the jobs open. The reality is that there could be a major conflict. Because of the regulatory and bureaucratic processes it may not be possible to issue licences.

He concluded by saying:

Though the legislation purports to review schedule 12 and limit it to only the most sensitive species, the criteria used would lead inevitably to the inclusion of wide-ranging native forest species, which will have an unacceptable wide impact on the timber industry.

Those are the words of the Minister for Conservation and Land Management. Other

members in the other place seemed to be more upset. The honourable member for Northern Tablelands said:

We must protect the Forestry industry and associated industries of New South Wales . . .
. If any legislation has been designed to kill off industry, this is it.

What garbage! Twelve months later the Government is extending the legislation that it told us was designed to kill off industry. The honourable member for Northern Tablelands continued:

Page 10253

This great unknown legislation will be the straw that breaks the camel's back . . . This legislation is an assault on industry. Businesses are just as likely to pack up and go . . . They will not work in the forest industry or the mining industry. They will invest elsewhere, and we will all be the poorer, including the environment, which this legislation is supposed to protect.

Twelve months later we look at all those statements: businesses were going to pack up and go; businesses will not work in the forest industry or the mining industry; they will invest elsewhere, and we will all go broke, we will all be ruined. A year later the Government is extending legislation that it predicted would virtually be the end of the world. I hope the Government will finally manage to carry out the bureaucratic processes, which are not as difficult as members opposite suggested. We will not then have to come back once again in another year's time to save the Government from its own incompetence in looking after the welfare of not only the jobs of timber workers but also the endangered flora and fauna of New South Wales.

The Hon. R. S. L. JONES [11.32]: The contrast in the debate this year in the lower House is quite extraordinary when compared to the diatribe of last year when members were saying the sky would fall in if this legislation was passed. Intemperate remarks were made by some members last year that endangered species were being put before mankind and that 6,000 - or was it 60,000 or 600,000 - jobs would be lost. No jobs have been lost as a result of the legislation. That is why the Government has now meekly decided to extend the legislation. Those forecasts were stirred up by people who had interests in the forestry business. Loggers and forestry workers were being unnecessarily upset because their jobs were not being threatened by the legislation. The gross mismanagement of the Forestry Commission for the last 30 or 40 years - and I emphasise the words gross mismanagement - threatened those jobs. If the commission had been capable of undertaking the task, properties denuded of trees, certainly in areas near where I reside, would now be plantations of fully grown forests of valuable timber managed in co-operation with the commission and landowners. It is a shame that these opportunities have been lost, because these timbers are becoming more scarce and more valuable. A number of my friends engaged in the timber industry value-add to the rare timbers they use. Though some of them are new to the industry, they know the forests extremely well and have seen how the forest industry has been mismanaged.

When one friend of 20 years built a timber mill he was told by the local member that what he was attempting to do was impossible. My friend obtained a licence from the Forestry Commission to collect dead 90-year-old Tasmanian blackwood that had been knocked down and ignored by the local forestry workers. The farmer who previously owned the property had cleared the land some years ago and had simply left the blackwood because they were pretty trees. There was no habitat and the trees died. My friend is now turning those trees into finished products. He had been told that was impossible because the milling blades could not be used for fine cutting. He now has an

open-ended contract for the supply of his products for the tourism industry so that Japanese tourists can take home little pieces of blackwood. Each tree is returning \$10,000. I am pleased to say that for his sake the royalties, at \$30 or \$40 a tree, are extraordinarily low; and that his profit margin is in the vicinity of 300 to 1. The trees have been grossly undervalued by the Forestry Commission. Other friends of mine collect and upgrade cedar and rare local tropical timbers as they become available or fall down in the forest. One day those timbers will be extremely valuable.

The farmers on the North Coast seem only to be interested in cattle. They or their children could become multi-millionaires if only they bothered to look at what could be planted. Yesterday on the radio honourable members may have heard a gentleman from the southern part of Queensland. He was a forestry department employee who had bought some cleared land over 20 years ago. During that period he has been gradually planting his land with tropical timbers - hoop pine, cedar and Queensland maple. This

Page 10254
wise man who has looked ahead, unlike the forestry department of Queensland and the Forestry Commission in New South Wales, will be extremely wealthy in a few years' time. I have three acres that I am currently planting out as a timber lot. In 30 or 40 years' time that timber lot will be worth approximately \$6 million. Some people have 200 acres of denuded grass land. A farmer friend of mine is now coming to my property and hand-cutting grass from my three acres to feed his cattle on 100 acres, because he did not leave any paddocks to allow for eventualities like droughts. I suggested to him that he should leave five or ten acres spare so that he could feed his cattle in the event of a drought. The farmers are now agreeing that they should do that and are beginning to plant tropical timbers which will be worth more than their cattle in a few years' time. At the same time they will be providing habitat for endangered fauna.

There is now an increasing understanding that if we are to manage our timber resources properly, we have to look 30 or 40 years into the future. We must not waste the timber resources that are left. Of our forests, 95 per cent of the area has already been cleared or is very badly damaged. Only 5 per cent is left in anything like a pristine state. That 5 per cent is area in which most of the endangered species live. As the Hon. Jan Burnswoods said, Australia has the highest rate of species extinction of any nation on earth; we should be ashamed of that. What upset me when I read the debate last year and heard the hysteria - when timber workers were unnecessarily stirred up and in a panic about losing their jobs, though they were not going to lose their jobs - was the talk about the loss of the last of the old-growth forests and the unnecessary destruction and extinction of unique Australian species. I wish we could turn the clock back 30 or 40 years so that we could put in plantations. I am not talking about pine plantations, because there is a world surplus of pine. It frustrates me that we spend so much money putting in pine plantations, because they are of no use whatsoever for endangered species. No endangered species can live in a pine plantation. We could have had habitat now for endangered species if appropriate plantations had been made on land where pine plantations have been grown.

The pine plantations are worth virtually nothing because we have a world surplus of pine. But we do not have a world surplus of cabinet timbers or of rainforest timbers. If we had planted these timbers 30 or 40 years ago, we would now have jobs and resources, and nobody would be complaining about timber resources. One farsighted farmer in Murwillumbah planted about 10 or 20 acres of rainforest timber about 30 years ago. He created a forest to which endangered species came; they migrated from other areas to live in that forest. This very farsighted and highly intelligent farmer wanted to log his timber, and quite rightly so. After all, he had planted it 30 years ago. What happened, by accident, was that he had one of the few rainforest remnants in the area,

which he had created himself. When he tried to log it, some people, who had arrived in the area more recently than he had, said that he could not log the forest because it was a rainforest that was needed for endangered species. A compromise was reached, as I am sure honourable members will be pleased to hear. He would have been able to log it, but he sold it to the National Parks and Wildlife Service. It was a forest planted by a farmer and it attracted many species, including endangered ones. The forest was purchased by the very farsighted and much lamented Tim Moore. He is now with the Master Builders Association and I hope he can persuade that association not to use rainforest timbers for plywood. There can be a balance, and there must be. We must preserve timber jobs, because we all use timbers. I have a house that has rainforest timbers.

The Hon. D. F. Moppett: Shock, horror!

Page 10255

The Hon. R. S. L. JONES: Shock, horror. I must say that I did not build the house myself and I suspect there would not be rainforest timbers in it if I had. Nevertheless, on the limited area I have - and I hope to be able to do this on a much larger scale when I leave Parliament, which may be some years ahead, but that remains to be seen at the next election - I intend to increase planting, not altogether for altruistic motives. I am aware, from talking with local nursery people and friends of mine in the timber industry, that there is an enormous potential market for mixed rainforest timbers. Honourable members would be aware that it is not possible to plant a cedar plantation. That would not work, because the tip moths would wreck the plantation, so it is possible to plant only the occasional cedar tree within the canopy. A number of friends of mine on the North Coast are involved with farmers who are planting out areas of 100, 200, 300 or 400 acres with timber. It is all very well organised, and very cheap, because labour costs are only about \$10 an hour and that is extraordinarily cheap. I suppose those labourers would otherwise be unemployed. These farsighted farmers are planting a resource either for their benefit in later life, if they are still young enough, or for the benefit of their children.

These farmers are converting what were essentially poor-yielding former dairy properties into very high-yielding timber properties. That is the way to go; we have to look to the future. We cannot look only three, five or eight years hence. The legislation was introduced to protect the last remnants of old growth forests. There is an interim period in which we have a little breathing space so that we can shift jobs, with government assistance. I hope the Government is interested in creating jobs; there is talk about jobs here all the time. The talk is about jobs versus the environment. We can have jobs with the environment. No environment: no economy - it is as simple as that. If you have no environment, you have no economy. But we can have sustainable jobs and sustainable ecology, as well as sustainable development. They are not diametrically opposed. I am abused frequently in this house by the Minister for Planning and Minister for Housing, and I guess he is having fun at my expense, saying that I am anti-jobs.

The Hon. R. J. Webster: You try to stop everything.

The Hon. R. S. L. JONES: Here we go again; he says I try to stop everything. I am not trying to stop everything. I am trying to divert the Government into thinking about where the future is. The macadamia industry on the North Coast is potentially worth \$100 million. Recently that industry has had a few problems, but it has proved to the American market that it is not dumping macadamias in that country. The price per kilo is going up to \$2.20. People are now involved in value-adding, such as producing macadamia butter. Those people are essentially planting rainforest trees because the

macadamia is a local rainforest tree - and likewise with the tea-tree industry. The tea-tree is also a local native plant, and that industry is worth \$100 million also. The markets are waiting.

The Hon. B. H. Vaughan: It is still rather experimental.

The Hon. R. S. L. JONES: No, it is not at all. The tea-tree market is well proved now. Several companies are involved, and even the Japanese are interested in tea-tree. The Americans tried to establish an industry but could not produce the oil. They tried to pinch our seeds and plant them over there, but that did not work. I am saying that we can have sustainable jobs in these new industries. We are also looking at lilli pilli berries and native fruit industries that come from the rainforest. These are forest industries. There is no reason why there cannot be forest-based industries that do not destroy the forest. The return the Forestry Commission receives from forests is negative. The taxpayers of this State have subsidised forestry industries and the Forestry Commission for the past 30 or 40 years. When this Government came to office, the

Page 10256

Forestry Commission was put off-budget. According to the Government, the Forestry Commission must from now on be self-supporting, and rightly so. If any part of a timber resource that belongs essentially to the people of New South Wales is used, there should be a return to the people of New South Wales. Surely that is logical economics.

When the Government came to office it did the right thing, essentially: it wrote off several hundred million dollars worth of loans accumulated by the Forestry Commission to finance its roadbuilding and other activities over the past 30 or 40 years. That should not have happened. Honourable members, and particularly conservative members who are concerned about economic rationalism, would see that that is wrong. It is the wrong way to go. It is unfortunate that we cannot turn back the clock. It is unfortunate that we have given away our forests for almost no return. The woodchipping industry in southern New South Wales started in 1969. A secret deal was done with the company concerned at the time. The renewal of the contract was signed by the Hon. Ian Causley who, by the way, has become a latter-day greenie. Earlier this week I was at the press Christmas party and I shook the Minister by the hand and congratulated him on doing a fantastic job. He has become a conservationist. He has had to become a conservationist, because we are losing our lobsters, gemfish, shrimps and other fish resources. The Minister is now taking advice from New South Wales Fisheries, quite rightly, to make sure that stocks are available for the fishing industry in the future, so that there are jobs in that industry in 20, 30 and 40 years' time. He has had to make hard decisions and he has taken a lot of flak for it. To add \$5 to the cost of a lobster is a very hard decision, and it is difficult to make sure they are all tagged. He has had to make hard decisions, and he is now doing the right thing, not just for conservation but also for jobs.

The Hon. R. J. Webster: He is a very good Minister.

The Hon. R. S. L. JONES: He is becoming extremely good in his portfolio. Unfortunately, he was conned by the Forestry Commission into re-signing this woodchip deal with Harris-Daishowa. That deal has essentially given away our forests. In the past four years we have lost a further 50,000 hectares in the southeast forest - a unique habitat - for no return. It is one of the best habitats in the world for a great diversity of species, not just tree species but also the celebrated long-footed potoroo. There are species in that forest that are totally unique. I met a biologist who discovered a kind of beetle that lived on trees only in this one area of the southeast forest. That area has now been logged and maybe those beetles are now extinct. Who cares about beetles?

Because they are small people do not care about them. These beetles lived on logs that had been on the forest floor for up to 500 years. When these trees fell, the beetles lived on and rotted those trees down for 500 years and those trees were gradually recycled back into the forest.

It is totally untrue to say that you can knock down these forests and regrow exactly the same sort of forest or anything like it. I was speaking to one of the resources assessment commissioners about this very matter and he said there are very grave doubts that the forest that comes up after it has been clear felled and burnt can be of the same quality and the same yield. Research is still being carried out, but the feeling is that the yield will probably be less. We cannot log a forest and say, "Okay. We are going to get the same forest growing back exactly the same in another 30 or 40 years time". I wish that were so. Unfortunately, when you remove the trees you also remove some of the matter that is there and you cannot replace it, because these forests are many thousands of years old. They have been recycling, and recycling, and recycling. When you remove the trees you have difficulty replacing them. That is not to say we do not have very large areas of barren land in New South Wales which could and should be planted out in a very careful way in co-operation with the landholders and in a way that

Page 10257

the landholders can get an annual benefit from planting out the land. Eventually they will get a very large benefit but there has to be some way of co-operating with landholders so that they can achieve an annual yield. Immediately you plant avocados or macadamias, the land has become more valuable. The next year it becomes a little more valuable, the next year a little more valuable, the next year a little more valuable, the next year a little more valuable and the next year a little more valuable. So perhaps there is a way that that capital increase can be turned into income for the farmers. I am sure that could be worked out.

People must be encouraged to maximise the value of their land and to maximise the yield from the land while at the same time not ruining or degrading that land. We have to be very imaginative. We cannot continue in the same old ways of the past 200 years. We have to look at what amount of dollar yield we can get per hectare, whatever the land is. We have to look at the piece of land separately. On the North Coast the yield per hectare is increasing dramatically above that of the old days. We are getting far greater yield now - we will do, it is coming. For example, we get a far greater yield from the macadamia industry than we ever would from dairy. As I said earlier, we are now looking at plantations for lilly pilly berries and other native foods. There is a very big demand for native foods, both locally and internationally. When people discover these new, extraordinary, native fruits the yield per hectare will be vastly greater than it ever was from the dairy industry.

We have to look at our local and native resources like the macadamia nut, which is unique to Australia. We have to look also at our unique species. When the first settlers arrived in Australia acclimatisation societies introduced rabbits, foxes, sparrows, blackbirds and other exogenous species. People wanted to clear the land as it had been cleared in Scotland. The new settlers who came from Scotland said, "I cannot stand all the trees. I want to clear this place so it will remind me of home". So they just cleared everything, not realising what they were clearing and what yield, if they had been imaginative, could have been achieved at that time from the complete forest. We have to reassess our attitude that European species are good and local species are bad. We are now looking at the farming of kangaroos, which is a highly contentious issue, and if I were to put on my biologist's hat and my economist's hat, and not my caring-for-kangaroos hat, and if we were to take an area of western New South Wales and draw a line there and remove all the cattle and sheep beyond that line, as Professor

Gordon Grieg has been telling me we should do for the past 20 years, and then farm kangaroos and not cattle and sheep, there is no question but that the environment would be better off. But we have to get to the stage where we actually remove the cattle and sheep somehow.

The Hon. D. F. Moppett: See how assiduously the Hon. R. S. L. Jones avoids even the vaguest resemblance to reality in what he is saying.

The Hon. R. S. L. JONES: The Hon. D. F. Moppett must be living on a separate planet. He cannot understand it. He is one of the old-style farmers. He simply cannot relate to what I am talking about.

The Hon. D. F. Moppett: No, I cannot.

The Hon. R. S. L. JONES: But I am sure that other members of the House can relate to what I am talking about. I see a few nods from some enlightened members opposite on the Government benches who understand what I am saying and understand that we have to look at new ways of doing things; stop the old ways and ensure that we get a proper dollar yield from everything, at the same time as ensuring that that dollar yield will remain at that level into the future, not just for the next three or four years. Surely that makes sense to the Hon. D. F. Moppett, does it not?

Page 10258

The Hon. D. F. Moppett: It makes sense.

The Hon. R. S. L. JONES: We agree that that makes sense. We do not have to knock down these vast old-growth forests. This Endangered Fauna (Interim Protection) Bill was introduced in an attempt to preserve at least some habitat for endangered species, not only for future generations of humans but also for the species themselves, because, after all, they have a right to exist. It may well be, as is now being discovered in the South American forests, that some of the native species of plants, lichens and even fungi or trees have a valuable use which we have not discovered. One of the people involved in the use of plants from the South American forests is Anita Roddick. She runs a worldwide business - The Body Shop - and, I believe, won the Businessperson of the Year Award. She is an extraordinarily intelligent and successful woman. She has incorporated ecological principles into her business. She is now looking at what she can gain from the forests that exist in their complete state and how she can harvest from those forests without actually destroying them. She is doing that extremely successfully.

Her products are environmentally sound and extremely successful. I am sure members of this House would have bought products from the Body Shop, many of which have come directly from the Amazon - not from the parts of the Amazon that have been cleared for cattle, but from the complete Amazon, from the berries and other products. I have walked through the Amazon rainforest, and I am sure other members would have done the same thing. I saw where they had actually tapped rubber from old-growth trees without knocking down a single tree. The yield they are achieving from the local berries et cetera is extraordinary. I was told of a berry, for example, found on one of the tributaries of the Amazon, that had the highest yield of vitamin C of almost any berry known, but it is not even being harvested. We saw a lot of hysteria last year, basically from members in the other place who are simply not tuned in to what economy and environment are all about. They do not understand that we can have an intact environment, an intact ecology, and a thriving, sustainable economy at the same time as

long-term sustainable jobs - which is what we all should be aiming for.

We should be looking at sustainability. The problem is that time and again we have abused a resource - whether it be koalas in the twenties, which we just about brought to the brink of extinction; tuna off the South Coast; gemfish; or lobster. We have seen resource after resource after resource being depleted for short-term profit and short-term, not long-term, jobs. The Forestry Commission in its ignorance - perhaps not just ignorance - has been knocking down our forests and giving them away for very short-term gain indeed. It is quite clear that the woodchip industry in southeast New South Wales will not survive beyond the next three or four years, because the forests planted in Chile and Spain and other countries will be coming on stream in about 1995 and will be much cheaper to harvest than our timbers. The woodchip mill on the South Coast probably has a lifespan of another three or five years, then jobs at that mill will come to a grinding halt. I have talked to people in the timber industry and to people who use the timber for purposes other than woodchips. When they see these trucks going past they say, "I could put that timber to better use". Many trees that are being chopped down, chewed up and wasted, could be used in the future for housing and other purposes.

The PRESIDENT: Order! Pursuant to sessional orders, business is interrupted for the taking of questions.

Page 10259

QUESTIONS WITHOUT NOTICE

LEGAL AID COMMISSION REVIEW

The Hon. B. H. VAUGHAN: My question without notice is directed to the Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council. Was a review into the operation of the Legal Aid Commission, which was completed this week, prepared by the Office of the Director of Public Prosecutions? Did the Public Defenders write to the Minister on 24th September, 1992, with substantial recommendations? Did the Minister, on 10th November, 1992, write to the Acting Senior Public Defender expressing his desire to have the Public Defenders contribute to the review? Why were the Public Defenders ignored in the review? Why was the review concluded 10 days after the Minister wrote to the Public Defenders?

The Hon. J. P. HANNAFORD: The Deputy Leader of the Opposition has raised a most relevant question. When I took over my present portfolio duties, I became aware of significant concern within the profession, among the Public Defenders, and by the Director of Public Prosecutions about the operation of the Legal Aid Commission. I became quite concerned when I learnt that the Legal Aid Commission owed about \$15 million to a number of private practitioners. It must be acknowledged that this approximate amount of \$15 million, which is what is being claimed by the profession, is not the final amount that will be paid. Often claims are based on wrong legal scales and, in other cases, claims are mediated by the Legal Aid Commission.

The Hon. R. D. Dyer: Did that relate only to a 12-month period?

The Hon. J. P. HANNAFORD: That is right. Another matter that was not known was the exact amount that the Legal Aid Commission owed to the profession. It has no mechanism to enable it to determine its potential liabilities. Recently, the Legal Aid Commission said it was prepared to approve the payment of about \$4 million worth

of accounts, but it was prepared to allocate only \$2.8 million to meet those debts. By and large, third parties are funding the operations of the commission. I have been told that that has been going on for years. I wanted to know what needed to be done to clarify the operations of the Legal Aid Commission. There are two aspects to this matter. The first relates to financial control and the second relates to administrative control. The other day the Deputy Leader of the Opposition corrected me and said that the Legal Aid Commission is one of largest legal services in the country. I think its budget is in excess of \$80 million. If its turnover were to be compared with that of any legal firm, it could be said that it was the biggest legal practice in the country.

I wanted to find some independent people who would be able to look quickly at the operations of the Legal Aid Commission. Ken Robson, a former Auditor-General, and Steven O'Connor, the Solicitor for the Director of Public Prosecutions, were retained. I was looking for someone who had public sector legal administrative experience. Steven O'Connor was recommended to me by people within the profession. Oliver Winder, State Director of the Federal Legal Aid Office, was made available by Senator Tate to work with the two people I have named so that there would be State and Federal input into that review. The terms of reference required a report to be presented in about three months from the date the people were retained. I told them to take steps to initiate any reforms that needed to be undertaken at the Legal Aid Commission. They said to me that, having regard to the nature of the problems that they would be identifying in the report, it would not be appropriate for them to undertake the second part of the task, that is, to initiate the reforms. They suggested that those reforms should be carried out by the Managing Director of the Legal Aid Commission. They urged me

Page 10260

to bring legislation before this House to broaden the field in relation to those who could apply for that position. The Deputy Leader of the Opposition will recall that, earlier this week, legislation was passed which will enable that to occur.

Those people were able to complete their report within six weeks. Included in the review was a request for them to look at the Public Defenders. At present the Public Defenders are administered by the Legal Aid Commission but funded by the Attorney General's Department. Overall, no one has responsibility for the Public Defenders. I understand that Mr Robson and Mr O'Connor will be suggesting to me in their report that it is not appropriate for them to look at the operation of the Public Defenders and that that should be undertaken by someone else. I believe that is the reason they did not confer in depth with the Public Defenders. The Deputy Leader of the Opposition is correct when he says that I will be provided with the report today. The report, in turn, will be made available to the Legal Aid Commission to enable it to review the report. I have indicated to the chairman of the commission that, when the report is received, I will make it available to interested parties so that comments can be forthcoming to me. If I am required to make decisions in relation to the commission, I will need not only the recommendations of Mr Robson and Mr O'Connor but also any other submissions. I have made arrangements for that report to be circulated when it is received. I think that covers all the issues that were raised.

The Hon. B. H. Vaughan: Was consideration given to the briefing systems?

The Hon. J. P. HANNAFORD: I understand that a number of matters which relate to what might be described as the day-to-day operations have been commented upon. Mr Robson is of the view that many of those matters require management change within the commission; therefore, they should be dealt with by the managers. He has suggested that additional work should be done by management to reform those matters. I understand Mr Robson has commented on a number of those issues. No doubt the

Deputy Leader of the Opposition is referring to the Legal Aid Commission briefing out matters. I think the Legal Aid Commission spent about \$17 million on briefing out major trials. If a trial is to last more than 15 days the Legal Aid Commission employs barristers on contract and pays them a lump sum. It is now looking at reassessing this measure because the vast majority of trials last from five to 10 days. They have commented on the need for additional Public Defenders. They have also commented on the extended use of solicitor advocates and expanding the expertise into that area. The final matter the Deputy Leader of the Opposition referred to was the fact that the report was prepared in the office of the Director of Public Prosecutions. The question seemed to imply that the director or someone in the office of the Director of Public Prosecutions might have had some influence on the report. I am told by Mr Robson and Mr O'Connor that they had made arrangements to have the report typed in the office of the DPP because Mr O'Connor had facilities available there. He said it was more convenient to have the report typed there than to have it prepared in the office of the Attorney General or the office of the Legal Aid Commission. Any suggestion that there is something sinister about the fact that it was prepared in that office is without any foundation.

RAIL STRIKE

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council. Because today's strike by the rail unions has inconvenienced thousands of residents of New South Wales, including students sitting for the higher school certificate, will the Minister explain whether the unions' concerns about Government sackings in the State Rail Authority are justified, and should the community be supporting the workers in this strike?

Page 10261

The Hon. J. P. HANNAFORD: I welcome the question from the Hon. Patricia Forsythe. It is interesting to note that the first question asked by the Opposition today had nothing to do with what I should have thought is an issue of major community concern today in New South Wales, that is, that several hundreds of thousands of people have been left stranded today as a result of a strike which is totally unjustified.

The Hon. J. M. Samios: It is disgraceful.

The Hon. J. P. HANNAFORD: It is, as the Hon. J. M. Samios said, disgraceful. Those affected by the strike not only include the students sitting for the higher school certificate, as the Hon. Patricia Forsythe adverted to, but also it has thrown into chaos the plans of people who will be attending the Schools Spectacular at the Sydney Entertainment Centre. I know my colleague the Minister for Education and Youth Affairs is quite disturbed about that, because a large amount of work has gone into that spectacular by the students, and the families and friends of many of the students will be attending the spectacular. I hope the people who were planning to attend the spectacular are able to make other arrangements to attend. The Hon. Patricia Forsythe has had to reorganise arrangements because her children want to attend the spectacular to show support for some of their friends.

The Hon. Dr Meredith Burgmann: It is because we are sitting tonight. She told me last night it is because we are sitting tonight that she has had to rearrange for her children -

The Hon. J. P. HANNAFORD: The Hon. Patricia Forsythe is not going; her

children are going. The general work force cannot get to work; people with job interviews risk continued unemployment; people with medical appointments may have to prolong their suffering; and ambulances and fire brigade emergency vehicles are going to be delayed because of the clogging up of the roads. Anyone who listened to the radio this morning would have heard the many complaints from people who were finding it difficult at about 6.30 a.m. trying to make use of roads in western Sydney. Getting from Campbelltown to Liverpool was almost impossible at 6.30 this morning. Why has this strike been called? The Government indicated in January this year that it was calling expressions of interest to carry out maintenance work on the CityRail train fleet. No one could deny that the workshops had a history of waste and bloated costs. The workers averaged 15 days sick leave a year, which is about three times that found in similar private sector operations. Private firms believed they could do the same work with several hundred fewer workers. The Government's decision to engage a private firm to carry out maintenance work on the rail fleet will save taxpayers about \$150 million over the period of the contract - a 10-year period.

The Hon. Franca Arena: How many people will be unemployed as a result of this?

The Hon. J. P. HANNAFORD: The Hon. Franca Arena interjected and asked how many people would be put out of work as a result of this. Not one single person will be sacked as a result of this decision - not one single person. My colleague in the other place is doing everything he can to ensure that State Rail employees have first priority for the jobs being created by Goninans, who are taking over the work at the Clyde workshops. Those who miss out on jobs with Goninans will be offered retraining, redeployment or, if they wish, voluntary redundancies will be made available. All workers have been given an unequivocal assurance that no one will be forced out of employment with State Rail. I repeat: every employee has been given an assurance that no one will be forced out of employment with State Rail. The strike has absolutely no basis. It was not supported by the Industrial Commission when it ordered the unions to call the strike off yesterday afternoon. There was ample time to call the strike off and

Page 10262

abide by the commission's ruling. The unions chose instead to thumb their noses at the commission and the people of this State. The strike will achieve absolutely nothing. Its only effect will be to hurt the citizens of New South Wales. The rail unions had a chance to outline how they proposed to cut costs and to boost productivity in those workshops. They did not put in any bid which came close to the bids submitted by the private sector. They were given additional opportunities to try to match those bids. The Government went through the tender process and selected a bid. Might I add, the unions were among the tenderers to take over the private operation of these workshops. The Government selected a bid which will save the taxpayers millions of dollars a year, and the agreement will go ahead.

This strike will not affect the Government's decision to contract out the maintenance work. The strike will achieve nothing. There have been some claims by the rail unions that this strike will not be confined to today. Among the union claims is the suggestion that private security officers are to take over the duties of State Rail guards. There are no such plans for replacing guards, and any strike action on their part would be an even greater waste of time. It is truly the strike which should never have occurred. Perhaps the unions are trying to gee up things for 30th November with the Federal Government and the rest of the unions to try to make this the strike that had to happen. The Elcar workshop which will close down was built for the original single-deck red rattler carriages, not for today's high-tech Tangara trains. The deal that has been entered into will see the private sector pour \$20 million into a modern maintenance depot

at Clyde. The deal will be a win for everyone. The Government and the people of New South Wales, the taxpayers, will save \$150 million; the maintenance facilities will be upgraded and no one will be sacked. I cannot, therefore, see any sense in the action taken by the unions. The Industrial Commission could not see the sense in this action and I am certain that the 700,000 New South Wales commuters certainly will see no sense in this action. The general community will condemn the rail unions for this strike.

SCHOOL LEAVING AGE FOR INTELLECTUALLY DISABLED STUDENTS

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Minister for Education and Youth Affairs. Is it a fact that young people with intellectual disabilities must leave school by the end of the year in which they turn 18? Is it also a fact that this provision does not exist for any other type of student in New South Wales? If so, would the Minister not agree that this is an appalling case of discrimination? Will the Minister do something to rectify the situation to assist many young people in the community who suffer either mildly or severely from intellectual disabilities?

The Hon. VIRGINIA CHADWICK: I refer the honourable member to the answers that I have given on several occasions in recent times to questions on that very issue and specifically to any decision about whether the Government should change the leaving age of 18 in SSP schools. It is clear that the Hon. Elisabeth Kirkby did not listen to the many questions that were asked, largely by the Hon. R. D. Dyer, and my answers to those questions. I will restate the position - again. New South Wales has a period of compulsory schooling which ends at about 15 years of age. Most students in New South Wales schools either leave at year 10 or stay on - and I am pleased to say those numbers are everincreasing - to complete their higher school certificate at the end of year 12, usually at about age 16 or 17. There is a widely held view in the community that that is an appropriate age either for finishing compulsory schooling or for the completion of year 12 and secondary schooling. However, consideration has been given to the special needs of people with an intellectual disability - or indeed multiple disabilities - to enable them to complete specialist programs that one hopes will assist them to live as normal a life as possible in the community.

Page 10263

Equally, consideration has been given to the fact that frequently children with intellectual disabilities suffer from illnesses because of the nature of their physical disability. Therefore, they spend a lot of time away from school or they need to have other specialist services, such as speech therapy and the like, and their regular schooling in the traditional sense can be interrupted. Taking into account all of those issues, over many years there has been a general policy in the Department of School Education that the age for the completion of school education should be 18 years. From time to time consideration has been given to whether that age should be varied. As I have said countless times in the House, that is a somewhat arbitrary decision and it is a vexed issue. However, there has to be a point of time at which people with an intellectual disability have the capacity to leave behind the childhood environment of school and have an opportunity to move into the broader community as young adults. If the age is not to be 18, should it perhaps be 20? Should it be the age of 40? Surely not.

The decision has been taken to leave the longstanding policy of age 18 and to bring in a discretion that in some areas is delegated locally but in some vexed circumstances is exercised by the Director General of School Education after discussion with me. I believe that policy works well indeed. Because of the shortage of

community-based options in some parts of the State and because of the natural desire of family and carers to protect a child and in some extreme cases even to see a disabled person as a perpetual child who must be protected, it must be stated that in some quarters there is a view among protective parents, whose concerns I understand, that they prefer to have the young adult in school - presumably for many years. I should say to the Hon. Elisabeth Kirkby that if the policy were open-ended rather than discriminatory in a negative sense, it could be discriminatory against the person with a disability. A caring and sometimes overprotective family member or carer could say that the young person should stay at school - presumably for ever, if the period were open-ended. If ever there could be a case of discrimination against a person with a disability, it would be to keep that person in a school environment and as a perpetual child. As many honourable members will know, intellectual disability is a subject that is very dear to my heart. I most certainly reject any suggestion that a policy that I administer in that regard is not based on the best interests of people with a disability.

SCHOOL LEAVING AGE FOR INTELLECTUALLY DISABLED STUDENTS

The Hon. ELISABETH KIRKBY: I ask the Minister for Education and Youth Affairs a supplementary question. In view of the very lengthy answer the Minister has given, will she assure the House that in consultation with her colleague the Minister for Community Services she will ensure that places for young people with intellectual disabilities to attend school after the age of 18 will be at the same low cost to their parents or carers as are similar positions in the State education system? If a long journey has to be undertaken by the young person to attend that alternative type of training, in cases of family disadvantage and lack of income, will the cost of travel be met also?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for what she called a supplementary question, though I doubt that it is supplementary. It raises an important issue however. The reality of life is that the level of disability of persons attending a school for special purposes is such that at age 18 they would be in receipt of an invalid pension. As a result transport opportunities are available to them that would by and large cover the difficulties outlined by the honourable member. Similarly, New South Wales has an excellent taxi scheme for the disabled; from memory people with disabilities pay 50 per cent of the cost of taxis. I do not believe the transport concern is serious. In regard to the opportunity for community-based options, though I hear what the honourable member says about costs and shall refer it to the Minister, as I have stated

Page 10264

in this Chamber in answer to questions from the Hon. R. D. Dyer and others over a long period, the availability of places is the problem and not the cost, per se. The Hon. Elisabeth Kirkby will be aware that recently I announced the convening of an interdepartmental committee to try to co-ordinate and develop further community-based centres. Such is the level of concern on this issue that the Department of School Education is chairing that interdepartmental committee.

HIV POSITIVE PRISONERS LIFESTYLE SKILLS PROGRAM

The Hon. ANN SYMONDS: My question without notice is to the Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council. Is he aware of the lifestyle skills program for HIV positive prisoners? May I deduce that education about condom use will be included in the program? Does that mean that recognition of the need for condom availability in prisons will follow?

The Hon. J. P. HANNAFORD: The honourable member has raised an important and - for some - controversial issue. I shall refer the question to the Minister for Justice and obtain a response as soon as possible.

SCHOOL SWIMMING CLASSES

The Hon. BERYL EVANS: I address my question without notice to the Minister for Education and Youth Affairs and Minister for Employment and Training. Will the Minister inform the House whether there is any truth in the article that appeared in yesterday's *Daily Telegraph Mirror* which claimed that swimming classes in New South Wales schools have been axed?

The Hon. VIRGINIA CHADWICK: I presume that the Hon. Beryl Evans read with surprise, as I did, a heading in the *Daily Telegraph Mirror* which stated "Kids at risk as swim classes get axe". In view of the risks under which children may be placed, I was alarmed at the prospect of a cutback in learn to swim classes, particularly as we enter the summer season. I immediately asked my department for advice. I inform the House that the claims made in yesterday's *Daily Telegraph Mirror* are inaccurate. Swimming classes run by the Department of School Education have not been axed. Funding for the scheme - consisting of combined Federal and State money - has remained constant for this year as with last year. There has been no cutback in funds. About 110,000 children statewide will attend learn to swim classes this year - about the same number as last year. Regional offices of the department decide on the number of children who will attend classes each year and the number of classes made available depends on schools' projected enrolments and anticipated demand for classes.

A parent from Chullora Public School is quoted in the article. I have had that matter investigated and that parent is Ms Elizabeth Gully. The facts are that Ms Gully's application for her three children was received two weeks after the closing date and the children therefore, not surprisingly, were placed on the reserve list. The department advises me that class numbers are limited to a certain number of students per instructor. Given that these classes are teaching children to swim, because of safety issues I would hope that was the case. If applications outnumber spaces available, students are given priority for the next available class. This is what occurred with Ms Gully. I fail to understand how the rejection of an application in respect of three children, two weeks after the closing date, can in any way be seen as an axing of classes. However, I take the learn to swim classes seriously; the financial allocation to this area has remained constant and reflects the department's commitment to its continuation.

Page 10265

RAIL STRIKE

Reverend the Hon. F. J. NILE: I ask the Attorney General and Minister for Industrial Relations, in his own capacity and as Minister representing the Minister for Transport, a question without notice which follows an earlier question about the rail strike. Is it a fact that city railway guards have complained that they were forced by the union bosses to strike, that they were not even given an opportunity to vote for or against the 24-hour strike, and that, in fact, they did not want to go on strike because of the inconvenience it would cause the public and because it would mean they would lose a day's pay when they need that money in this period coming up to Christmas?

The Hon. J. P. HANNAFORD: The honourable member raises the important issue of union democracy. We know that there was significant division within the rail

unions in relation to this strike. A number of union members and some within its leadership did not want to strike. The fact that this strike went ahead might best be described as pandering to the hot-heads within the union movement. It is another example of the left taking control of the unions. It is becoming more and more apparent that the union movement and Labor politics in New South Wales are moving closer and closer to the Victorian Labor administration. The left-wing is starting to gain greater control of the Labor Party in New South Wales. Some members of the left of the Labor Party are flexing their muscles and showing that they are intent on taking control of the Labor Party. We know that the numbers in the organisation are being counted, and this has been demonstrated already in the Federal preselections where the left has outed some of the brothers of the right. This is now starting to occur within the unions. I do not mind that occurring because the true colours of the Labor Party will come to the fore and the people of New South Wales will begin to understand that significant long-term benefits will be gained from keeping New South Wales in safe hands through conservative government.

DUAL CITIZENSHIP OF MEMBERS OF PARLIAMENT

The Hon. J. KALDIS: My question without notice is directed to the Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council. Will the Minister prevail upon the Premier to make a strong public statement opposing the section of the Constitution which prevents holders of dual citizenship from standing as candidates for election to Federal Parliament? Will the Premier immediately declare his support for the holding of a referendum at the next Federal election in an effort to eliminate those provisions?

The Hon. J. P. HANNAFORD: The honourable member should take cognisance of the effect of the decision, which is that people who have dual citizenship should renounce the citizenship of the other country if they wish to nominate as a candidate for election to the Australian Parliament. That is clearly the framework of the Australian Constitution. Those who seek to be a member of the Australian Parliament, as an elected representative of the Australian community, should bear in mind that the fathers who drafted the Constitution obviously had in mind the situation which prevailed then, as it does now - that in certain countries there is a requirement that people retain their nationality. Clearly this is a matter for the Federal Parliament to determine, perhaps by way of referendum. However, I doubt that such a referendum would have any chance of success. In today's multicultural society any proposition that persons be allowed to be elected to the Australian Parliament specifically on the basis of retaining their declared allegiance to another country would have little chance of success. Those members who are affected by the recent court decision and who will be standing for re-election at the next Federal election - at which time there will be a change of

Page 10266

government - will have demonstrated to them that they have followed community expectations in renouncing their allegiance by being successful at those elections on the basis of their sole allegiance to Australia and the Crown of Australia.

COURT WITNESS IDENTIFICATION PROTECTION

The Hon. Dr MARLENE GOLDSMITH: My question without notice is directed to the Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council. Witnesses giving evidence in court proceedings are in a vulnerable position given that their addresses may be made available to the defence, and thus to the accused, by way of sworn statements. Is there any protection available to witnesses in court proceedings against this occurring?

The Hon. J. P. HANNAFORD: The Hon. Dr Marlene Goldsmith has shown ongoing concern about these sorts of issues, particularly those involving sexual abuse and women's affairs. The question is timely because I am able to indicate to the House that in recent weeks I have become concerned with the number of representations made to me, particularly in respect of rape and sexual assault cases, where witnesses are experiencing trauma resulting from the fact that the defence knows of their whereabouts. Many women raped in the home will move from premises because they cannot bear to continue to live in the environment where the assault took place. They change addresses only to find that the new address may be made available through the giving of evidence. In some cases victims will continue to live at the same address but have their names removed from the telephone directory so as to avoid identification, yet later find that the information has been made available to the defence.

Witnesses who hold genuine fears of retribution must be protected wherever possible in their dealings with the criminal justice system. However, the protection and security of witnesses must be balanced against the right of the defence to fully prepare its case for hearing or trial. At present there are some safeguards to protect the rights of witnesses in certain circumstances. Where the court accepts that a witness giving oral testimony has a real fear of retribution, it is now recognised practice to write the address of the witness on a sheet of paper attached to the court file rather than disclose that address in open court. Section 48BA of the Justices Act provides some legal safeguards to prevent disclosure of the address of a witness when his or her statement is served on a defendant in committal proceedings. Other legal safeguards apply where a person seeks to interfere with a witness, namely, section 326 of the Crimes Act, which relates to threats and reprisals against a witness; section 85S of the Commonwealth Crimes Act, which relates to using postal services to menace or harass a person; and proceedings for contempt for interference with a witness. However, section 48BA of the Justices Act also recognises that non-disclosure should be overridden where the address or telephone number is a materially relevant part of the evidence, where there is unlikely to be a risk to anybody or where the interests of justice override that risk.

There is a long established common law position that there is no ownership in witnesses. This means that both parties have the right to interview and speak to the witnesses of other parties should the witness so consent. They therefore need access to the address of the witness. This is part of the generally recognised principle that in the interests of justice a defendant has the right to fully prepare his or her case for hearing or trial. However, instances occur where personal information about witnesses is revealed in court proceedings and results in trauma to the witness. Following representations I have received it is my clear view that the protection available at present is not adequate. Threats to witnesses is a serious and sensitive issue striking at the core of our justice system. Accordingly, I am pleased to inform the House that I have ordered a complete review in relation to this matter. I have written to interested parties,

Page 10267

including the Bar Association, the Law Society, the Legal Aid Commission, public defenders and heads of jurisdiction - I shall also write to a number of women's groups that have an interest in the matter - with a view to determining whether legislation similar to section 48BA of the Justices Act might be extended to all court proceedings and not just committal proceedings, and what other protective measures need to be introduced in this area.

ABORIGINAL SERVICES AND PROGRAMS REPORT

The Hon. JUDITH WALKER: I address my question without notice to the

Attorney General, Minister for Industrial Relations and Vice-President of the Executive Council, representing the Premier. Will the Government, as a matter of urgency, table the Zammit report on the review of Aboriginal services and programs, which was completed in December 1991 and appears to be gathering dust?

The Hon. J. P. HANNAFORD: I am not familiar with the position concerning that report. I shall take up the matter with the Premier and provide an answer as soon as possible.

DEPARTMENT OF HOUSING URBAN CONSOLIDATION PROGRAM

The Hon. J. F. RYAN: My question without notice is directed to the Minister for Housing. What initiatives is the Department of Housing taking to ensure the Government's urban consolidation program is maintained? What benefits will these initiatives have for first home buyers in New South Wales?

The Hon. R. J. WEBSTER: An integral part of the Fahey Government's housing policy is the efficient utilisation of land stock and the pursuit of a program of urban consolidation through various government agencies, including the Landcom land development and land sales arm of the Department of Housing. As I have stated previously, Landcom has conducted research over the past two years into what is referred to as integrated housing - one of the newer forms of housing designed for urban consolidation where a builder pre-plans and erects a minimum of five houses on smaller than normal size allotments. On the basis of this research a new and innovative program of providing integrated housing lots will now form a significant part of the department's land development program, with plans to produce approximately 2,500 lots over the next 24 months designed specifically for use in integrated housing developments. The objectives of the integrated housing program are to increase homesite yield and improve affordability and quality, primarily for the first homebuyer; to provide housing products in line with changing market trends and lifestyles; to provide attractively designed and landscaped housing developments; to achieve acceptance from local government and others of innovative concepts and developments; to minimise cost of infrastructure per residential unit; and to achieve an acceptable financial return to the Department of Housing.

Under the department's program those landholdings that have been identified for integrated housing will be developed on the basis of design and building work being undertaken jointly with the private sector. The department wishes to deal with builders with demonstrated expertise in conceiving, designing, developing and building projects which will achieve the State Government's objectives for affordable housing, utilising its urban consolidation planning policies. Accordingly, the department wishes to establish an accredited list of builders capable of implementing projects on sites designated by the department. I am pleased to announce that a series of advertisements have been placed in the daily press, major trade press, and Landcom builders' newsletters seeking to obtain

Page 10268
registrations of interest from these builders. All building sites allocated to this program will yield lots between 232 and 450 square metres and are consistent with the Government's urban consolidation planning policies.

It is also proposed that builder participation will be administered in a two-stage process: first, a call for registration of interest from builders by way of press advertisement and advertisements in the Landcom builders newsletter and other industry publications; then a cull of the registrations of interest against a predetermined set of criteria and placing them on to the selected builders list in appropriate categories by size

of project capability similar to redevelopment listing. Builders holding a current builders licence who wish to be considered for pre-qualification for the integrated housing program should therefore obtain a brochure from the Department of Housing relating to the program. The brochure details projected levels of activity and locations, the basis on which designer-builders will be expected to participate, and an application form for pre-qualification. The State Government's integrated housing policy is aimed at generating increased housing opportunities throughout New South Wales while at the same time maintaining affordability, maximising the use of sites and improving the quality of housing developments for all people of this State.

HORMONE TREATMENT AND BLOOD DONORS

The Hon. ELAINE NILE: I direct my question without notice to the Minister for Education and Youth Affairs and Minister for Employment and Training, representing the Minister for Health. Is the Minister aware of an article in today's *Sydney Morning Herald* which quotes Dr Lynette Dumble, a senior research fellow at the department of surgery, Royal Melbourne Hospital, who claims that Australia faces a medically-introduced epidemic of a rare disease because of official silence about the danger of its transmission through blood donors using the human pituitary gland hormone, hPG, to treat at least 2,400 Australians for infertility and to correct growth retardation? Is the Minister aware of the situation? If so, what is he doing about it? Will the Minister make a statement on the matter to allay the fears of parents I personally know who are going through the growth retardation program?

The Hon. VIRGINIA CHADWICK: I shall refer the question to my colleague the Minister for Health. I am sure he would be as concerned as the Hon. Elaine Nile and I were when we read that rather alarming report in the *Sydney Morning Herald*. No advice has been provided to me in relation to this matter. I am sure the Minister is having the matter investigated.

KING GEORGE V HOSPITAL REGISTRAR POSITIONS

The Hon. FRANCA ARENA: I ask the Minister for Education and Youth Affairs and Minister for Employment and Training, representing the Minister for Health, a question without notice. Is the Minister aware that for the first time all seven registrar positions at the King George V Hospital, one of the major obstetrics and gynaecological hospitals in New South Wales, have gone to male doctors? Is the Minister aware that that hospital services a lot of women of non-English speaking background, particularly Muslim women, who will not be able next year to have a female registrar looking after them? Is it possible for the Minister to intervene with the area health board to ensure that at least one extra female registrar is appointed to such an eminent hospital?

The Hon. VIRGINIA CHADWICK: I am unaware of whether the matters raised by the honourable member are accurate. I would be astonished if they were accurate, given the state of the health budget and the outrageous treatment we have had in New South Wales with the Medicare debacle and cutbacks in health funding from the

Page 10269

Federal Government. I doubt that my colleague would be in a position to appoint another registrar. However, if the issues raised by the honourable member are accurate, I am sure that the Minister will investigate the matter, and when he responds I will advise the honourable member.

HIGHER SCHOOL CERTIFICATE

The Hon. D. F. MOPPETT: My question without notice is addressed to the Minister for Education and Youth Affairs. Will the Minister confirm that the last of the 1992 higher school certificate examinations is being held today? Will the Minister inform the House how this year's series of examinations have progressed, in particular, how the department has coped with the increased numbers of students that have resulted from higher retention rates experienced in recent years?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for his most important and timely question. Today is the last day of the higher school certificate examinations. I was concerned about those poor students doing three unit agriculture and three unit modern Greek getting to the examination centres today; and their parents must have worried last night about those students getting to the examination centres. Of course, those who organised the rail strike presumably do not like children and do not care about the higher school certificate. It is a despicable and shameful thing to happen to those sitting for the exams, not to mention those who will want to attend the schools spectacular tonight.

The Hon. J. F. Ryan: The schools spectacular is for schoolchildren.

The Hon. VIRGINIA CHADWICK: Yes, 2,500 schoolchildren are performing tonight. I hear from the reports from last night that it was spectacular indeed. It was a great success. I hope that people will be able to get there tonight, despite the train strike.

The Hon. J. R. Johnson: It is carrying on the tradition started by a Labor government.

The Hon. VIRGINIA CHADWICK: The strike is indeed a great tradition.

The PRESIDENT: Order! I cannot hear the Minister's answer.

The Hon. VIRGINIA CHADWICK: A rail strike prior to Christmas is a great tradition of the Labor Party. Today is a day when I am sure many young people and their families will be celebrating the conclusion of 13 years of schooling. This year, as the Hon. D. F. Moppett pointed out, we have had a large candidature with 61,000 candidates, which is the largest number in this State's history. It is timely to remember that that number is almost three times the original candidature when the higher school certificate system began in 1967. Candidates for the 1992 higher school certificate examinations attended 924 examination centres, most of them situated in schools and TAFE colleges. However, candidates were also to be found in the following places: two in New South Wales prisons; in other States, including Western Australia, South Australia, Queensland, as well as Norfolk Island; aboard two Royal Australian Navy ships; 15 international locations ranging from Finland to Zimbabwe; and, in one case, a higher school certificate paper was completed aboard a Boeing 747 aircraft. It was quite a complex logistical exercise this year.

The growing number of candidates reflects a national trend to encourage young people to participate in post-compulsory education. Though the Government welcomes the growing retention rates, it has also had to meet challenges involved in catering for

Page 10270

large numbers of students who have little interest in traditional academic subjects. In recent years major improvements have been made to the joint secondary schools-TAFE program which offers higher school certificate students the chance to sit for selected TAFE courses as HSC subjects, allowing them to gain advanced standing in TAFE once

they leave school. That program is rapidly growing in popularity, with a 15 per cent increase in its budget this year to a record amount of \$7.7 million. This will enable more than 11,400 students to be enrolled in joint school-TAFE courses. The program started in 1985 with 900 students and now 11,400 are undertaking the program. In the 1992 higher school certificate course we have seen another important development, that is, making the qualification relevant to students who have traditionally failed to complete year 12, and I refer to the introduction of Aboriginal studies as a formal higher school certificate subject. This year 89 students from 12 schools in the State sat for the paper in Aboriginal studies, and next year the course will be available in more than 50 schools. Almost 6,000 examiners now face the task of marking hundreds of thousands of papers before the results are compiled and sent out in January 1993. I wish those examiners well. As candidature for the higher school certificate grows, so does the size of the organisational responsibility. I am sure that honourable member will join with me in congratulating the Board of Studies, the Department of School Education and everyone else involved in this year's higher school certificate operation on a successful job.

FREEZE ON WASTE DISPOSAL PROPOSALS

The Hon. R. S. L. JONES: I address my question without notice to the Minister for Planning and Minister for Housing, representing the Minister for the Environment. Will the Minister place an immediate freeze on all new waste disposal facility proposals, upgrades or extensions, including the application by Pacific Waste Management to convert its Elizabeth Drive non-putrescible land fill to accept putrescible waste, at least until the green paper and the joint parliamentary select committee process have been completed?

The Hon. R. J. WEBSTER: I will seek an answer to the honourable member's question from my colleague.

WOOLLOOMOOLOO FINGER WHARF CONSERVATION ORDER

The Hon. Dr MEREDITH BURGMANN: My question without notice is addressed to the Minister for Planning and Minister for Housing. Will the Minister assure the House that a permanent conservation order will be placed on the Woolloomooloo finger wharf, thus acknowledging its historic and heritage value for the people of New South Wales?

The Hon. B. H. Vaughan: Burn it!

The Hon. R. J. WEBSTER: The answer to the honourable member's question is no. I will not put a permanent conservation order on the finger wharf for a variety of reasons - possibly because the Deputy Leader of the Opposition would not want me to do so, but there may be other reasons as well. It is very interesting to note that there is considerable division in the community and also on the other side of the House on this issue. I am not one to promote division within the ranks of my enemies, but I have to say that recently I had a very interesting conversation with an old friend of mine and someone who is probably an old friend of at least some members on the other side of the House, if not all of them, and I refer to Barry Cohen. Of course, he is now a leading journalist - and a very fine one, I might say. He telephoned me about the finger wharf. He said there is a large body of people, including some in the heritage mafia, who probably have the same view of the finger wharf as the Hon. B. H. Vaughan, who may in fact be in the heritage mafia himself.

The Government conducted an inquiry into the finger wharf. The result of the inquiry was that the finger wharf was not worthy of a permanent conservation order. However, in the light of the spirit of co-operation and consultation that now exists under the conservative government in New South Wales, the Hon. Bruce Baird, who is the Minister with responsibility for the Maritime Services Board which owns the finger wharf, joined with me in a meeting with the National Trust, the Friends of the Finger Wharf, the Royal Australian Institute of Architects and others. We agreed that those groups could put to us various propositions, and the propositions were put. Minister Baird then called for expressions of interest into the proposed redevelopment of the finger wharf. I understand those expressions of interest are now either being prepared or considered by the Maritime Services Board. Until we find out whether the finger wharf has any viable future use at all - and that has of course been in some doubt for a long time - the Government does not propose to do anything about abolishing the finger wharf. Nor would I propose, as Heritage Minister, to go against the recommendation of the committee of inquiry and put a permanent conservation order on it. The short answer to the question is no. But there is a very interesting background to this matter because there are a lot of closet opponents of the finger wharf, including the Prime Minister.

The Hon. Dr Meredith Burgmann: It is the not in my backyard syndrome, to which I am opposed.

The Hon. R. J. WEBSTER: The finger wharf is opposed by many people, including the Prime Minister, to whom I know the Hon. Dr Meredith Burgmann is very close. He is very much on the record as being an opponent of the finger wharf. The Deputy Leader of the Opposition is not part of the NIMBY syndrome.

The Hon. B. H. Vaughan: It is in my backyard.

The Hon. R. J. WEBSTER: The Deputy Leader of the Opposition does not want it in his backyard but it is already there. I will report back to the House on this saga on another day.

The Hon. J. P. HANNAFORD: If honourable members have further questions, I suggest they put them on notice.

SPECIAL ADJOURNMENT

Motion by the Hon. J. P. Hannaford agreed to:

That this House at its rising today do adjourn until Thursday, 3rd December, 1992, at 10.30 a.m. unless the President, or if the President be unable to act on account of illness or other cause, the Chairman of Committees shall, prior to that date, by communication addressed to each member of the House, fix an earlier date and/or hour of the meeting.

[The President left the chair at 1.1 p.m. The House resumed at 2.30 p.m.]

CO-OPERATIVES (AMENDMENT) BILL

Suspension of certain standing orders, by leave, agreed to.

Bill received and read a first time.

PUBLIC HOSPITALS (CONSCIENTIOUS OBJECTION) BILL

Personal Explanation

The Hon. J. R. Johnson: I wish to make a personal explanation. In the proceedings of the House, as reported in yesterday's *Hansard* proof, I am shown on page 46 as having stated what could be taken as my opposition to the Public Hospitals (Conscientious Objection) Bill. I wish to make clear that the statement shown as being made by me was only partially mine, to wit, the first sentence finishing with the word "Australia". The remainder of the paragraph was said by the honourable member who had the call. I have been contacted by the Hansard staff and assured that the matter will be corrected in the pamphlet. For this I thank them.

PUBLIC HEALTH (AMENDMENT) BILL

Second Reading

The Hon. VIRGINIA CHADWICK (Minister for Education and Youth Affairs, and Minister for Employment and Training) [2.37]: I move:

That this bill be now read a second time.

The Public Health Amendment Bill will amend the Public Health Act 1991. Generally these amendments will provide: measures designed to prevent and control outbreaks of certain vaccine preventable diseases in schools and child care facilities; local council health surveyors will be designated as environmental health officers for the purpose of the Public Health Act 1991; and the definition of the expression "still-birth" will be brought into line with the Registration of Births, Deaths and Marriages Act 1973. The measures will also provide the Director-General of Health with power to order the disinfection or destruction of an article that has come into contact with a person suffering from any infectious disease and provide the Minister for Health with power to take action in respect of water found to be unfit for drinking or for domestic use where the Minister suspects that a public health risk has arisen or is likely to arise because of the water. The director-general will be able to authorise a medical practitioner to act temporarily as medical officer of health during the absence of the nominated medical officer of health for that district; a medical practitioner is to provide information in relation to a medical condition which has been notified, where requested by the director-general; and, where a medical practitioner has requested a laboratory to carry out a test in respect of one of the practitioner's patients, the practitioner must provide such information as the laboratory requires so as to enable it to send to the Director-General of Health a report as required by section 16 of the Public Health Act 1991.

These measures will confer on the Governor in Council additional regulation-making powers to prevent, mitigate and eradicate risks to public health and to enable public swimming pools and spas to be closed for any period during which they are a health risk. The bill also consequently amends the Education Reform Act 1990 so that if a child has been excluded from a school or a child care facility, as proposed by this bill, a parent of the child will have a good defence if charged with an offence against section 23 of the Education Reform Act, that is, the offence to fail to send the child to school. The proposed immunisation scheme does not impose compulsory immunisation and parents will retain a choice over whether or not to immunise their children. Under the proposed scheme in New South Wales, parents will be encouraged to have their children

immunised and will be required to produce documented evidence of immunisation status. In this way, in the event of a disease outbreak, the children at risk will be immediately identifiable and will be required to remain at home for the duration

Page 10273

of the outbreak. The scheme will apply to children enrolling in the kindergarten class of school and to children enrolling in child care facilities and pre-schools during 1993 for the start of the 1994 school year. The policy of excluding unimmunised children will be implemented during the 1994 school year. The combined effect of these amendments is to improve an already effective piece of public interest legislation. I commend the bill.

The Hon. FRANCA ARENA [2.39]: The Opposition supports this bill, which is designed to encourage - and I emphasise encourage, rather than compel - an increase in the rate of children being immunised against measles, diphtheria, whooping cough, poliomyelitis, tetanus, mumps and rubella. This will apply from 1994, so there is time for people to become aware of the new rules. Directors of pre-schools and principals of schools will be directed to request, at the time of enrolment, evidence of immunisation of a child or a student. This does not mean that children will be compelled to be immunised before they are enrolled; it will simply mean that a record will be kept of children who are not immunised, so that if there is an outbreak of one of the diseases I have mentioned previously, such children can be excluded from their classes or child care centres for the period of infection. This bill contains other aspects, but immunisation is of most interest to people and is the area about which the most correspondence has been received. The objects of the bill are:

to designate health surveyors employed by local authorities as "environmental health officers" for the purpose of the Principal Act;

to bring the definition of the expression "still-birth" into line with the definition of "stillborn child" contained in the Registration of Births, Deaths and Marriages Act 1973;

to empower the Director-General, Department of Health, to order the disinfection or destruction of an article that has come into contact with a person suffering from any infectious disease (and not merely a scheduled medical condition as defined by the principal Act);

to empower the Minister to take action in respect of water found to be unfit for drinking or unfit for domestic use where the Minister suspects that a public health risk has arisen or is likely to arise because of the water (and not merely that a "scheduled medical condition", as so defined, has been caused, or may be spread, by the water);

to require a medical practitioner who is aware that a patient has died as a result of, or while suffering from, a category 1 or 2 medical condition (such as sudden infant death syndrome or measles) to provide information relating to the medical condition to the Director-General, Department of Health, or being requested to do so;

to provide, that where a medical practitioner has requested a laboratory to carry out a test in respect of one of the practitioner's patients, the practitioner must provide such information as the laboratory requires so as to enable it to send to the Director-General, Department of Health, a report as required by section 16 of the Principal Act . . . ;

to confer on the Governor-in-Council additional regulation making powers to prevent, mitigate and eradicate risks to public health (rather than merely "schedule medical conditions") and to enable public swimming pools and public spas to be closed for any period during which they are a public health risk; and to make other changes of a minor nature.

The bill also consequently amends the Education Reform Act 1900 so that, if a child has been excluded from a school under section 42D of the Public Health Act 1991 (as proposed to be inserted by this Bill), a parent of the child will have a good defence if charged with an offence against section 23 of the Education Reform Act (offence to fail to send the child to school).

This bill is not only about immunisation, but it is immunisation that has attracted the most debate and a certain amount of controversy. I believe, as do many people, that immunisation has prevented more illnesses and saved more lives than has any medical procedure in this country. An article entitled "Overview of Immunisation in Australia" by Dr Brian Feery of the Commonwealth Serum Laboratories states:

Page 10274

Immunisation has prevented more suffering and saved more lives than any other medical intervention in this century. It is still one of the safest and most effective procedures in modern preventive medicine. It is also the most cost efficient. Despite these apparently obvious facts, immunisation is subject to question on three fronts. The first is from parents who are genuinely concerned with anecdotal or media reports of reactions to vaccination. They have only a vague perception of the benefits because they have grown up in a time of relative freedom from epidemic disease. The second is from individuals who pursue an alternative lifestyle and do not believe in vaccination. These individuals, especially if they live together in localised areas, can be a focus of outbreaks of infectious disease, particularly diphtheria or poliomyelitis. Thirdly, there is a group of altruistic individuals who are in truth the successors to the anti-vaccinationists of the nineteenth century. They remain unconvinced about the benefits of vaccination despite the conquest of the formerly common childhood diseases and the studies and statements of national health authorities and WHO. Unfortunately, a few of these individuals write prolifically and cause deep concern to many parents.

Let us look at the success of vaccination campaigns. Smallpox was eradicated 10 years ago by a rational, co-ordinated vaccination campaign which remains one of the miracles of modern preventive medicine. The World Health Organisation had considered the possibility of eradication in 1948, had organised a program to start in 1959, consolidated the campaign in January 1967 and achieved final success in October 1977. Immunisation against the formerly common bacterial diseases has also been extraordinarily successful. Diphtheria, which still has a mortality rate of about 5 per cent, has virtually disappeared from countries with a high level of vaccination, but it has recurred in small outbreaks in non-immunised individuals even in those countries. Tetanus is becoming a rare disease in developed countries because of the use of the DTP vaccine in infancy. Tetanus is now more commonly a disease among older non-immune individuals than among children, whereas in the developing world the major impact is still on neonates and young children. Pertussis has been controlled in many countries by presently available vaccines. Though there is a genuine doubt whether these vaccines actually cause persisting neurological complications, there has been a tendency to abandon the pertussis vaccination in several countries. The cessation of vaccination has always been followed by a recurrence of epidemic pertussis with severe morbidity and continuing mortality.

Fortunately, the development of a less toxic acellular vaccine will encourage people to return to pertussis vaccination. On the other hand, there are more people who believe with great sincerity that immunisation is harmful, will cause disease, and is a serious risk to the health of children and adults alike. I respect these people because I know they hold their beliefs with great sincerity. My friend and colleague in the other place, the honourable member for Smithfield, is one such person. He has sent to me and all other members of Parliament and members of the Legislative Council this voluminous treatise on the effects and significance of immunisation, and I commend him for it.

Anybody who believes so strongly about something and goes to so much trouble obtaining material and putting a very strong case against vaccination should be commended for it. I do not share his view but I would like to put on record that I respect him and I know that he holds those views with great sincerity. Mr Carl Scully has found natural health in the last five or six years and he has stuck very rigidly to it. All honourable members who share a meal with him in the dining room know that he will not eat meat and eats only fresh fruit and vegetables. I think it is an excellent diet and I wish we could all do it. You, Mr Acting-President, as a person with cattle and sheep, would probably not share these ideals, but I think it probably would be better for our health. People have strong feelings on these matters. I respect Carl Scully for his strong views. I know that he lives by his ideals. I am fond of natural medicine and its ideals but I am weak when it comes to living by them. For years I have heard people from the Natural Health Society of Australia Limited voice concern about immunisation. However, I confess that they have never convinced me. There is a place not far from Sydney called Hopewood Health Farm. It is a lovely place.

The Hon. Virginia Chadwick: Has the honourable member been there?

Page 10275

The Hon. FRANCA ARENA: Yes, I have and I know a lot of my colleagues have also. The Hon. Nick Greiner has been there. It is a beautiful place. I met there Sister Lubke who was convinced that immunisation was bad and caused many problems and sickness. I could never accept that. The proof of the pudding is always in the eating. Would anyone risk the health of children by not having them immunised? I know I could never do that. I always wanted my children to be immunised, to make sure I had every possible insurance. I am getting a strange look from the Hon. R. S. L. Jones, who probably does not believe in immunisation.

The Hon. R. S. L. Jones: I am listening intently.

The Hon. FRANCA ARENA: I would not like my children to grow up without being immunised. If one applies that rule to one's own family, one realises that they should be immunised. During the AIDS inquiry I was contacted by people who told me that they could prove that the AIDS virus was due to a mutation of an immunisation vaccine that had gone wrong. I received many pages of evidence about the matter. I know the people who wrote to me. I became friendly with them and I know that they are sincere; but there was no scientific basis for their statements and I could not accept them. We cannot risk the lives of children. I have heard people say that the polio vaccine can be dangerous for adults. I was recently vaccinated against polio because I intend travelling overseas in the next few weeks and I do not want to run any risk. The Department of Health has often been accused of bias and of being on the side of big companies. It has been suggested that it promoted immunisation because it had a vested interest. Such criticisms appear in the *Hansard* report of the debate in the other place. I was pleased when I rang the office of the Minister and was provided with a copy of pamphlets which are distributed in child care centres. Those pamphlets inform people of the risks and benefits of immunisation. People are aware that there are benefits, and of course there are risks. I shall read a few quotations from the booklet:

Immunisation programs in New South Wales have been extremely effective in reducing the risk of disease. Diphtheria and poliomyelitis have been eliminated, tetanus is rare, and measles and whooping cough occur far less frequently than before immunisation became universally available.

However, as the risks of disease have lessened, concerns about the side effects and complications of immunisation have increased.

Despite the safety and efficacy of modern vaccines, complications do occur. Although their rates are difficult to estimate, it is known that side effects of immunisation are far less frequent than the complications caused by the diseases themselves.

Fever and neurological conditions occur spontaneously in children whether immunised or not. Against this background, it is sometimes difficult to determine if a recent immunisation is causally, or merely coincidentally, related to a child's illness.

I commend the Department of Health for having distributed these booklets to explain these matters to the public. People must have informed opinions so that they can make an informed choice whether to have children vaccinated. That is what Carl Scully was saying. This is a democracy, a free society, and we respect the views of other people. At least they have reached a decision after becoming well informed. This kind of legislation has been brought forward for the reason that unfortunately more and more children are not being immunised - not because their parents are opposed to it, but out of neglect. That is the worst thing that can happen. Children are vulnerable to diseases that can be prevented. I should refer to several other quotations in the pamphlet. One of them deals with side-effects from the triple antigen - diphtheria, tetanus, pertussis vaccine, the DTP. It was called triple antigen when my children were small. It does have side-effects, such as redness, bruising, irritability or vomiting, fever, persistent
Page 10276

screaming and drowsiness, but the cases are so few that it is not worth worrying too much about them. The pamphlet includes the following:

The National Childhood Encephalopathy Study examined the issue of vaccine safety. This large study conducted in the UK between 1976 and 1979 concluded that the estimated attributable risk of serious neurological disorders occurring within seven days of immunisation with DTP in previously normal children and persisting for one year was 1: 310,000.

The risks are minimal. In regard to measles the document says:

Measles is acute viral illness characterised by fever, rash, coryza, cough and conjunctivitis. The most common complications of measles involve the respiratory tract and the central nervous system. Pneumonia, encephalitis, convulsions . . . and death can occur.

How can be one concerned about the problems one might have in regard to the side-effects of vaccination when one has regard to these deadly diseases? Mumps is a dangerous disease, and honourable members would be aware how much more dangerous mumps is if contracted by an adult, especially a man. We must always weigh up whether it is better to run the risk all one's life or to have some side effects following vaccination. The pamphlet states that the reactions to the measles component of the combined measles-mumps-rubella vaccine are significantly less frequent than complications of natural measles. The most common reaction is malaise and fever, with or without a rash. Only 5 per cent of those vaccinated have such symptoms. Up to 15 per cent of those vaccinated will develop a fever which may last several days. Febrile convulsions may occur during these episodes. Severe reactions following measles immunisation are rare. In the United States of America neurological disorders, including encephalitis and encephalopathy, have been reported with a frequency of less than one per million doses administered. The incidence of encephalitis following measles immunisation of healthy children is lower than the observed incidence of encephalitis of unknown cause. Reactions to the mumps component of the combined

measles-mumps-rubella vaccine are uncommon and usually mild and of brief duration. Inflammation of the parotid gland after vaccination has been reported rarely. Allergic reactions, including rash, pruritus and purpura can occur. This information demonstrates conclusively that the benefits outweigh the risks.

I wish to turn now to poliomyelitis. Polio is a dreadful disease which plagued people for many years. In my own country of birth, Italy, three young people who lived in my street contracted polio and were crippled for life. People were always afraid of catching the disease because little was known of it until the wonderful discovery of the oral sabin vaccine. Poliomyelitis is an acute illness resulting from the invasion of the gastrointestinal tract by poliovirus. The infection may not be clinically apparent or range in severity from a fever to aseptic meningitis or paralysis and possible death. Symptoms include headache, gastrointestinal disturbance, malaise and stiffness of the neck and back, with or without paralysis. The most important complications of polio are respiratory failure caused by paralysis of the chest muscles, pneumonia and pulmonary embolus. Polio has been effectively controlled in New South Wales. There have been no cases of polio reported since 1982. These figures prove how important these vaccinations are. The Hon. Beryl Evans, who has always taken an interest in health, no doubt knows many people who are crippled by polio. I am not aware whether this was so in Australia but certainly in Europe when I was young, when children contracted polio nothing could be done. In 1988 the World Health Organisation conducted a study and concluded that the oral polio vaccine continued to be one of the safest vaccines in use. The risk of vaccine-associated polio was less than one per million vaccinees. One can see that current recommendations balance the scientific evidence of benefits, cost and risk.

Vaccines used in New South Wales are safe, both in their own right and in the life of the diseases that they may prevent. The benefits of immunisation are substantial,
Page 10277

to the individual child and to the community. The benefits of the existing immunisation program can be preserved only if immunisation levels are maintained or improved. I should like to address the issue of cost of the vaccines. The large pharmaceutical companies are certainly making a lot of money. Perhaps the Government could enter into an agreement with these companies to produce the vaccines at a lower cost, including medication for such illnesses as AIDS. A recent television program showed people with AIDS demonstrating because new treatment that was available was too expensive. Pharmaceutical companies should be able to produce medication at a lower cost. Admittedly, these large firms have shareholders and they have a responsibility to make a profit. A balance should be found between a profit to companies that produce vaccines and the cost of vaccines. In Mr Carl Scully's submission reference is made to a Dr Kalokerinos, for whom I have deep respect. He had done distinguished and excellent work. Unfortunately, Dr Kalokerinos believes that every illness can be cured by vitamin C. I realise I am oversimplifying his views; his arguments are certainly more complex.

However, Dr Kalokerinos believes that every illness is the result of vitamin C deficiency. He believes that inoculation and immunisation lead to the destruction of vitamin C, and, therefore, rather than be inoculated and immunised people should take large doses of vitamin C. With great respect to Dr Kalokerinos who has done marvellous work especially with Aboriginal people, this is not only a simplistic approach, it does not have a proved scientific base. I rest my case. Carl Scully commenced his submission with a quote from Hippocrates: "First, do no harm." The Hippocratic oath is taken by medical practitioners. It is certainly the intention of this legislation not to do harm. I am sure Carl Scully and many others in the community accept that governments do not pass legislation to harm children or to cause problems. Legislation is passed to enhance the health of young children so that they can enjoy a good future. I shall

conclude by reading from a paper entitled "Overview of Immunisation in Australia" by Dr Brian Feery of the Commonwealth Serum Laboratories. In his conclusion he said:

A generation has grown up in Australia without the common childhood diseases. Many young doctors have not seen an acute case of poliomyelitis, or tetanus, or diphtheria. Whooping cough is an uncommon disease, and the incidence of the congenital rubella syndrome has fallen at least tenfold.

It is important to note that many doctors today have never seen these diseases; they do not exist any more. We cannot afford to put our children and future generations of children at risk. I have no doubt there are risks with immunisation and inoculation, but the risks of not having these preventive measures are much greater. Dr Feery concluded by saying:

These are the consequences of immunisation policies developed and sustained over past years. It is an excellent time therefore to review the present status of immunisation and to determine the requirements of the future.

The Opposition strongly supports this bill; it is an insurance policy for the next generation of children in this State. With vaccination the incidence of these serious diseases will certainly be decreased. Because of vaccines many doctors today are unable to recognise various diseases, for they have never seen any cases of them.

The Hon. BERYL EVANS [3.11]: I intend to deal with this bill in a slightly different way because I believe it is a bill of questions and answers. The first question that arises is: why is the policy being introduced? I suggest it is because the National Health and Medical Research Council has recommended since 1982 that all States and Territories adopt a policy of documented evidence of a child's immunisation status on school entry. It is further recommended that the policy be implemented in all States and Territories by 1994. Victoria passed legislation in 1991, and other States and Territories

Page 10278
are developing similar policies. Surveys of New South Wales immunisation rates indicate that immunisation levels are not sufficiently high enough to prevent the spread of diseases in the community. My next question is: is this compulsory immunisation? It is not compulsory immunisation. Parents will always have the right of choice. This policy will encourage parents to decide whether to have their children fully immunised. Parents will be required to provide the school with an immunisation certificate on enrolment. This certificate will detail the immunisation status of each child so that unimmunised children can be excluded in the event of an outbreak of a vaccine-preventable disease. That seems to be worrying a lot of people. If an outbreak of a particular disease occurs in a school, the children not immunised will be asked to leave. The tragedy is that those children may well bring the disease into the school and some of the children who have been immunised will contract a small dose. They will be placed in a difficult situation.

The Hon. Ann Symonds: There is also a problem with teachers who may be in the early stages of pregnancy.

The Hon. BERYL EVANS: Indeed. It is very important. My next question is: why is the policy not being implemented until 1994? The Department of Health plans to widely promote the policy to all the target groups, such as parents and general practitioners, and will focus all media coverage on enrolment rather than the first day of school. Schools enrol new pupils from May of the preceding year and the department will give parents sufficient time to obtain immunisation certificates. What are the

current immunisation rates in New South Wales? The Australian Bureau of Statistics has recently released the results of the 1989-90 national health survey. The immunisation rates for children aged from new-born to 6 years in New South Wales for diphtheria is 85 per cent; whooping cough, 70 per cent; poliomyelitis, 72 per cent; measles, 85 per cent; and mumps, 78 per cent. The Government is aiming for a 95 per cent immunisation rate of school-age children. That is the only way outbreaks will be efficiently controlled. Will children be prevented from enrolling in schools because they are not immunised? The answer is no. Under no circumstances will any child be prevented from enrolling in school or a child care facility. The policy aims to protect susceptible children from contracting disease by excluding them in disease outbreaks.

The policy should improve the immunisation coverage rate and thereby reduce the incidence of disease in schools, and hence reduce the rate of absenteeism through illness. In the event of an outbreak of a vaccine-preventable disease only unimmunised children will be excluded from the school or child care facility. What are the complication rates of measles and whooping cough? The complications for measles are pneumonia, 1 in 15; encephalitis, which is inflammation of the brain, 1 in 1,000; death is 1 in 5,000; and fatal degenerative disease of the central nervous system, which has resulted in 36 deaths in New South Wales since 1986. The complications in relation to whooping cough are encephalitis 1 in 25; convulsions, 1 in 12; permanent brain damage, 1 in 50; and death, 1 in 25. The figures are quite startling and should immediately make every mother have her child vaccinated. An article in relation to measles immunisation appears in a paper published in the 1980s. One of the authors is Dr Peter Macdonald, the honourable member for Manly. The paper states:

Immunization against measles is important not only in the prevention of the sheer misery of the illness, but also because one in every 15 patients develops a potentially serious complication, such as bronchitis, pneumonia, or otitis media.

I asked the Minister for School Education and Youth Affairs if she knew what otitis media was and she gave me a very good explanation.

The Hon. Virginia Chadwick: I do indeed. It is a huge problem with
Page 10279
Aboriginal children.

The Hon. R. S. L. Jones: It is middle ear infection.

The Hon. BERYL EVANS: Yes. The Minister told me she had conducted a campaign against that disease with regard to Aborigines.

The Hon. Virginia Chadwick: Absolutely. It was very successful indeed.

The Hon. BERYL EVANS: Clinically evidenced encephalitis occurs in approximately one in 1,000 cases and survivors are often left with permanent brain damage and mental retardation. Death occurs one in 5,000 cases. The development of a live measles virus vaccine in 1958 heralded the possibility of the eventual elimination of the disease of measles. The first large trial with this vaccine in children aged 10 months to two years began in the United Kingdom in 1964 and recorded a degree of protection or efficiency of 84 per cent, 91 per cent and 95 per cent during an epidemic, an interepidemic and a further epidemic of measles. Recent surveys of vaccination with live vaccine have shown that rates vary widely from 29 per cent to 94 per cent, depending on the age at immunisation. The extraordinary success of a measles immunisation campaign in the United States has been reported, and that shows that that country has

been looking at this issue in some depth. The reported measles cases there have reduced from an annual rate of 500,000 in 1950 to a rate in 1982 that was the lowest level noted since reporting began in 1904. If there was any evidence that immunisation works, I think that shows it.

In the United States of America measles immunisation is now compulsory by law at school or kindergarten entrance. It is now also recommended that persons born after 1956 who enter the United States should provide evidence of immunity to measles either by a physician's documentation of prior disease, by laboratory testing or by measles immunisation. That is how important they think it is in that country. Other western countries have undertaken measles immunisation programs with varying degrees of success. For example, in England and Wales national immunisation acceptance rates have remained at 15 per cent. In Russia in 1972, after five years of mass immunisation, the mortality rates had decreased more than threefold compared with the period before immunisation. Czechoslovakia is the most advanced country in that it has been successful in effectively stopping the national transmission of infection throughout the country. I think it is amazing that one country has completely stopped the spread of the infection.

In Australia publicity and health education has been only partially successful to date in promoting measles vaccination. It is important that we proceed with this and do something about it. What was the incidence of vaccine preventable diseases in New South Wales in 1990 and 1991? There was no diphtheria in 1990 or 1991; two cases of tetanus in 1990 and six cases in 1991; whooping cough, 149 cases in 1990 and 48 in 1991; no polio in either of those years; and for measles the figure was 388 cases in 1990 and 432 in 1991. As I said, those figures relate to New South Wales. Mumps and rubella were not notifiable diseases in 1990 and 1991, and therefore no figures are available. I told the Hon. Franca Arena that I would tell her a story about polio. It is something about which I know, very much to my detriment. My youngest son, at the age of just five, contracted polio 18 months before the Salk vaccine was available. I hope that the gentleman in the lower House who poo-poops these things never has to go through the experience of seeing young children and men in the Prince Henry Hospital, in iron lungs, suffering from this disease.

Page 10280

In the small town in which we lived we had the highest number of polio cases per head of population during that outbreak in 1955. We lost two young men who were in the football team, and they were big, strong, young men. A number of others were badly crippled. That outbreak was one of the worst experiences of my life. That we have now gone through so many years with no reported cases is magnificent. However, I am frightened that, when one checks to find how many young children have not been vaccinated, mothers may be leaving their children open to infection by not having them vaccinated - and that gives me the horrors. I can tell the House that it is something that one never forgets. How many children have died from vaccine preventable diseases in New South Wales? In the 20 years from 1966 to 1985, measles caused more deaths in Australia, that is, 179 deaths compared to 13 deaths from diphtheria, 113 from tetanus, 38 from whooping cough, and four from poliomyelitis. From 1985 to 1991 the following deaths from preventable diseases occurred in New South Wales: measles, 13; whooping cough, four; tetanus, three; mumps, two; and rubella, one.

I can tell the House another story that also affected me deeply. Honourable members know that for three years during the war I served with the Royal Australian Air Force. The first thing that happened on arrival in camp was that we went through the medical with our hands on our hips. Two doctors were lined up on either side and we

walked between them slowly. One gave vaccinations and the other gave tetanus shots, and when we got to the end another doctor gave us a typhoid shot as we walked out the door. A fortnight later we still had very sore arms. We got a tetanus needle every six months and a typhoid needle every six months. We had a vaccination every three years. That is still done in the services. We believe that to keep our service people fit and healthy and free from disease they must have these injections. I recall an occasion not long ago cutting myself badly. The wound became inflamed and on Christmas Day I had to go to hospital to get tetanus injection.

The Hon. Ann Symonds: Were you cutting the turkey at the time?

The Hon. BERYL EVANS: Yes, that is what I was doing. Most of us who served in the services still have some immunity to tetanus as a result of the injections we had during service life, I suppose because we had had so much of it. Who was consulted in the development of the policy? I find this interesting because if anyone has any doubts about how good the policy is, let me tell them about the consultation. Extensive consultation has been undertaken by the Department of Health and it involved the following organisations: the Department of School Education; the Catholic Education Commission; the Association of Independent Schools; the Royal Australian College of General Practitioners; the Australian Medical Association; the Department of Local Government; the Department of Community Services; State child and family service managers; area and regional community health staff; directors of all area and regional public health units; the Kindergarten Union; the Federation of Parents and Citizens Associations; the parent committee of the Catholic Education Commission; the Federation of Schools Community Organisation; the Playgroup Association; and the Medical Services Committee.

The Hon. Ann Symonds: That is extensive.

The Hon. BERYL EVANS: It is extensive. I cannot think of anyone else that we would need to talk to about this issue. No problems have been raised by any of those organisations. What is the penalty for failure to provide an immunisation certificate? The answer to that is very simple: there is no penalty provided for in the bill. If a parent fails to provide an immunisation certificate, the child will be classed as unimmunised for the purposes of the policy and will be excluded from the school during disease outbreaks. When the policy is introduced, will it involve the whole school? No, the policy applies
Page 10281

only to the kindergarten class of 1994 and the exclusion criteria will also apply only from that year. The policy will evolve through the school progressively year by year. Approximately 87,000 children will enrol in school each year and there are 74,550 children in formal child care in New South Wales. What will happen when a child enters Australia from another country and does not have evidence of immunisation? The department has sought the advice of a panel of experts regarding a policy of reimmunisation. The child will need to receive the school entry booster and should be assessed by a health professional at that time and advised regarding reimmunisation. Appropriate guidelines will be provided to health professionals to cover this eventuality.

Is a child who has received homeopathic immunisation immunised? I thought this was a very interesting question. No, the National Health and Medical Research Council warns that homeopathic immunisation is useless and is not an alternative to the recommended childhood immunisation schedule. It stresses that homeopathic immunisation leaves children unprotected against serious and potentially fatal diseases. These children will be regarded as unimmunised and would be excluded in disease outbreaks. That question was raised by Mr Christian Borleis from Nimbin, a member of

the Sydney-based Health Care Reform Group that campaigns for greater public awareness and reform to immunisation. He said that there is no good reason for the introduction of compulsory vaccination of children in New South Wales. He went on to say, "There should be no compulsion to have children vaccinated". I can tell him that there is no compulsion about it. He also said, "One group should not have a monopoly on deciding health care matters". According to Mr Borleis, the most anyone could expect from a vaccination is three months' immunity. That statement is completely unfounded. He said that compulsory vaccination was against the Australian Constitution and freedom of choice. He said further, "The public has been misled about vaccinations for the past 120 years".

Mr Borleis said that drug companies and the mainstream medical profession had been responsible for misleading the public. He goes on and on giving his views on the matter. I was amused by this comment: "It is not possible in the modern day to attain the right amount of vitamin C. We need a vitamin C supplement of eight grams a day". He stated that his three young children had contracted whooping cough and he had cured them with doses of vitamin C. My mind boggles when I read something like that. He claimed that vaccination in early childhood is also linked to cot death. That is completely untrue. He talks about clean living, all the things people should be taking and what they should be doing to avoid having the vaccination. The interesting thing about polio is that when it was in its worse stages, years before my child contracted the disease, it was rarely ever in the slum districts; it was always in well fed, well looked after children; and that is incredible. Little children living in difficult areas rarely ever contracted polio; they seemed to build up an immunity to it.

What is the cost to parents of obtaining an immunisation certificate? It is a National Health and Medical Research Council recommendation that children receive a school entry booster prior to school entry. It is at this time that the child's immunisation status should be assessed and an immunisation certificate issued. A consultation fee would be paid for the two services. Parents can obtain this service and the certificate free of charge from their local council or community health centre. What happens when a child is diagnosed as suffering from measles in a school or child care facility? The sick child is required to remain at home for at least four days after the appearance of the rash. Unimmunised contacts with the case will be advised to be immunised within 72 hours of contact, and can return to school immediately, or remain at home for the duration of the outbreak. They are simple instructions. Is there any association between sudden infant death syndrome - SIDS - and immunisation? There is absolutely no scientific evidence to support a link between SIDS and immunisation. A study of 129,834 children born in
Page 10282

four Tennessee counties between 1974 and 1984 concluded that in this large population of children there was no increase in the risk of SIDS after immunisation with the triple antigen vaccine. No other vaccine has ever been implicated. In fact, the Sudden Infant Death Association states that research shows a slightly higher incidence of cot death with infants who have not been immunised, and supports the Department of Health in encouraging parents to have their children appropriately immunised. That is a very telling report.

What is the risk of serious neurological damage occurring following immunisation with the triple antigen vaccine? A number of eminent investigators and professional organisations have concluded that triple antigen is not associated with an increased risk of permanent neurological damage or that the magnitude of any increased risk is so small as to be virtually unmeasurable. What are the side effects of the triple antigen vaccine? Moderate local and systemic reactions can occur but are usually transient and minor in nature. The side effects of the triple antigen vaccine in Australia

are as follows: redness and bruising at the injection site, 48 per cent; irritability or vomiting, 24 per cent; fever, 16 per cent; persistent screaming, 7 per cent; drowsiness, 5 per cent; pallor, 1 per cent; and convulsions, 0.03 per cent. During the service days I was among those who helped the men when, as recruits, they were required to be immunised. Funnily enough the girls used to be able to take it, walk out the other side and be alright, swinging their arms; but the men would fall like nine pins. One after the other they would faint. This was brought on by seeing the person in front getting the needle poked into him. We thought it was quite hysterical to go over to the medical section after they had fainted and lay them out. A lot of the problem with vaccination of little children is the same. I can remember even my sister-in-law almost bribing me to take her children when I took mine because she did not like seeing the vaccinations either.

The Hon. Ann Symonds: Maturity has nothing to do with age but quite a lot to do with gender.

The Hon. BERYL EVANS: Yes, it has. How will the Department of Health publicise the immunisation program? The department will undertake to adequately inform all the groups involved in the implementation of the policy, and this will involve information being provided to parents, general practitioners, local councils, school principals and directors of all child care facilities. The Department of Health has produced a very valuable information booklet. It is a background document that will be supplied to all general practitioners, local councils, community health centres, schools and child care facilities. A procedural manual, which details the responsibilities of all the groups involved, will be widely distributed. A parents guide explains the importance of the policy and provides information in question and answer form on how and where to obtain the immunisation certificate and solutions to other questions which parents may have. The booklet will be translated into 15 languages and widely distributed to all primary schools. It is a balanced authoritative document that has been widely distributed to the health professions. It is a very good little book. Much has been said about the bad sides of immunisation not having been explained to people, but they are explained in this book. The Department of Health has not hidden anything. This booklet is put together beautifully; and it is a wonderful booklet. I remember my parents telling me about the terrible 'flu epidemic that came to Australia years and years ago. Out of interest I looked up what happened at that time. Today many adults and children are immunised against 'flu. When it is known that a very bad strain of 'flu is about to come into the country it is recommended that older people in particular are immunised. But the terrible influenza epidemic during 1918 and 1919 claimed 11,489 Australian lives, which represented 1,288 deaths in every 100,000. When one realises that these days potential epidemics can be prevented - and have been - it is staggering to think that 11,000 people died in that 'flu epidemic in 1918.

Page 10283

The Hon. Ann Symonds: Considering that the population at the time was so low.

The Hon. BERYL EVANS: Exactly. The epidemic caused tremendous concern everywhere; it was terrible. I can remember my father telling me about people wearing little masks to prevent them from coughing or breathing over everyone. The other matter that is mentioned in this little article I found concerns polio. The article states that polio has almost been eradicated. It must stay that way. We cannot have these outbreaks. This is a wonderful move by the Department of Health to introduce this immunisation plan for children. We will be able to keep our children healthy. Fewer

children will become sick and be unable to attend school. With the implementation of this immunisation plan there will be fewer diseases and our population will be healthier. That is the name of the game.

The Hon. ELISABETH KIRKBY [3.41]: It gives me great pleasure to support the Public Health (Amendment) Bill. The Minister in her second reading speech carefully explained how this bill will amend the Public Health Act 1991 and cover a variety of other measures. Of course, it is obvious that the major amendment in this bill is to set up a scheme for the prevention and control of certain vaccine-preventable diseases in schools and child care facilities. The background for the Government's introduction of this amendment can be found in a document put out by the Department of Health entitled "A Review of Childhood Immunisation in New South Wales". I do not know how Victoria got ahead of us - I think it is a shame - but on reading this documentation one discovers that Victoria was the first Australian State to adopt school immunisation laws. Recently, the New South Wales Department of Health announced that the introduction of school entry legislation will occur in New South Wales by 1993. As has already been pointed out, the scheme that has been worked out by the Department of Health will not come into effect until the start of the 1994 school year.

New South Wales was also lagging behind the Australian Capital Territory. This bill will put the matter firmly back into perspective. The Australian Capital Territory is the only State or Territory in Australia to require immunisation of children on entry to long day care centres as a condition of the licensing of such centres. In fact, according to the Australian Capital Territory Children's Ordinance of 1986, this legislation was passed over six years ago. In New South Wales 2,128 institutions provide child care. There are 1,102 pre-schools and 624 long day care centres. These institutions have the capacity to care for 74,550 children. Imagine what terrible situations might arise if we had not, through this amending bill, brought our legislation for pre-schools and day care centres into line with legislation that has existed in the Australian Capital Territory since 1986. The document entitled "A Review of Childhood Immunisation in New South Wales" has a series of recommendations about how a full immunisation program should be carried out.

[Debate interrupted.]

The PRESIDENT: Order! It being 3.45 p.m., pursuant to sessional orders debate is interrupted to permit the Minister to move the adjournment of the House should she so desire.

The Hon. Virginia Chadwick: No, I do not so desire.

[Debate resumed.]

Page 10284

The Hon. ELISABETH KIRKBY: The Department of Health believes that research into the delivery of immunisation by general practitioners is a high priority. The department suggests that there is a necessity for a statewide study of general practitioners' attitudes to and knowledge about immunisation, as well as immunisation practices. So it is the intention of the Department of Health to:

Design a program of continuing education for general practitioners in consultation with representative organisations and the implementation after the recommended baseline study of general practitioner knowledge and attitudes.

The department also believes that the use of the 1991 National Health and Medical Research Council immunisation procedures manual should be widely promoted. The Department of Health believes that public health should be encouraged by co-operation and information exchange between general practitioners and the Department of Health. General practitioners should adhere to standards of practice in regard to immunisation. Public health units have been given the task of collecting information about general practitioner services and providing feedback to those practitioners about their performance. It is also believed that there is a necessity to target general practice nurses who immunise to receive training and ongoing education about immunisation. The Department of Health believes that research into immunisation compliance should include the examination of missed opportunities for immunisation in the private sector as well as in the public sector. The degree of delay that occurs in the vaccination of children should be assessed and the delay for children immunised in the public sector compared with the delay for children immunised in the private sector.

The Department of Health wants minimum standards established in documentation for immunisation and the promotion of those standards by the Department of Health in co-operation with appropriate professional bodies. The document from the Department of Health makes two other recommendations: more active promotion of the use of personal health records by both parents and service providers; and the provision to general practitioners of vaccines free of charge in the routine childhood immunisation schedule. In this way it will be possible for parents throughout the community to ensure that their children's health is protected. It was pointed out a few moments ago by the Hon. Beryl Evans that many lives have been saved by immunisation. I thoroughly agree with the statement she made that immunisation is recognised as one of the safest and most effective measures in modern preventive medicine. As D. T. Karzon pointed out in an article entitled "Immunisation on Public Trial" in possibly the most prestigious medical journal in the world - the 1977 *New England Journal of Medicine* - the incidence of many diseases has moved from the area of chance to the area of choice.

In a 1988 report entitled "Health for All Australians", goals set for Australia include: the reduction of the incidence of death and disability caused by communicable disease for which immunisation is possible; and the eradication of measles, hepatitis B and rubella embryopathy. I am interested to see included in those goals the eradication of hepatitis B because this is a most serious disease, particularly among our Aboriginal population. If it is possible for this disease to be eradicated through routine immunisation, I hope the Government will pursue not only immunisation against childhood diseases but also immunisation against those other diseases. Realistic goals for Australia include the eradication of indigenous poliomyelitis, the elimination of tetanus and diphtheria, and a very high level of control of measles, mumps and rubella. An article in the *Sun-Herald* stated that tetanus was on the increase and that in the previous year the number of people who contracted tetanus had doubled. The article reads:

Figures produced by the National Health and Medical Research Council show that 13 people contracted tetanus during the first 10 months of the year, compared with six in the same period last year.

Page 10285

Doctors are concerned that the number of people with the disease may increase again if the elderly are not immunised.

I am in the same category as the Hon. Beryl Evans. I was immunised against tetanus when I was in the armed services in 1942. After that, I had booster tetanus shots when I went to live in South-east Asia, because it was not considered safe to live in Malaysia unless one was immunised against tetanus and also against typhoid. As has been pointed out by Dr Robert Hall, anyone who enjoys gardening, particularly older people, may cut themselves and the tetanus virus, which lives in the soil, can enter the body through a minor laceration that may be suffered while gardening. When I have the opportunity to work on my property - not only gardening but handling dogs and cattle - if I suffer any cuts or abrasions, particularly from objects such as rusty barbed wire or a rusty nail that may be left lying around, I could be put at risk. It is essential that people living on a country property have regular booster shots of tetanus. There is no doubt that tetanus is a potentially fatal disease. It is not a question of possibly recovering after feeling very sick; it is possible for people to die from tetanus. The symptoms include muscle spasms and paralysis, and the paralysis can cause death from a heart attack. Doctor Hall has recommended that every person should be immunised against tetanus every 10 years. Having read that article, and knowing this bill would be debated today, I have been reminded that I must have a booster shot because it is more than 10 years since I had my last shot.

The Hon. Franca Arena received, as did I, a very lengthy document from the honourable member for Smithfield in another place. I believe the front page of the document shows a most misleading graph. It suggests that from 1871 to 1971 in England and Wales the childhood mortality rate from measles and whooping cough declined, and it suggests in the body of the report that this was not due to immunisation but to the fact that sanitation and lifestyle have improved in that hundred years. That is true; I do not doubt it. Many of the killer diseases of the late nineteenth century were eradicated as a result of the introduction of better public health measures. The provision of clean water and the fact that people were able to live in more suitable housing certainly reduced the incidence of tuberculosis, but it did not eradicate tuberculosis. Even after the end of World War II and into the 1950s before there was a possibility of anybody receiving immunisation against tuberculosis, tuberculosis was still one of the major killer diseases. The graph shows measles and whooping cough but it does not include poliomyelitis; it does not include diphtheria, which for many years was a disease which killed children.

Whether the honourable member for Smithfield proves his point so far as whooping cough and measles are concerned, he ignores some of the major killer diseases. I am told he is a naturopath, and he has every right to be a naturopath. He is free to choose his own profession and to hold his own beliefs and live by them, but I do not believe it is right for those beliefs to be imposed on other sections of the community. People must have full knowledge and the right of choice. This is like any book on any matter, not just medical matters: he quotes selectively from all the articles that support his theory but does not quote from the articles that might prove the opposite. That happens in many legal journals as well. It is easy to prove a case by giving the precedents that support it and not the precedents that do not. I acknowledge that the honourable member for Smithfield has a right to his own opinion. It must have taken him a great deal of time and study to prepare this document, but I do not believe it is correct that we should vote against legislation or even oppose what the Government is trying to do simply on the basis of these documents.

Poliomyelitis and tuberculosis are two diseases that are probably more important than any others encompassed by this debate. The Hon. Beryl Evans pointed out the appalling toll from poliomyelitis - not just those who have died from the disease but those

Page 10286

who were permanently disabled after contracting poliomyelitis. It was apparently far worse in Australia than it was in the United Kingdom. I remember vividly as a child the terror in which my parents, my aunts and uncles lived in case my brother or I, or any of my cousins, contracted poliomyelitis, because we were surrounded by school friends of our own age who did contract poliomyelitis. Yesterday a member of the lower House told me that when she was a child in the west of Sydney she would attend the cinema every Saturday afternoon with her brother. Her parents were worried about the group of children attending the cinema in the heat of summer. Apparently the common belief was that in the heat of summer disease could be contracted by being in an enclosed environment such as a cinema with many other people. The children probably had to fight with their parents for permission to attend the cinema, because the parents thought they were protecting the children against poliomyelitis by keeping them at home. The same thing occurs with tuberculosis. Tuberculosis was an appalling tragedy for many families long after World War II had concluded. There was a resurgence of tuberculosis in Europe as a result of World War II and it was then still a matter of great concern. Parents looked carefully at their children's school friends, and whether there was any tuberculosis in their families. If there was, that was a home that one's child could not visit. That was done for one's own protection. It is not necessary now for parents to live in that kind of fear, because immunisation is available. When considering the whole issue of immunisation, one must examine these problems. We should be thankful that we have the ability to protect young children and that parents no longer have to live in fear that their children will contract those diseases.

The Minister made reference in his second reading speech to the number of school days lost when children contract infectious diseases. I well remember losing nearly two years of schooling because over a period of four full terms I had measles, whooping cough, German measles - which I contracted twice - chicken pox and mumps. All of this had an enormous effect on my schooling, because by the time I had recovered I had missed almost 18 months of schooling and was way behind. It took a long time for me to catch up. That was not unusual; many children suffered in the same way. In fact my colleague the Hon. R. S. L. Jones said that exactly the same thing happened to him. We attended school in the years before it was possible to have immunisation injections. Many parents may have strong views about the food their children eat - they may be vegetarians or believe in homeopathic medicine. Even they may have to face concerns about whether their children might contract one of those diseases, and eventually they will make the decision to have their children immunised. If one is concerned about the possible side-effects of immunisation - particularly for an asthmatic child - it is possible for the child to be given a patch test before the immunisation procedure is carried out, so that the practitioner or clinic giving the injection will be able to make certain that any possible side-effects for a child at risk can be avoided. That information should be publicised so that all parents are aware of it.

Strategies have been promoted by the World Health Organization to improve immunisation coverage. They include improving the management of health services and making primary health care services more accessible. Many parents today were children at a time when immunisation was affordable, and during their childhood they were not subjected to the effects of those diseases. The tragedy of that is that although it is easy now to get primary health care for their children, they seem to believe the diseases have been eradicated, and they are not availing themselves of the primary health care services that are available - in many cases free of charge or very cheaply. The World Health Organization also believes that it is necessary to inform and motivate the public; to immunise at every available opportunity; to ensure that all health clinics that see women and children provide those services; to avoid false contra-indications to immunisation; to reduce the drop-out rates by education about immunisation schedules; and to have follow-

up programs using special immunisation activities where routine coverage remains low.

Page 10287

The requirements of the bill will do a great deal to improve immunisation coverage. The program will work in this way: parents enrolling children at schools must lodge an immunisation certificate for their child. Parents will also need to produce evidence of the immunisation status of their child when enrolling that child at child care facilities. It will be the responsibility of the directors of the child care facilities to keep a register. The principal of the school or the director of the child care facility will have to notify the local medical officer of any child enrolled who is suffering from a vaccine-preventable disease. Two courses of action are possible on the direction of the medical officer. If there happens to be an outbreak of a disease in that school or area, parents of children who have not been immunised may be requested to keep their children away from school during the currency of the outbreak of the disease. Other action may be taken, such as segregating children at risk from other children. Section 23 of the Education Reform Act 1990, which deals with the offence of failing to send children to school, will be amended accordingly. There will be no obligation on parents to immunise their children. They will still have freedom of choice; but if there is an outbreak of a highly infectious disease, parents may be requested to keep their children at home. If they do so, they cannot be charged under section 23 of the Education Reform Act. The rights of parents to have freedom of choice and follow their convictions - in many cases religious convictions, as well as convictions about how to achieve good health - are totally preserved. Their rights will not be interfered with in any way.

Much of the reduction in the incidence of vaccine-preventable diseases in the United States of America has been attributed to school entry laws requiring documentation of immunisation. It was estimated that such laws increased immunisation coverage by 15 per cent to 95 per cent of children at risk. That documentation can be found in a 1987 issue of the *British Medical Journal*, in an article written by N. D. Noah. Other States of Australia and many other countries have immunisation laws for children. Victoria and the Australian Capital Territory have such legislation, and similar laws apply in Hungary, Czechoslovakia, Brazil, Mexico, some provinces of Canada, and the United States of America. The laws mean that parents must make a choice about whether to immunise their children. An opportunity is given to the school authorities to educate parents about the need for immunisation. Furthermore, documentation on immunisation is the basis for any accurate surveillance of the immunisation level. Parents may have poor memories or, if they do not have English as their first language, they may not be readily able to read all of the documentation that is available.

The majority of child care centres require parents enrolling children to indicate if their children are immunised. Unimmunised children can be a risk to children too young to be immunised, and this is particularly a problem in child care centres. It is important to make sure that children receive the full course of treatment. Parents are sufficiently educated to know that some immunisation procedures require further immunisation to be carried out over a period of months, if not years. With the triple antigen it is necessary for the child to be immunised at the age of two months, four months, and six months; again at the age of 18 months; and then on entry to school to be immunised with the double antigen - otherwise they will not be fully protected. Women from a non-English speaking background who arrived in Australia as adults may not have been immunised in their country of origin, and, when breastfeeding their babies, may not provide the full immunity that would be received by a baby breastfed by a mother who had been immunised. This is an important reason for encouraging breast feeding, because it protects the child for the first six months of its life.

School immunisation laws elsewhere have helped to control measles and mumps. These measures in the bill will help to eradicate the infection. Parents will still have a choice about whether or not to immunise their children. All it means is that the children

Page 10288

may not be able to go to school for the period that the disease is prevalent. Another important amendment in the legislation will allow for the disinfecting or the destruction of articles which have been contaminated not only by scheduled medical conditions, as presently is the case, but also by any article that has come into contact with any infectious disease. The bill also gives the Minister power to take action in respect of water found to be unfit for drinking or for domestic use where it is suspected that a public health risk may exist or is likely to arise. At present the Minister can take action only where water may cause or spread a scheduled medical condition. This excludes the risk to public health from blue-green algae. After what happened last year and what may happen this year with the recurrence of the algal bloom, it is important that the law be rectified, and this amendment is most welcome.

A further requirement in the bill is for a medical practitioner who is aware that a patient could die as a result of a category one or two medical condition to provide on request information relating to the condition to the Director-General of the Department of Health. Under current section 14 all that is required of a medical practitioner is to notify medical conditions to the director-general as a result of attending a living person or conducting a post mortem. This means that a practitioner who is aware a person has died of a notifiable disease, but does not conduct the post mortem, does not have to notify that the person died while suffering from the condition, as he is no longer attending the person. This was a loophole in the legislation which is well covered by the amendment in the bill. Furthermore, where a medical practitioner has requested a laboratory to carry out a test in respect of a patient, the practitioner must provide such information as the laboratory requires so that the information may be passed on to the Director-General of the Department of Health under section 16 of the Public Health Act; for example, notification of test results for a category three medical condition. These include the various strains of hepatitis, HIV infection, malaria, cholera and salmonella.

With the exception of immunisation, this is possibly the most important of all the provisions in the legislation. Australia has a rising incidence of hepatitis, particularly hepatitis B. This is because many carriers of the disease come from Asian countries and may not be aware that they are carrying disease. It is possible for them to carry the disease and it is believed that is why it is spreading so rapidly in New South Wales. It is also of concern that Australia has a rising incidence of malaria. This results from the increasing number of Australians travelling to the Pacific islands or Asia, where malaria has not been eradicated. Those travellers are not receiving proper advice on suitable anti-malarial drugs to be taken prior to leaving the country and on their return. Certainly the Commonwealth Government is doing everything in its power to educate overseas travellers. Now travellers are given a card which states that if, on return, they have a fever, headache and so on, they should immediately seek advice and inform the medical practitioner of the country visited so that the possibility of malaria may be taken into account. Previously that was not necessary.

Salmonella is a serious and dangerous form of food poisoning. Regrettably, more cases of salmonella are being reported and this amendment may help to control that situation. Details about a particular case need to be provided on the laboratory notification form. Unfortunately, up until the amendment was introduced, laboratories were not receiving the necessary information from medical practitioners. A further

amendment concerns the powers of medical officers of health who are nominated by the Governor under the Act to follow up notification. Under the current law medical officers of health are given the power to enter and inspect premises, but not to make inquiries of any persons on the premises. These officers will be given power to ask questions of people concerned with notification and may be able to enter and inspect premises for the purpose of investigation. Certainly so far as food poisoning is concerned, this is an important provision.

Page 10289

It is proposed to give the Governor-in-Council additional regulation-making powers to prevent, mitigate and eradicate risk to public health - not only scheduled medical conditions. The Executive will have the power to close public swimming pools and public spas for any period during which a public health risk is evident. This is an important provision and is certainly important in relation to poliomyelitis. Polio has been effectively controlled in New South Wales. Indeed, no cases of polio have been reported since 1982. The efficiency of the poliomyelitis vaccine was dramatically improved with the invention of the Sabin vaccine, the most recent poliomyelitis vaccine. Four years ago a large study conducted by the WHO concluded that the oral polio vaccine continued to be one of the safest vaccines in use. The risk of vaccine-associated polio was less than one for each million persons vaccinated. That should be borne in mind by people, like the honourable member for Smithfield, who are only too anxious to suggest the dangers of immunisation without taking into account extensive critical studies carried out not only in Australia but in other parts of the world. Those studies show that the risks of not being vaccinated or immunised are far greater than the risk of having those procedures carried out. It is with great pleasure that I support the legislation.

The Hon. R. S. L. JONES [4.20]: I am delighted to have the opportunity to debate this legislation. My views on immunisation vaccination are somewhat different to the orthodox view. I shall refer to a few paragraphs from Carl Scully's submission "Immunisation: Is it worth the risk?" because it is important that all information is placed on the record. When I was five years old my best friend contracted polio. I remember in church praying for him and hoping he would get better. He did recover but was left with one leg shorter than the other. In those days people were petrified of poliomyelitis, or infantile paralysis as it was called at that time. We never knew when we would be struck down with that disease. It is interesting to note that the diseases mentioned in this legislation are ones I have contracted.

The Hon. Ann Symonds: You made a remarkable recovery though.

The Hon. R. S. L. JONES: I have had measles, mumps, whooping cough, chickenpox, and rubella. But I did not make a remarkable recovery, because as a result of getting whooping cough I contracted pneumonia, and as a result of that I contracted bronchiectasis and I have an incurable lung complaint.

The Hon. Judith Walker: Have you got bronchiolus?

The Hon. R. S. L. JONES: Bronchiectasis. As a result of that I have shortness of breath and a permanent lung complaint, unfortunately aided and abetted by my parents smoking. My parents can hardly be blamed for that, because in those days they were not as aware of the risks as we are aware today. The Immunisation Investigation Group of Katoomba, which has been involved with this issue for some time, drew my attention to a serious problem with the withdrawal of a vaccine called Pluserix-MMR. Honourable members may not be aware of the scandal that occurred in

the United Kingdom. I have a number of headlines and articles from various British newspapers. Under a London *Evening Standard* headline "Government is accused on baby vaccine danger," an article stated:

The Government was accused today of knowing more than 18 months ago that the vaccines most commonly used to protect babies against measles, mumps and rubella could cause serious reactions.

Two brands of the MMR vaccine were withdrawn yesterday after studies revealed links with the brain disease meningitis. Pharmacists were ordered not to issue prescriptions of Pluserix-MMR and Immravax.

Page 10290

An article in the *Independent* of 16th September stated:

The Government's Chief Medical Officer ordered pharmacists to remove stocks of the Pluserix and Immravax brands from their shelves. They were issued with stocks of a third vaccine, MMR II which is thought to be safer.

It is interesting that they use the words "is thought to be safer". All the talk about vaccines being totally safe is not necessarily true. A headline in the *Daily Telegraph Mirror* of 16th September was "Brain disease ban on vaccine"; a further headline, "Fears over link with meningitis. Babies' measles vaccine banned". This should have registered an impact and immediate reaction in Australia. A tiny article in the *Canberra Times* on 17th September stated:

A childhood vaccine withdrawn in Britain after being linked with meningitis had not been used in Australia for more than a year, the Federal Health Department said yesterday.

A Therapeutic Goods Administration spokesman said the Pluserix vaccine against measles, mumps and rubella had been withdrawn in May 1991 because of possible adverse reactions.

In a letter to the Federal Minister for Health, the Hon. Brian Howe, the Immunisation Investigation Group, the IIG, wrote:

We are therefore extremely concerned to learn that although the vaccine was withdrawn from health department clinics in May 1991, no attempt has been made in nearly 18 months to inform the general public, or doctors about that decision.

By withholding this information you have neglected the right of individuals to make an informed choice concerning vaccination. You have also endangered the health of thousands of babies, and yet again given the lie to your own claims about the safety and effectiveness of all vaccines.

We call upon you to set up an inquiry among all parents who claim a connection between their child's MMR vaccination and meningitis or other brain disease or damage.

The vaccine was withdrawn from the health department clinics in May 1991 but doctors and parents were not informed of the withdrawal. Since that date until very recently - and perhaps still occurring - thousands of Australian children may have been vaccinated with Pluserix-MMR by local general practitioners unaware of the risk. The vaccine was withdrawn worldwide by the manufacturers, Smith, Kline and French, on 15th

September, 1991. That was the date when British studies confirmed the vaccine caused meningitis in some children. The IIG is appalled at the negligence of Australian health departments which spend millions of dollars of public money buying vaccines and promoting them as safe and effective, yet it is apparently too much trouble for them to warn us if our children could be at risk from a vaccine. This negligence can only reduce the credibility of the pro-vaccination lobby. The IIG says not one of the doctors it has contacted in different States in the last few days knew of the withdrawal of Pluserix-MMR. Even doctors who have been critical of immunisation programs were in the dark and others may still be giving babies the banned vaccine because it is still in their fridge and they have not been told about it.

If a car, a power tool or a dangerous plastic toy is recalled, it gets national publicity. Why should it be different with vaccines? English health officials are saying that only one child in about 11,000 reacts badly, and that the meningitis is mild. A health professional's idea of a mild case is very different from what the sick child and the parents experience, especially if they have not been warned. The IIG started a register of vaccine damage in 1991 after a Melbourne woman nursed her child for 15

Page 10291

months after a triple antigen shot - diphtheria, pertussis and tetanus. So often, parents whose children react badly to vaccine are ignored and insulted. If doctors themselves are not aware of the dangers of vaccines, how can they possibly recognise the symptoms of adverse reactions? It is scandalous that doctors were not informed and babies were still being vaccinated quite some time after the vaccine was supposedly withdrawn. It is not possible to estimate accurately the numbers of children involved because other MMR vaccines are available.

As a guide, British sources estimate that 500,000 babies per year have been or were being immunised with MMR vaccines. Of these, they calculated that about 85 per cent would have been given Pluserix-MMR. As the population of Australia is more than one quarter that of the United Kingdom, it is reasonable to guess that about 100,000 children were getting Pluserix before the 1991 ban on clinic use. In the 17 months since then, how many general practitioners would have administered Pluserix? We will never know. I should like to refer to the report by Carl Scully, M.P., and I have looked at this report in some detail. I believe it is worth examination by honourable members. It is no good looking at it superficially and reading the conclusions. One should go into the medicinal side of it. At page 49 he quotes from Dr D. Powles. The reference is "Dr D. Dowles in Kalokerinos A., and Dettman G., 'Second Thoughts about Disease: A Controversy and Bechamp Revisited'." Dr Powles stated:

The major contributing factor toward improved health over the past 200 years has been improved nutrition. Nearly 90% of the total decline in the death rate in children between 1860 and 1965 due to whooping cough, scarlet fever, diphtheria and measles occurred before the introduction of antibiotics and widespread immunisation against diphtheria.

Dr Richard Moskowitz in "Immunisation: A Dissenting View in Dissent in Medicine" is quoted as saying:

The incidence and severity of whooping cough, for example, had already begun to decline precipitously long before the pertussis vaccine was introduced, a fact which led the Epidemiologist C. D. Dauer to remark as far back as 1943

If mortality (from pertussis) continues to decline at the same rate during the next 15 years, it would be extremely difficult to show statistically that (pertussis immunisation) had any

effect in reducing mortality from whooping cough.

Much the same is true not only of diphtheria and tetanus, but also of T.B., cholera, typhoid and other common scourges of a bygone era, which began to disappear towards end of the 19th century, perhaps partly in response to improvements in public health and sanitation.

As the following quotation from the English physician Sir Robert McCarron states:

... we often forget the most fundamental of all rules for the Physician, that the right kind of food (nutrition) is the most important single factor in the promotion of health and the wrong kind of food the most important single factor in the promotion of disease.

At page 107 of the report there is mention of the waning efficacy of vaccines. The reference at page 106 is:

Fine P. E., Clarkson J. A., "The recurrence of Whooping Cough: Possible implications for Assessment of Vaccine Efficacy", *The Lancet*, March 20, 1982 p. 666.

See also Malleson P. N., Bennett J. C., Whooping Cough admissions to paediatric hospital over ten years. The protective value of Immunisation, *The Lancet* 1977; i: 237-39, and

Grob P. R., et al, Effect of Vaccination of severity and dissemination of Whooping Cough, *British Medical Journal* 1981; 282: 23-26.

The quotation at page 107 states:

There is considerable evidence that the protective efficacy of pertussis vaccine used in England and Wales (defined as the percent reduction in morbidity in vaccinated individuals compared with similarly exposed unvaccinated groups) has been variable at best. High efficacy measures were reported in the early 1960s, but efficacy apparently fell to about 20% by 1967, leading to a reformulation of vaccines in 1968. More recent estimates of pertussis vaccine efficacy have ranged from 49% to 74%.

An Australian paediatrician, Dr Margaret Burgess, confirmed recently in "Immunisation update: risks and benefits in Current Paediatric Practice", by Harcourt Brace and Jovanovich page 14, said:

Vaccines are not totally protective and pertussis is probably the least efficient of the vaccines used in children. Efficacy after three doses of Australian vaccines was estimated in 1985 as 67% in children aged one to 4 years and 36% in children 4 years and older.

It is clear that these vaccines are not all they are cracked up to be. On page 122 of this fine volume there is an interesting chart of notifications of whooping cough relating to the United Kingdom. I note that there was an epidemic in the United Kingdom in 1950 and 1951, where the numbers rose from 92,657 in 1947 to a peak of 169,343 in 1951. I happen to be one of those statistics. My guess is that the number would have been 169,342 in 1951 had I not caught whooping cough. It is interesting to note that the mortality rate has dropped dramatically from the 1940s so that the number of deaths per number of notifications has dropped dramatically. This is the result of the availability of better medicines, including penicillin which became available in the early 1940s. At page 129 of the document there is a quotation from Dr G. Stewart and W. Bassili in which they state:

. . . strong association between attack rates of whooping cough and adverse socio-economic conditions: attack rates were strongly correlated with overcrowding in the central city area (Glasgow). In the epidemic of 1974 notifications of whooping cough were significantly higher in crowded households . . . there was considerable variation . . . in attack rates in time and locality.

Again at page 132 it is made clear that there are definitely negative impacts from vaccines. In 1979 legislation was passed in the United Kingdom called the Vaccine Damage Payments Act. Dr Barrie is quoted as saying:

. . . approximately 600 youngsters have received substantial compensation for severe handicap after pertussis vaccination - an average of 25 per year since vaccination began.

Moving on to diphtheria and tetanus, at page 138 of the report Mr Scully quotes from M. Nightingale "Vaccination and Immunisation" in the *Journal of the Society of Homeopaths* in which Nightingale argued:

Most people think that this disease has been stamped out by immunisation, but a closer look at the facts will show that things may well be a little different. In the first place this disease is undoubtedly found where social conditions are bad and their improvement has always been met by a corresponding reduction in diphtheria. Prior to the introduction of the immunisation campaign in 1931 the disease had declined dramatically on two occasions, whilst subsequent to the introduction of the vaccine the decline in the disease appeared almost equally in both "immunised"

and "non-immunised" children. In May 1951 a Medical Research Council Report indicated that many children with more than adequate amounts of circulating antitoxins in their blood still had suffered from diphtheria . . . As the social evils which caused diphtheria were virtually removed so the disease disappeared - but in countries where those conditions remain, the disease still takes a heavy toll despite plenty of vaccinating! There is practically no diphtheria in the United Kingdom today, and there still seems little need for the routine vaccination of children for this disease.

In fact there is a claim at page 141 by Borleis that:

Page 10293

The Department of Health in Scotland admits that from 1941 to 1944 there were 23,000 cases of diphtheria among immunised children, of which more than 180 proved fatal. In Germany, where compulsory mass vaccination was introduced in 1940, the number of cases increased 40,000 per year to 250,000 by 1945 virtually all among immunised children. Many other countries in Europe showed a striking increase in cases of diphtheria after compulsory vaccination was introduced. On the other hand in Sweden and Denmark the disease virtually disappeared without any vaccination.

At page 149 Dr Archie Kalokerinos is quoted, referring to Africa and South America, as saying:

They claimed they wiped out measles, but they can't substantiate that claim. Measles is a disease that is changing. Most of those susceptible to measles died from some diseases or other that they developed as a result of being vaccinated. It reduced their immune levels and acted like an infection and knocked them out. They might have got septicemia or gastro-enteritis or it made their nutritional status worse and they died from malnutrition. So there were few susceptible infants left alive to get measles.

An article at page 151 states:

In a recent issue of *Public Health Abstracts* the Department had this to say: "Measles . . . is most devastating in developing countries where children have poor nutritional levels . . . That vitamin A should be of benefit in measles is biologically plausible because measles depresses serum levels of vitamin A and vitamin A is known as an anti-infective vitamin . . .

A new randomised double blind trial in South Africa has shown that treatment with vitamin A reduces morbidity and mortality in measles and a recommendation has been made that all children with severe measles should be given vitamin A supplements . . .

So the department has recognised the link between socioeconomic conditions and this disease, and this same theme is shown right throughout. In fact, it is quite clear that there was a 90 per cent decline in measles before vaccination programs were introduced. There is a chart on page 153 prepared by Dr Brian Feery which was published in "Impact of Immunisation on Disease Patterns in Australia", *Medical Journal of Australia*, 22nd August, 1981. This chart shows that from the period 1927 to 1936 through to the period 1957 to 1966 there was an enormous drop in the number of deaths, even though for the same period the population nearly doubled. From 1927 to 1936 the number of deaths decreased from 1,037 to 183 in 1957-1966 - an enormous drop in the number of deaths before the vaccination program was properly under way. On page 154 of the report, R. Mendlesohn in *How to Raise a Healthy Child In Spite of your Doctor*, at page 216, disputes the claims about the impact of vaccine on the incidence of disease. He said:

while there has been a decline in the incidence of the disease, it began long before the vaccine was introduced. In 1958 there were about 800,000 cases of measles in the United States, but by 1962 - the year before a vaccine appeared - the number of cases had dropped by 300,000. During the next four years, while children were being vaccinated with an ineffective and now abandoned 'killed virus' vaccine, the number of cases dropped another 300,000. In 1900 there were 13.3 measles deaths per 100,000 population. By 1955, before the first measles shot, the death rate had declined 97.7% to only 0.03 deaths per 100,000.

This dramatic decline in the disease and the death rate of the disease had absolutely nothing whatsoever to do with vaccines. There are some sinister implications raised on page 159 about the potential of vaccines to cause extremely serious health problems in an article quoted by A. Mowle, PhD "Infectious Disease: A Matter for Immunisation . . . or a matter for further inquiry" published in the *Australasian Nurses Journal*, May 1981, reprinted in *Health and Healing*, December 1981 to February 1982. It says also to see A. M. Campbell, "How viruses insert their DNA into the DNA of the Host Cell", *Scientific American*, December 1976. It stated:

As all vaccines are cultured in animal tissue there are excellent opportunities for genetic DNA and RNA exchanges between the virus particle, bacteria and the human host as well . . .

Page 10294

viruses do become genetically integrated with the cells they infect . . . a number of vital vaccines may well be so successfully seeding . . . its RNA, that in later years the individual could well be stricken with such diverse diseases as multiple sclerosis, lupus, cancer and parkinson's disease.

We do not know whether the significant increase in cancer rates is in any way linked with the immunisation program; it would be very hard to prove that link, but it exists. On page 165 Dr Robert Simpson is reported as having said to a seminar of the American Cancer Society:

Immunisation programs against flu, measles, mumps and polio may actually be seeding humans with RNA to form proviruses . . . The proviruses will then become latent cells throughout the body . . . some of these latent proviruses could be molecules in search of disease which under proper conditions become activated and cause a variety of diseases.

There is other worrying information on page 183 of this paper to which the reference is:

Horstman, D.M., et al, "Rubella: Reinfection of Vaccinated and Naturally immune persons exposed in an Epidemic", *The New England Journal of Medicine*, Vol. 283, No. 15, Oct 8, 1970, pp. 771-778

It states:

On the basis of marked HAI (hemagglutination-inhibiting) and CF (complement fixing) responses, 80% of recently vaccinated young adults were reinfected when exposed during a rubella epidemic, in contrast to less than 5% of naturally immune persons . . . the magnitude of the antibody response of vaccinees suggests that they must have experienced virus multiplication and not simply limited replication at the portal of entry.

. . . if vaccinees can be readily infected a few months after successful immunisation what are the long term prospects for durable protection of the young woman in the childbearing age who was successfully vaccinated at six?

. . . when reinfection occurs in persons who have lost naturally acquired immunity the epidemiologic evidence is that they experience inapparent infections rather than clinical

rubella, but they respond with virus shedding and antibody rises in a manner similar to that of the patient with primary infection.

... if naturally immune subjects can lose detectable HAI and CF antibodies, vaccinees would seem to be more vulnerable to the eventuality ... one might question the degree and quality of protection that the young population with vaccine induced immunity alone might have in 10 to 15 years.

This extraordinary information supposes that vaccination against rubella in fact is counterproductive. On page 192 there is even more alarming information.

The Hon. Judith Walker: It is counterproductive if you are a carrier.

The Hon. R. S. L. JONES: You become a carrier, perhaps, if you are immunised. At page 192 there is even more alarming information from S. L. Spruance and C. B. Smith, in "Joint Complications associated with derivative of HPV-77 Rubella Vaccine", *American Journal of the Disabled Child*, as follows:

With respect to the three previously well children, Ogra and Herd were able to recover rubella virus from their joint aspirate for up to 4 months after immunisation with rubella vaccine.

Page 10295

I quote further:

The observation of particular importance ... is the recovery of infectious rubella virus from the joint fluid of apparently normal children who had been recently immunised with ... live rubella virus vaccine.

... there seems to be a clear cut temporal relationship between the ... administration of rubella virus vaccine, appearance of rubella antibody in serum and joint fluid, the demonstrable presence of rubella virus in the serum and joint fluid and the induction of arthritis.

... rubella virus may have distinct predilection for the joint tissues.

They concluded:

Repeated episodes of arthritis which follow immunisation with rubella vaccine seem to be related to continued replication of rubella virus in the affected joints, and to a selective distribution of rubella virus antigen in synovial and other body fluids.

They found further following a statewide immunisation campaign conducted in April 1970 in Utah, that six weeks after the immunisation campaign 9.9 per cent of children who received the HPV-77DK12 rubella vaccine developed joint symptoms. Page 196 of this document asks how many of those who are supposedly promoting this program have been vaccinated against rubella. The chart in the document refers to employee participation in the following areas: nursing, physicians, paediatricians, laboratory, dietary, maintenance and power, and people involved in the vaccination program. It has been established that half the people in the program were unwilling to be vaccinated. Orenstein commented on the unwillingness of specialists, particularly obstetricians and gynaecologists, to be vaccinated against rubella. He stated:

Immunisation of physicians already employed has been generally unsuccessful: fear of

unforeseen vaccine reactions prompted by the Gullain-Barre syndrome seen with the influenza vaccine was the reason given most often by house officers.

Physicians will not be immunised because they are concerned about adverse reactions. I have referred only to a few brief extracts from Carl Scully's authoritative work. He has obviously researched this subject for many years. I admire him for having put so much work into it.

The Hon. Franca Arena: He has been a health follower for six years.

The Hon. R. S. L. JONES: He must have spent half of the past six years working on this volume. The point is that the quotes contained within this document are not by Carl Scully. He has combed the medical journals of the world, obtained quotes from doctors all over the world, and used statistical evidence. He has not based this publication on irrational fears; he has used science to show that it is not as simple as we think. I wish now to refer to the last quote in the book by Schopenhauer. He stated:

Every truth passes through three stages
before it is recognised.
First, it is ridiculed.
Second, it is violently opposed.
Third, it is accepted as being self-evident.

I am sure that when we take the trouble to look at this issue and other issues more carefully - it is unfortunate that, because we are far too busy, we do not have the time to look at them that carefully - we would find that nothing is as clear-cut as we think. Even though the Australian Democrats will not be opposing this legislation, I am pleased
Page 10296

that it is not compulsory. Parents will have a choice whether or not to immunise their children. Some parents will choose not to but many parents will choose to immunise their children. I hope that the children of those parents who choose to have them immunised and those who choose not to have them immunised do not suffer the after effects.

The Hon. I. M. MACDONALD [4.53]: I am concerned about some of the comments that have been made by the Hon. R. S. L. Jones in relation to this issue. Even though the honourable member for Smithfield, Mr Carl Scully M.P., has made some relevant points in his rather long dissertation, he has ignored a lot of the evidence that points to the fact that, over the past 40 to 50 years, immunisation has been extremely effective in eradicating in this community diseases which were devastating in their impact. The trouble with the document on which the Hon. R. S. L. Jones based his contribution is that it selectively quotes much of the evidence that questions the impact of immunisation programs. I will raise a few of the issues that I think have been ignored both in Carl Scully's paper and in the contribution of the Hon. R. S. L. Jones. Over 340,000 children born in 1991 could have been vaccinated. Since 18th November, 1991, adverse events following immunisation have been notifiable medical conditions under the Public Health Act 1991. In 1991-92, the Department of Health was notified of 27 adverse events following immunisation. The rate of negative outcomes, therefore, is less than one for every 100,000 immunisations. The data for one full year are based on clinical criteria. Relevant figures are as follows: 25 of 27 adverse events consisted of persistent screaming for more than three hours. All infants recovered fully. One adverse event consisted of a convulsion from which the child recovered fully. One adverse event consisted of a death which occurred three days following immunisation and which was attributed to the sudden infant death syndrome. As I have pointed out, of the

340,000 immunisations for children born in 1991, there were only 27 adverse events.

Though it is a matter of concern that there are some adverse reactions, it must be clearly understood that they are minor in the context of the immunisation program. Research will continue to ensure that, over time, those adverse effects will be further reduced. We need to look carefully at the association between SIDS and immunisation on the basis of scientific research - not the sort of emotional responses that we have had this afternoon from the Hon. R. S. L. Jones. There is no evidence of a link between sudden infant death syndrome and immunisation. Medical research is clear on that point. The risk of sudden infant death syndrome occurring in the first year of life is 1.4 for every 1,000 live births. In 1991, 118 infants died from SIDS. Every infant receives four immunisations in its first year of life. There is a critical period of three days after every immunisation. The chance of any infant being within three days of an immunisation is one in 30. This is 23 times greater than the risk of an infant dying of SIDS. In fact, only one of the 118 cases of SIDS would have been accounted for because of a link with immunisation.

There is a four times lesser risk of dying from SIDS than being within the three-day period following immunisation. This is consistent with overseas studies. The Hon. R. S. L. Jones raised this issue by quoting extensively from Mr Scully's paper. Some of the data and the issues that have been referred to have been greatly exaggerated. This is because it is a selective analysis of available literature and research. There is no doubt that, since SIDS immunisation programs have been implemented in this country, there has been a great decrease in the number of children suffering from diseases that can be prevented by vaccination. If I had the figures available, they would show that, for instance, there are no cases of polio in this country, whereas in the 1920s and 1930s many hundreds of people suffered from poliomyelitis. When I was a child at school I remember a number of children unfortunately contracting that terrible disease. All honourable members would remember children at the time who were suffering from the

Page 10297

disease. It has been eliminated through a vaccination program. I cannot see how, under any circumstances, the honourable member for Smithfield in another place can jump over that sort of evidence. There were many hundreds of cases of poliomyelitis in the 1920s, 1930s and 1940s.

The Hon. Beryl Evans: And smallpox.

The Hon. I. M. MACDONALD: And smallpox; I will mention that shortly. Now there are virtually no cases of poliomyelitis in Australia. The Hon. R. S. L. Jones in his contribution ignored that fact. He did not mention the reduction in the incidence of smallpox and other major diseases covered by vaccination. There is no doubt that some people have a reaction to being vaccinated. The vaccination program involves placing a foreign body within an individual and a small percentage of people have certain reactions to it. But everyone would have to agree that the end result is a great decline in the incidence of those diseases and their impact upon the community. This is extremely good legislation because it provides a procedure whereby outbreaks of some of these diseases in schools and child care facilities can be dealt with very quickly. As the Hon. R. S. L. Jones acknowledged at the end of his dissertation, vaccination of children is not compulsory - that is made very clear in the legislation - but it improves the efficiency of public health authorities and the education system to cope with outbreaks of many of these diseases.

Proposed section 42B makes it clear that when a child is being enrolled at a school, the principal of the school must request a parent of the child to lodge with the

principal an immunisation certificate, unless satisfied that the certificate can be obtained under subsection (2). This provision makes it clear that when a child is to be enrolled at school there is a duty incumbent upon the principal to receive or obtain a certificate from the parents relating to vaccination. This is a very good public policy decision because it ensures that the school has a good idea of those children who have had the benefit of vaccination and those who have not. From that point, the ability of the health authorities to cope with any problems that may arise in those schools is enhanced. One could ask the general question which the Hon. R. S. L. Jones failed to ask in his contribution: what is the level of current immunisation rates in New South Wales? According to the Australian Bureau of Statistics that were released following the 1989-90 national health survey, the immunisation rates for children in New South Wales aged 0 to 6 years are as follows: diphtheria-tetanus, 85 per cent; whooping cough, 70 per cent; poliomyelitis, 72 per cent; measles, 85 per cent; and mumps, 78 per cent. That immunisation rate is assisting the control of these diseases in the community. Under no circumstances under this bill will any child be prevented from enrolling in a school or child care facility. The concerns expressed by many people are dealt with in the bill. The bill will adequately cater for the health needs in the future. I commend the bill.

The Hon. VIRGINIA CHADWICK (Minister for Education and Youth Affairs, and Minister for Employment and Training) [5.5], in reply: I thank all honourable members for their contributions. This is clearly an issue which, while it has had the support of all members who have spoken in this Chamber, has aroused considerable interest. Given the experiences that several members have had in their lifetime - including those rather poignant tales and recollections of the Hon. Beryl Evans who had the personal experience with her son, who contracted polio - it is clearly an issue of great interest to all honourable members. I have found the contributions of honourable members stimulating and interesting. I thank them and commend them for the research that has gone into the preparation of their contributions this afternoon. I have been asked to report a matter to the Chamber by my colleague the Minister for Health. Apparently in the second reading speech in the lower House, the Minister for Health inadvertently made reference to a provision which was not part of the amended bill. The provision

Page 10298

referred to was minor in nature and was originally intended to rectify what was thought to be an anomaly in section 14(1)(b) of the principal Act. During the drafting of the bill it was advised that the anomaly did not exist and therefore did not require the amendment. The Minister has asked me to clarify this matter. Having done that, I again thank all honourable members for the research work they obviously carried out in preparing themselves for this important debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CENTENNIAL PARK AND MOORE PARK TRUST (MACQUARIE SYDNEY COMMON) AMENDMENT BILL

Suspension of certain standing orders, by leave, agreed to.

Bill received and read a first time.

JOINT SELECT COMMITTEE UPON POLICE ADMINISTRATION

The Deputy-President (The Hon. D. J. Gay) reported the receipt of the following message from the Legislative Assembly:

Mr President

The Legislative Assembly desires to acquaint the Legislative Council that it has this day agreed to the following resolution:

That the reporting date for the interim report of the Joint Select Committee upon Police Administration be extended until 26th February, 1993.

Legislative Assembly
27th November, 1992

K. R. Rozzoli
Speaker

Suspension of certain standing orders, by leave, agreed to.

Motion by the Hon. Virginia Chadwick agreed to:

That this House agrees to the resolution in the Legislative Assembly's message of 27th November, 1992, extending the time for the interim report of the Joint Select Committee upon Police Administration until 26th February, 1993.

Message forwarded to the Legislative Assembly advising it of the resolution.

PRINTING COMMITTEE

Second Report

The Hon. D. P. Moppett, on behalf of the Chairman, brought up the Second Report from the Printing Committee.

Ordered to be printed.

Page 10299

ENDANGERED FAUNA (INTERIM PROTECTION) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. R. S. L. JONES [5.17]: When the debate was interrupted I had mentioned how the timber resources of this State had virtually been given away. I hope that honourable members will be aware that every sitting day, except for one, I have presented a petition to the House regarding the reformation of the Forestry Commission. Those petitions have contained thousands of signatures of people calling for the reformation of the Forestry Commission along the lines laid out by the Public Accounts Committee of the New South Wales Parliament. That is the key to this exercise. When the honourable member for North Shore was the chairman of that committee - a very able chairman - he took a lot of time examining how the Forestry Commission had been wasting our resources by pricing timber incorrectly, and not becoming involved in eucalypt plantations. It was a top-heavy structure. He found that essentially it was an inefficient, archaic, 1950s style organisation and certainly not up to what is expected in the 1990s when it is necessary to have higher productivity and efficiency. We cannot afford to waste taxpayers' money. This organisation has been wasting taxpayers' money - hundreds of millions of dollars of it - over the years. At the same time it has been giving

away our forests and removing the habitats of endangered species. That is very sad. If the Forestry Commission had received a little outside help during those years, it might not be in the parlous state that it is in now. In addition, the endangered fauna bill would not have been necessary. It is important to put on the record several of the recommendations made in report No. 52 of the Public Accounts Committee, dated December 1990. I do not believe many, if any, of these recommendations have yet been adopted. Recommendation 1 states:

It is recommended that the Forestry Commission strengthen its internal financial audit function, by placing it in the hands of qualified professional accountants, emphasising performance monitoring, and separating the internal audit function from management influence.

That is a damning criticism of the Forestry Commission. Recommendation 2 is a key recommendation and states:

It is recommended that the Forestry Commission immediately move to adopt a market-value based approach to valuing growing stock assets, following the example of South Australia's Woods and Forests Department.

It is fascinating how that has been done in South Australia. Recommendation 4 states:

It is recommended that ALL Forestry Commission staff and executives who work in both commercial and noncommercial activities keep daily diaries indicating the allocation of their time.

Recommendation 5 states:

It is recommended that the Forestry Commission annually estimate the value added by its management of the native forest estate for commercial timber production, with the details of the value added (or subtracted) annually included in its annual financial statements and Annual Report.

Obviously I shall not be reading all the recommendations, merely the key recommendations. Recommendation 8 is another interesting one which has been discussed today. It is as follows:

It is recommended that the Forestry Commission quantify all subsidies which it enjoys by virtue of its being a government body, and include estimates of such subsidies in the yearly audited financial statements. The Committee to review progress in one year.

Recommendation 9 states:

It is recommended that the Forestry Commission pay the State Government rental on all native forest which it manages for timber production.

I recommend that honourable members read this report if they have the opportunity to do so. Recommendation 19 states:

It is recommended that the Forestry Commission immediately reconsider the justification for the head office move to Pennant Hills, with a view to selling the office complex when it is economically prudent to do so, and subletting office space in the meantime.

One should remember that this was the office taken over recently by a number of

frustrated conservationists who have been working in the forests endeavouring to save the habitat of our endangered species. Finally they reached the point where they were so utterly frustrated at the lack of action, particularly by the Minister for Conservation and Land Management, Garry West, in the continual breaking of the law by the Forestry Commission and ignoring laws passed by this Parliament that they moved to take over the office and were accused, unjustly, of causing \$10,000 worth of damage when no more than \$100 worth of damage was caused. I believe they removed two ceiling tiles. The damage was caused after the Forestry Commission asked the police to knock out the doors. The conservationists would have left peacefully. They did not take hostages; and telephones were not ripped out from the walls as was suggested - a couple merely were unplugged. The whole raid, which was brought about by utter frustration, was exaggerated and condemned in the other place. A number of lies were told about what went on. The conservationists were protesting about the Forestry Commission breaking the law, yet they were condemned in the other place. Perhaps future generations will say that they should have been praised, not condemned, for what they did. Perhaps their actions were necessary in taking over the Forestry Commission building because the organisation is a 1950s style organisation and is grossly inefficient. I wish to mention other recommendations from the report. Recommendation 28 states:

It is recommended that the Forestry Commission provide detailed information to the public on the current status of sustained yield policy in each management area and current plans, if any, to modify quotas.

I have information on how the Forestry Commission has been misleading the Minister and the forestry industry by overestimating potential yields, from the Kempsey area in this case. Recommendation 29 states:

It is recommended that the Forestry Commission discontinue its present method of setting royalties based on recovery of visible costs and employ instead a method based primarily on the market's willingness to pay.

Honourable members would agree that this should have been happening many years ago. The Forestry Commission has been giving our forests away; it has not even been recovering its costs. Its charges have not been based on recovery at all, nor has account been taken of the cost of maintaining the roads and carrying out the necessary work on the forests that are regrowing after having been clear felled. In his testimony to the committee, Mr Wilson said:

We have a primary objective of at least covering our cost of production. I have a recent period of our history, we have been pushing pretty hard to achieve that and that has been - it has been a cost push driven pricing system.

That is a complex way of saying that the Forestry Commission has not been motivated by prices it could achieve but that prices were based on cost. That is not a suitable

Page 10301

pricing method for an organisation that is supposed to be maximising the yield from our forests, not only in terms of timber resources but also of returns to the taxpayer. Taxpayers have received no returns at all. Recommendation 30 states:

It is recommended that the Forestry Commission hire professional economists to perform the analytical groundwork for pricing decisions. The Committee to review progress in one year.

It is further stated that the Forestry Commission should work towards a market pricing

computer model which should work towards market orientated pricing policies. Rather than read all these recommendations at length, I suggest that honourable members read the Public Accounts Committee report to gain an understanding of how the Forestry Commission has been mismanaging our resources in a most appalling fashion over the past 40 to 50 years. As my daily petitions point out, there is a need to reform the Forestry Commission in accordance with the recommendations of the Public Accounts Committee. I have a mass of information which I would love to put on the record. However, I do not believe it is appropriate that I should do so at this time because other legislation must be considered by the House. I shall prepare a speech and in March, after the Governor's Speech, I shall deliver that speech in the Address-in-Reply debate. I believe that would be a more appropriate course than spending the next one or two hours providing this information to the House. I will, therefore, sift through the material to be in a better position to present the relevant information.

I have evidence of mismanagement of the forests, be they at Washpool where illegal logging was carried on for 10 years, or at Kempsey where resources have been overestimated and where fauna impact statements have been refused to be undertaken in the hope that the legislation will expire. An extensive critique has been prepared of the Mount Royal environmental impact statement, which shows that the Forestry Commission has been woefully neglectful of our endangered species. It is time the commission realised that the majority of people in New South Wales want our forests protected. A report produced by the University of New England at Armidale following research carried out in Dorrig and Armidale shows that the majority of residents in those towns - which are logging associated - would be willing to expend money, presumably their own money, to save the forests. The report says those people would be willing to save up to 300,000 hectares of old growth forests at quite an expense to themselves. If there were no expense to themselves they would save the remaining three million hectares of old growth forests. Next year I shall debate this matter further after I have had more time to consider this information.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [5.30], in reply: I thank all honourable members for their contributions to the debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 3)

STATUTE LAW (PENALTIES) BILL Second Reading

Debate resumed from 19th November.

The Hon. R. S. L. JONES [5.32]: The bills should be straightforward because they contain minor changes of a non-controversial nature, but a good deal of controversy

Page 10302

surrounds the Statute Law (Miscellaneous Provisions) Bill. I do not understand why this particular legislation has been backwards and forwards with many significant changes since it was introduced. Neither the Government, the Opposition nor the Call to Australia group notified the public defenders and Crown prosecutors of the provisions within this legislation. It was the Australian Democrats. The Crown prosecutors and public defenders were shocked and horrified to learn this legislation could be rushed through Parliament in the Statute Law (Miscellaneous Provisions) Bill with minimal

debate. Two sections have now been removed after consultation with the Crown prosecutors and public defenders. It should not have been necessary to remove the two or three other major measures in this legislation. In the future, the decision to include measures in statute law legislation will have to be considered more carefully. The amendment to the Valuation of Land Act 1916 No. 2 is fairly innocuous, but has ramifications which people may not realise until a later time. The amendment to section 38 reads:

Omit section 38(1), insert instead:

(1) An objector or other person referred to in section 35(1) who is dissatisfied with the decision of the Valuer-General on an objection made to the Valuer-General under Part 3 may, within the time and in the manner provided by the rules of the Court, appeal to the Court against that decision.

The objector or other person is now required to go to the court, whereas previously the Valuer-General was required to refer the objection to the Land and Environment Court. If my reading is correct, the person will be responsible, and incur greater cost. The amendments to the Valuers Registration Act 1975 No. 92 at pages 38 and 39 remove from sections 14 and 15A "prescribed" and insert "approved by the Minister". Perhaps the Minister could explain why it is better that the applications be approved by the Minister rather than be prescribed. If the applications were prescribed, they would be subject to public scrutiny and challenge. At page 35 the amendment to the Supreme Court Act 1970 No. 52 reads:

After section 37(4) insert:

(4A) A person who is or has been a judge of the Federal Court of Australia or of the Supreme Court of another State or Territory may be so appointed even though that person has reached the age of 72 years (or will have reached that age before the appointment expires) but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 75 years.

Do we assume that with an extension of three years suddenly at the age of 75 years judges crumble or become incapacitated? That is offensive because it reinstitutionalises ageism. It is contrary to the Government policy of removing age limits when they are clearly unnecessary.

The Hon. Judith Walker: The intention is to avoid the situation where people like Sir Victor Windeyer, who is in his eighties, are still on the bench.

The Hon. R. S. L. JONES: I do not think it is possible to judge a person by his age. You cannot just say that because a person suddenly reaches the age of 75 he becomes incapacitated. Perhaps there are other ways of removing them than by having an arbitrary age limit. With those few words, I support the legislation. I am delighted that the Attorney General has removed these several provisions. There is now a third print, presumably, of the legislation in which the controversial clauses have been

Page 10303

removed. I hope in future when these miscellaneous provision bills come before the House that they are of a non-controversial nature and will not have to go backwards and forwards because of opposition to them or the need to move amendments to delete contentious measures.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial

Relations, and Vice-President of the Executive Council) [5.38], in reply: I have noted the comments of all honourable members relating to the role and nature of the Statute Law (Miscellaneous Provisions) Act. It is not the intention of the Government that controversial matters should be dealt with in that legislation. The Government has noted the comments of members of the House. In view of the concern expressed over two aspects of the bill, relating to the Director of Public Prosecutions and the remuneration of directors of area health boards, I propose to move in Committee that those parts of schedule 1 be deleted. The bills will then be returned to the House separately, to be appropriately debated by members. The comments concerning the inclusion in this legislation of contentious measures will be drawn to the attention of the Parliamentary Counsel, because it is he who has the responsibility of deciding which measures are appropriate for this legislation. On 19th November the Hon. Elisabeth Kirkby raised some concerns in this debate about the proposed amendments to the Mental Health Act 1990 regarding prescribed forms and the delegation of the power of the chief health officer to order the transfer of a person to a hospital. The forms affected by the amendments are forms in relation to the notice of a temporary patient's right of appeal, the further determination of the tribunal, a licence application for an authorised hospital, the grant or refusal of a licence and an annual statement and licence fee.

All these forms are of a mechanical nature and the amendment is simply designed to ensure that there is increased flexibility in amending these forms as necessary. Forms containing particularly important material, such as those dealing with the statement of rights of a patient and those dealing with consent to electroconvulsive therapy, will continue to be prescribed. The amendments to sections 97 and 98 of the Mental Health Act concerning the delegation of certain powers to the chief health officer do not relate to any general power to transfer a patient to a psychiatric hospital. Rather, these sections relate specifically to the transfer of mentally ill and other prisoners from a prison to a hospital to enable the prisoner to obtain treatment. The amendment is considered necessary because, as the section is currently framed, if the chief health officer is not available for any reason, the patient cannot be immediately transferred to a hospital for treatment. This could result in persons not receiving required medical attention, which is of particular concern where the prisoner is suffering an acute attack or is in a suicidal state. The proposed amendments will ensure that urgent medical treatment can be obtained in circumstances where the chief health officer is not available.

The Hon. Elisabeth Kirkby also expressed some initial concerns about the possible scope of the proposed amendments to the Community Justice Centres Act 1983. May I reiterate the assurances apparently provided by the Hon. Dr Marlene Goldsmith, that there is nothing of great policy significance in the proposed amendments to this Act. Though there are a larger than usual number of changes to a single Act, it can be seen that the majority of these are consequential upon a single, minor administrative change. This is to amend the Act to reflect the reality that there is in fact only one director for all community justice centres, rather than a director for each centre, and to allow for the appointment of a deputy director. Unfortunately, given the basis on which the Act is currently drafted, this minor change has necessitated a large number of individual sections to be revised. There are also a number of items of pure statute law revision, relating to matters such as updating references to other Acts and gender neutral drafting. Two other minor matters are also attended to.

Page 10304

Reverend the Hon. F. J. Nile drew attention to the amendments in schedule 2 of the bill to the Tobacco Advertising Prohibition Act 1991. These amendments would delete from the Act the definitions of banned contract, banned sponsorship and benefit.

May I assure Reverend the Hon. F. J. Nile that the withdrawal of these definitions in no way impacts on the operation of the Act. In fact, the definitions are totally superfluous because the defined terms do not appear at all in the body of the Act. This came about because the provisions to which the definitions did originally relate were removed from the Act during the Committee stage of the Act's passage through Parliament. These changes were not observed as being necessary at that time. Honourable members will recall that in the course of debate in relation to the Statute Law (Miscellaneous Provisions) Bill (No. 3) on 19th November, the Hon. Elisabeth Kirkby also expressed concern in relation to the proposed amendment to section 37 of the Supreme Court Act 1970 which will enable judges or former judges of the Supreme Court or another State or Territory or the Federal Court of Australia to be reappointed as acting judges of the Supreme Court of New South Wales. The honourable member is concerned that acting judges may not be reappointed once they reach the age of 75 years and suggested that the amendment could be altered to allow acting judges to be reappointed up to the age of 78, if in good health and in full command of their faculties. This issue was also adverted to by the Hon. R. S. L. Jones.

The Supreme Court Act was amended in 1988 and 1989 to provide for the appointment of persons up to 72 years of age as acting judges and to enable reappointment up to the age of 75 years. At the time of these amendments, similar provision was made in respect of acting judges in the Land and Environment Court, the Industrial Court, the District Court and the Compensation Court. At that time it was felt that highly experienced and able persons should be able to make a contribution beyond the age of 72 years. Any extension of the present age limits in respect of acting judges would involve a not insignificant policy change in this regard. Accordingly, it would be inappropriate for such a change to be made by way of statute law revision which is intended to deal with matters of a minor policy nature only. However, the question of age limits for judicial officers will be re-examined in the wider context of the Government's proposed age discrimination reforms, which will be introduced in the new year. The Government is committed to the removal of age barriers to participation in the work force generally and I can assure the honourable member that the matter she has raised will be examined in full consultation with the heads of jurisdiction at the appropriate time.

I hope these comments have clarified some of the issues raised by honourable members. As I indicated, the Government accepts that the legislation should deal with minor policy amendments and not with matters which are regarded as major policy. If during the course of debate matters are seen to be controversial, I am willing to have those provisions deleted from the legislation. In respect of area health boards I note that the Deputy Leader of the Opposition in this House indicated his opposition to the provisions being included in the bill as they were regarded as major policy matters. As a result of that opposition to the bill being inserted into this piece of legislation, I will move to delete that provision and to have it dealt with at a subsequent time. In relation to the Director of Public Prosecutions Bill I indicate to the House that the amendment the Government was seeking to insert was aimed at clarifying the legal position in respect of legal matters being pursued at this time by the Director of Public Prosecutions.

I wish to emphasise to the House that it is the view of the Government that the Director of Public Prosecutions is acting completely within his authorised power, that the acts which he is pursuing in providing advice to the police at this stage are provided in accordance with the law. However, the matter was included within the legislation as a

Page 10305

result of comments made by Mr Justice Lee in the report of the Blackburn royal commission and was being introduced for purposes of further clarification. However, as

the Opposition is of the view that this is a matter of major policy and should be the subject of separate debate, the Government is prepared to move to delete that part of the bill. To avoid any suggestion that there could be a need for the Director of Public Prosecutions to change his practices in providing advice and assistance to the police, it is the Government's view that the Director of Public Prosecutions is currently acting within the provisions of section 20 of the Act. I trust that with these comments honourable members will accept that I have covered all issues raised by them. I therefore commend the bills to the House.

Motion agreed to.

Bills read a second time.

In Committee

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): The Committee will deal first with the Statute Law (Miscellaneous Provisions) Bill (No. 3).

Schedule 1

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [5.49]: I move:

Schedule 1, page 2, lines 21 to 32, and page 3, lines 1 to 6. Omit all words on those lines.

As I indicated in my second reading speech, it is the Government's view that minor amendments dealing with minor policy changes should be dealt with by way of statute law miscellaneous legislation. In view of the fact that members of the House have a concern about this bill, the Government is prepared to delete these particular provisions, particularly in view of the resistance of the Opposition to some of the measures in this bill.

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [5.50]: The amendment moved by the Attorney is in the precise terms of the amendment which I had prepared by the table officers. I just say to the Attorney, and I am sure that he has been convinced about this in the past few days, that it is necessary to ensure that legislation which makes policy is not included in housekeeping legislation, which is the very essence of a Statute Law (Miscellaneous Provisions) Bill. It might surprise honourable members to know, if they have not already noticed, that there were two prints of this bill. From the first print there were removed, by necessity and good common sense, measures amending the Crown Prosecutors Act 1986 and the Public Defenders Act 1969. By the time of the second reprint those two amendments had been removed. From the second print, the one to which we are now speaking, two more substantial legislative measures are now being removed dealing with the Area Health Services Act and, a little later, the Director of Public Prosecutions Act. I cannot ask more firmly that the Attorney use his good offices to ensure that critical legislation amendments are not presented in legislation by stealth. Obviously we must be very vigilant and I am sure the Attorney will be very vigilant in the future when we are dealing with statute law legislation.

Reverend the Hon. F. J. NILE [5.52]: On behalf of Call to Australia I thank the Deputy Leader of the Opposition and the Attorney General for these amendments. I fully support the statement by the Deputy Leader of the Opposition that such important

Page 10306

matters should not be included in a bill in this way. If that happens, there will be similar debate and amendments moved to what should be a simple bill dealing with minor amendments, not policy issues. Call to Australia thanks the Government for those amendments.

Amendment agreed to.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [5.53]: I move:

Schedule 1, page 16, lines 12 to 39. Omit all words on those lines.

In my second reading speech I outlined the reasons for this amendment.

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [5.53]: The proposed amendment in the original bill was well nigh dangerous. I decided to characterise it as the "Hawaii Five-O" amendment. However, I lack the insensitivity to say more this afternoon, at this time of the year, at this time of the day - I really do - because the animosity that it would engender from the people behind me would be just too much for me. I of course do not have to worry about Government members. But I suggest to the Attorney that this amendment, relating to the Director of Public Prosecutions Act, is a classic amendment which must be made by way of an individual bill. The Attorney has assured us - and I know it will happen - that this amendment will be represented and I shall, God willing, be here to say precisely what I want to say about the office of the Director of Public Prosecutions and the attempt to turn it into a Los Angeles type district attorney's office.

Reverend the Hon. F. J. NILE [5.54]: I simply reiterate what I said before, that Call to Australia supports the view of the Deputy Leader of the Opposition that these matters should not be included in such a bill as this.

Amendment agreed to.

Schedule as amended agreed to.

Statute Law (Miscellaneous Provisions) Bill (No. 3) reported from Committee with amendments, and cognate bill reported without amendment, and passed through remaining stages.

CONSTITUTION (AMENDMENT) BILL
CONSTITUTION (ENTRENCHMENT) AMENDMENT BILL
COMMUNITY WELFARE (AMENDMENT) BILL
PERIODIC DETENTION OF PRISONERS (AMENDMENT) BILL
Formal stages and first readings agreed to.
PERIODIC DETENTION OF PRISONERS (AMENDMENT) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.0]: I move:

That this bill be now read a second time.

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

Leave granted.

The Periodic Detention of Prisoners (Amendment) Bill is designed to introduce specific and immediate penalties for criminal offenders who, without legitimate reason, fail to report to serve their sentence of periodic detention.

The proposed amendments primarily address three areas of concern:

first, the effect of a judicial decision which ruled that the previous departmental practice of extending the sentence of all detainees who fail to report was invalid;

second, public concern regarding levels of absenteeism; and,

third, the need to introduce a simple and expedient means of punishing detainees who breach the terms of their sentence without further recourse to the courts.

Before detailing the specific features of the legislation, I propose to briefly outline the reasons behind the amendments.

Periodic detention is clearly and unequivocally a sentence of imprisonment. It involves the court first determining that imprisonment is appropriate and, thereafter, deciding that the sentence need not be served by way of full-time incarceration. The program enables offenders to remain in the community for five days of the week, allowing, amongst other matters, employment and family commitments to be maintained. The program relies upon the ability and preparedness of offenders to report of their own volition to a detention centre or work site for two days a week to serve their sentence. Inevitable instances of absenteeism occur, generally for valid reasons which are identified and ratified by the Department of Corrective Services.

Periodic detention provides New South Wales judicial officers with the only irrefutable legislative alternative to full-time imprisonment for criminal offenders. Over the past four years there has been an increasing utilisation of the program, attesting to the fact that it is viewed by the judiciary as a viable sentencing option for some offenders. At present more than 1,200 offenders are subject to sentences of periodic detention ranging from three months to three years.

In addition to providing punishment, periodic detention provides restitution to the community through work undertaken in the community. During 1990-91 more than 257,000 hours of community service work were performed by detainees. The program is also recognised as a cost-effective form of imprisonment, involving approximately one-third of the cost of full-time imprisonment.

An integral feature of the program is the ability of the Commissioner of Corrective Services to grant leave of absence to detainees for health or compassionate reasons where circumstances preclude reporting for periodic detention.

In such situations the legislation allows for the term of sentence to be extended in order to accommodate the period missed. As I will shortly outline, the reasons for detainees failing to attend may be legitimate or otherwise and often fall outside the parameters of health or compassion.

The provisions applicable to the granting of leave of absence now require urgent amendment as a

consequence of a Supreme Court ruling by His Honour, Mr Justice Hunt, on 17th July, 1992. In the matter of *Nolan v. Department of Corrective Services* His Honour held that the department did not have the authority to extend a sentence of periodic detention for those detainees who had not been granted leave of absence.

The effect of this decision has been to invalidate a longstanding departmental practice, whereby all periodic detainees have had their term of sentence administratively extended by any period of non-attendance. Accordingly periodic detainees have been unable to benefit from any failure to report which has not eventuated in action to, or by, the court. This departmental practice developed after amendments were made to the Act in 1985 and, until the Nolan case, had not been previously challenged.

Counsel's advice, obtained by the State Crown Solicitor, has supported the decision of Mr Justice Hunt and consequently the need for amendment to the Act.

Page 10308

Until such amendment occurs, an anomaly will remain whereby those detainees who choose to avoid their obligations to serve their sentence will not be penalised for failure to report, unless the court so determines prior to expiration of the sentence. However, those who have legitimate grounds for not reporting will automatically have their sentence extended. At present it is necessary for the department to take prosecution action in response to every incident of failure to report which does not involve health or compassionate grounds. This is an unwieldy process, drawing unnecessarily upon both the resources of the judiciary and the departments of Courts Administration and Corrective Services.

One of the key components of this Government's law and order policy has been to restore truth in sentencing and the credibility of the New South Wales criminal justice system.

Though the Sentencing Act has achieved that purpose in relation to offenders sentenced to full-time imprisonment, understandable concern has been raised regarding levels of absenteeism of those offenders sentenced by the courts to periodic detention.

I acknowledge that there is a continuing need to reduce levels of absenteeism in periodic detention. However, before detailing how the Government intends to address this matter within this bill, it is appropriate to present a more qualified perspective of non-attendance than that generally reported by critics of the program.

As at 1st November, 1992, there were 1,201 offenders subject to a current order of periodic detention. Of that number, 806 - that is 67 per cent - reported as required for periodic detention. In other words, approximately 33 per cent of offenders were recorded as having failed to attend for periodic detention.

The reasons for non-attendance for the week ending 1st November, 1992, were as follows: first, 54 detainees, representing 4.5 per cent of the total 1,201 detainees required to report, were in custody serving full-time sentences; a further 19, representing 1.6 per cent of the total, had lodged an appeal against their periodic detention sentence and had been granted bail; 119 detainees, accounting for approximately 10 per cent of all detainees subject to orders for periodic detention, were granted leave for sickness reasons; a further 28 detainees were granted leave on compassionate grounds; 175 detainees - that is 14.6 per cent of the total - were identified as being absent without leave; however 80 of these detainees were already subject to legal action for having failed to report.

Put simply, upon review of the offenders who failed to report, other than those already subject to

court action for breach of sentence, less than 8 per cent of detainees failed to report without reasonable cause. A recent report published by the New South Wales Judicial Commission entitled "A Critical Review of Periodic Detention in New South Wales" presented a similar appraisal of relevant absenteeism levels for the program. It questioned the appropriateness of quoting an accumulated figure, as is often the practice by Opposition members in reporting to the media.

In August 1992 departmental administrative rules and guidelines were revised to minimise the likelihood of the abuse of absenteeism on the ground of sickness. Detainees are now required to advise their medical practitioners of the need to provide certification regarding their inability to travel and report for periodic detention rather than provision of non-specific certificates as was previously the case. This has since had a positive effect on absenteeism rates for the program.

I turn now to a more detailed description of the bill and address the four most significant amendments to the legislation.

The first amendment expands the commissioner's authority to approve leave of absence.

As I previously indicated, section 20 of the Periodic Detention of Prisoners Act provides that leave of absence can only be granted for health reasons or on compassionate grounds. This is considered overly restrictive and does not take into account justified situations where a detainee fails to report for reasons outside his or her control.

For example, situations where a detainee is held in custody in a police cell or is serving a sentence interstate, absences due to motor vehicle or public transport breakdown, or sickness of a dependent child, must at present be referred to the court for prosecution under section

Page 10309

33 of the Act. This is arguably an unnecessary action to achieve what is effectively an administrative decision. Frequently, the circumstances are such that the court either declines to record a conviction or imposes a penalty of little consequential effect.

Section 20 will be amended to provide greater discretion for the commissioner to grant leave of absence. When leave of absence is not granted to a detainee by the commissioner, resulting in the detainee being recorded as absent without leave, the detainee will have a right to appeal to a Local Court against this decision.

The second amendment introduces specific sanctions for failure to report.

Present opportunities to impose penalties on periodic detainees who fail to report are limited and reliant upon the progress of matters through the court system. Though prosecution action is now immediately initiated by the Department of Corrective Services when it is determined that a detainee has failed to report without valid reason, penalties imposed are often too little and too late to have any real deterrent effect. The lack of an expedient and direct disciplinary measure leaves open the opportunity for manipulation and abuse of the criminal justice system.

In the event that a detainee fails to report as required, it is now proposed that the term of the sentence will be automatically extended by one week for each occasion of failure to report. This addresses the consequences of the Nolan decision.

Moreover, as a direct penalty for failure to report without reasonable grounds, the term of the sentence will be further increased by one week. A maximum of two occasions, amounting to a possible two weeks increase in sentence, is to apply. If a detainee fails to report as required for a third occasion, the court, upon the application of the department, will be required to cancel the

order for periodic detention. As indicated earlier, the offender will be required to serve the unexpired portion of the sentence by way of full-time imprisonment.

To use an analogy to make it clear to all and sundry, in future for periodic detention, unless there are justified grounds for failure to report, three strikes and the detainee is out of the game.

I will now turn to the matter of sanctions for minor offences and breaches of discipline.

Offences against discipline committed by periodic detainees are also currently dealt with by the court through the provisions of section 33 of the Act. Penalties, in such instances, include a fine of up to \$1,000 or imprisonment for a term not exceeding 12 months. In many instances, an offence against discipline does not warrant prosecution action by the department or a punishment approaching the maximum penalties available. However, in order to ensure good order and discipline within the program, referral to the court must occur.

It is proposed that, rather than referral to the court, the Commissioner of Corrective Services, or delegated senior officers, will have the authority to deal with minor offences committed by periodic detainees by way of reprimand or caution, determination of loss of privileges or the imposition of a fine. As with the adjudication of minor offences by governors for full-time inmates in custody, the rules of natural justice will apply.

Regulations will provide for a range of offences against the Act or discipline to be dealt with in this way, ensuring that only the more serious matters will be referred to the court for the imposition of an appropriate penalty.

The imposition of a fine by correctional authorities will be administered through the penalty notice system, with a limitation of two penalty units to apply. In view of the enhanced ability of the department to penalise detainees directly, those detainees who are aggrieved by the decision to impose a fine will have a right to alternatively attend a local court for determination of a suitable penalty by a magistrate.

Finally, it is proposed to amend section 5A of the Act to expand judicial sentencing options for offences against the Act.

Where prosecution action is initiated by the department with respect to breach of an order or the commission of an offence against the Act, often it may be appropriate for the court to consider a further short-term sentence of periodic detention. However, this is at present precluded through the application of section 5(1) of the Act which places a

Page 10310

minimum restriction of three months for most sentences of periodic detention. It is appropriate that the judiciary have the penalty option of imposing less than three months for those detainees who commit offences against the Act.

I conclude by reiterating that the central purpose of this legislation is to reduce absenteeism and thereby enhance community credibility in periodic detention as a sentencing sanction

It is designed to allow immediate penalties to be imposed on those offenders sentenced to periodic detention who fail to comply with their sentence without reasonable cause, and removes the need to refer decisions relating to the administration of the program back into the court system.

I am confident that the proposed changes are in the best interests of the community and the criminal justice system.

I commend the bill to the House.

The Hon. R. D. DYER [6.1]: I intend to shock the House by making a short speech. The Opposition has carefully considered the terms of the Periodic Detention of Prisoners (Amendment) Bill. It agrees with and entirely supports the provisions contained in this legislation.

The Hon. ELISABETH KIRKBY [6.2]: I am delighted to place on the record that the Australian Democrats support the Periodic Detention of Prisoners (Amendment) Bill. However, I shall not be quite as brief as the Hon. R. D. Dyer. The purpose of periodic detention is to provide for a custodial penalty which allows an offender to remain in contact with family, friends and employment. The benefits, both to the community and to the offender, are considerable. Periodic detention reduces the cost burden on taxpayers, and useful community work is also performed. For the offender, family life is not disrupted. The family need not be stigmatised and there is little disruption to employment or apprenticeship. This is most important if the family is to be able to stay together. The main problem which has arisen with regard to periodic detention in recent times is non-attendance. The Minister, in his second reading speech on the bill, stated that in the week ending 1st November, 1992, 14.6 per cent of all periodic detainees were absent without leave. There is already ample provision for the Commissioner of Corrective Services to grant leave of absence to detainees for health or compassionate reasons. When this occurs the law allows the term to be extended to cover the period missed.

Where periodic detainees are absent without leave it has been the long-standing practice of the Department of Corrective Services to automatically extend the terms of the sentence to accommodate the failure to report. However, the ruling handed down by Mr Justice Hunt in the matter of *Nolan v. Department of Corrective Services* on 17th July, 1992, has indicated that present law does not allow this reasonable practice. This means that periodic detainees could simply not show up and not be penalised for it. This is an unacceptable situation and makes a mockery of the periodic detention scheme. The alternative method of dealing with detainees who do not show up is to prosecute them. But this, of course, will pose a substantial burden on departmental resources and the judiciary. I am happy to support the amendment which will allow for the sentences of detainees to be automatically extended by one week for each failure to show up for detention. On the third failure to show for weekend detention the court will be required to cancel the order for periodic detention and the remaining portion of the sentence will be served as full-time imprisonment.

The Australian Democrats fully support the provisions in the bill, which will expand the authority of the Commissioner of Corrective Services to approve leave of absence for reasons in addition to leave on the grounds of health or compassion. Leave may be granted before or after the absence. If the application for leave is refused, the
Page 10311

detainee will have the right to appeal to a Local Court. A minor amendment proposed in the bill will allow an order for periodic detention to be made for people sentenced to less than three months' imprisonment. Another amendment in the bill will allow for minor offences to be proscribed in regulations against discipline committed by periodic detainees to be dealt with by the Commissioner of Corrective Services or delegated senior officers rather than through the court. Thus the rules of natural justice will apply and sanctions will include reprimand or caution, loss of privileges or fines. Fines of up to two penalty units will be administered by the penalty notice system. Detainees will be able to attend a Local Court for determination of a suitable penalty by a magistrate if they are unhappy with the imposition of the fine. I believe these amendments will cover the

needs of both the department and the prisoners who have been granted the privilege of periodic detention. I commend the Government for bringing forward this amendment.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.5], in reply: I thank honourable members for their support for this bill. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

**CENTENNIAL PARK AND MOORE PARK TRUST (MACQUARIE SYDNEY
COMMON) AMENDMENT BILL**

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [6.7]: I move:

That this bill be now read a second time.

The Government reluctantly agreed to this piece of legislation because the Labor Party and the Independents in the other place got together and presented us with it. Before I make some final comments I want to give some background to this bill. In 1988 the then Premier established the Homebush Bay Strategy Committee to consider an integrated, co-ordinated development for Homebush Bay. The committee recommended that the Royal Agricultural Society should be relocated as a matter of government priority. The Government and the Royal Agricultural Society signed a letter of understanding in September 1989 setting out the basic principles and conditions for the relocation to Homebush Bay. The relocation will ensure the future of the Royal Agricultural Society, overcoming constraints placed upon its operation at Paddington and the significant cost required to refurbish existing structures and services. A new site for the showground at Homebush Bay will provide not only additional area and open space over that which currently exists at Paddington but also a more modern and appropriate complex. It will meet the needs of the Royal Agricultural Society well into the next century.

The Government is currently looking at a staged relocation which will be completed by the year 2000. It has been stated that the proceeds from the sale of the Paddington site will fund the new buildings at Homebush Bay. The new facilities will be designed to accommodate exhibitions throughout the year, and not only exhibitions of an agricultural nature. They will be a major attraction year round. A new showground at Homebush Bay will also assist Sydney's bid for hosting the year 2000 Olympic Games. The site will provide venues for seven Olympic sports, five training venues and a number of administrative and support functions during the Olympics. This will mean that the Olympic bid will be able to demonstrate an effective concentration of venues in one

Page 10312

central location close to the village. No other bidding city can match this. It is a fundamental strategy in Sydney's bid. The relocation of the Royal Agricultural Society to Homebush Bay will make this possible. If the Paddington site cannot be redeveloped and the proceeds from the sale are not available for relocating the Royal Agricultural Society to Homebush Bay, there will be two main consequences.

The future of the Royal Agricultural Society will be in doubt and it will not be able to fund the refurbishment of the existing site. The Olympic bid will have to face

considerable additional costs in providing alternative sporting venues. The Olympic budget, as it stands, would be unable to accommodate additional costs of this magnitude. The availability of the new Royal Agricultural Society facilities is essential for the year 2000 games. On the other hand, the Government recognises the importance of open space for the people of Sydney. Homebush Bay will eventually provide extensive open space. It will be twice the size of Centennial Park when completed. It is the new demographic centre of Sydney and will be easily accessible to the residents of Sydney. In taking the showground to Homebush Bay the Government is providing the opportunity for such a mix: for a carefully planned development with high-quality housing close to the city; for restoration and maintenance of the heritage items of the showground; and for the open space to complement such a development.

The future of the showground requires careful consideration. As Minister for Planning I can assure the House that careful attention will be paid to the future use, with the necessary traffic and land use studies. The relocation of the Royal Agricultural Society will not happen overnight. There is considerable time to make the right decisions on the future use of the showground. The amendments to the original bill proposed by the honourable member for Bligh recognised the importance of the proceeds of the showground to the Olympic bid. The amendments will effectively halt commencement of the Act while alternative sources of funding other than sale are investigated. If this is successful and alternative sources of funding can be found, the sale of the showground may not need to proceed. However, if such alternatives are not available, the proceeds from the sale of the showground will be the only way to ensure the adequate funding for that part of the Olympic Bid.

I understand that since the passage of this legislation in the lower House the honourable member for Bligh has been running around the press gallery crowing that she has had some sort of a victory. I assure the honourable member for Bligh that her victory is a pyrrhic victory because if Sydney is successful in winning the bid for the year 2000 Olympic Games - and I believe it will, as I am sure all honourable members believe and hope it will - the Government and I see no other alternative, in spite of extensive investigations, to the sale of part of the showground for redevelopment in order to finance the new showground at Homebush Bay. The Minister for Transport and I had a meeting with the Leader of the Opposition, the honourable member for Moorebank, the honourable member for Blacktown and the honourable member for Drummoyne. They gave us an assurance that the Labor Party would support any amendment that was required to this legislation to ensure that the viability of Sydney's bid for the year 2000 Olympic Games was maintained should Sydney be chosen. They gave the assurance that the Australian Labor Party would support any amendment to this legislation which was required to enable the redevelopment of the showground so that Sydney's budget for the year 2000 Olympic Games remained viable.

With regard to the relocation of the showground, the Government has already made a strategic decision that the showground will be relocated to Homebush Bay as part of the overall master plan for the redevelopment of Homebush Bay. I asked the Leader of the Opposition and his shadow ministers yesterday whether the Australian Labor Party

Page 10313

supported the proposed relocation of the showground to Homebush Bay. The answer I received was yes. The Australian Labor Party, like the Government, recognises that by putting a new showground at Homebush Bay - and let us remember that more than a million people, not only Sydneysiders but predominantly Sydneysiders, visit the Royal Easter Show and they are the constituents of every member of Parliament - it will be in the geographic heart of the city and much closer to the western suburbs, which the Labor Party likes to think is its natural constituency. The Government does not agree that the

western suburbs are Labor's natural constituency. Yesterday the Leader of the Opposition and his shadow ministers indicated their support for the relocation of the showground to Homebush Bay. Did I hear the Hon. P. F. O'Grady say something about that?

The Hon. P. F. O'Grady: You did. I said the Government would have no idea how it is going to fund the building of the new showground.

The Hon. R. J. WEBSTER: I want to put on record that any decision taken by this Government to relocate the Royal Agricultural Showground to Homebush Bay will only be taken on the basis that the Government is able to redevelop the Showground at Paddington, and that redevelopment of Paddington and the funds generated by it would be hypothecated towards the relocation of the showground to Homebush Bay. Those are the key remarks that I wanted to make on this piece of legislation. While the honourable member for Bligh may be wandering around the press gallery crowing that she has had some sort of a victory, I assure her that the victory is shortlived because I believe - and I believe every member of the House believes - that Sydney will win the bid for the year 2000 Olympic Games and that the proceeds from the redevelopment of the showground will be needed to ensure that the bid is financially viable. With those remarks I commend the bill to the House.

The Hon. P. F. O'GRADY [6.15]: I am delighted that the Government has seen fit to introduce this bill today, and that it is accepting the bill and the amendments which were passed in the lower House. I speak on behalf of the Opposition in support of the bill. I noted the comments of the Minister in relation to the Olympic Bid. When the Minister for Transport sent some representatives last week to discuss the bill and its relationship with funding the Olympic Bid, I thought they performed poorly; they had no concept of how they might go about solving the problem. They had not considered it, even though they knew the bill had been around for some time. The Minister for Planning can speak in tough terms in relation to the bill, but it is also the responsibility of the finance committee of the Olympics bid to consider the views of the Parliament.

The Hon. R. S. L. JONES [6.16]: I am also delighted to support this legislation, which is a victory for the honourable member for Bligh. It is not a pyrrhic victory as the Minister for Planning would have us believe. That is just sour grapes, because the Government had to bow to the wish of the majority of members of the lower House and adopt this bill as a Government bill. Whether we win the bid for the 2000 Olympics or not is irrelevant. The money that will be raised should the showground be sold would be minuscule compared to the total cost; it would be lost in the total amount. If the people of Sydney cannot find that extra amount from other sources, we must be poor indeed. This land was proclaimed by Governor Macquarie in 1811 as Sydney common, in trust for ever more for the people of New South Wales. It is not just another piece of real estate that can be bought and sold, any more than the Opera House, the Domain, the Botanic Gardens or Hyde Park can be bought or sold. This land is simply not for sale at any price. I am certain that the Australian Labor Party would not support any move to sell off the showground and I am quite certain it will be unnecessary in any case.

This is not a pyrrhic victory. The historic showground will now be vested in the Centennial Park and Moore Park Trust and will remain, I hope for ever, with the people of New South Wales. Should the showground be relocated to Homebush Bay, the land would perhaps become more available for public recreation. It may be that the

place will be thrown open. Maybe some of the buildings which have no historic significance - some of which one might regard as ugly - may be removed and the land returned to parkland. I am certain that the buildings which are of historic value and of architectural significance will remain. This land is not for sale for high-rise or medium density. Other land is available for that purpose throughout the area. There are other houses on reasonably large blocks which can be rezoned, if necessary, to allow for medium density. There is no doubt that the population of the city of Sydney will increase and there will be an increasing density of housing. I am aware that is happening, as a friend of mine who is an architect has been developing a single-storey house into a seven-storey building. The development application has been approved. There will be increasing density within the existing urban area. That will obviate the need to sell off the showground for medium-density housing. The people of Sydney and the members of both Houses of this Parliament would not permit that to happen. This is not a pyrrhic victory; it is a great victory for common sense, of course it is a victory for Clover Moore, and it is a victory for Governor Macquarie.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [6.20], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PARLIAMENTARY COMMITTEES ENABLING BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.22]: I move:

That this bill be now read a second time.

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

Leave granted.

It is the Government's intention, after the conclusion of the present sittings, that Parliament be prorogued and that a new session of Parliament be opened by His Excellency the Governor on 24th February, 1993.

The object of the bill is to ensure that the Parliamentary Committees continue to function following prorogation.

There are 16 committees included in the bill. The bill will alleviate the need for their reappointment after the prorogation of the current session of Parliament.

The committees referred to are:

House and Library Committees of each House;

Printing Committee of the Legislative Council;

Standing Orders and Procedure Committee of the Legislative Assembly;

Joint Select Committee Upon the Process and Funding of the Electoral System;

Joint Select Committee upon Police Administration;

Joint Select Committee upon Waste Management;

Select Committee of the Legislative Council upon the Banks and Bank Holidays (Amendment) Bill;

Select Committee of the Legislative Assembly upon Port Macquarie Base Hospital;

Select Committee of the Legislative Assembly upon Public Sector Superannuation Schemes;

Select Committee of the Legislative Assembly upon the Administration of State Owned Coal Mines;

Legislation Committee of the Legislative Assembly upon the Government Publicity Control Bill; and

Legislation Committee of the Legislative Assembly upon the Forestry (Amendment) Bill.

A clause has also been included in the bill which will enable any further legislation committees which are formed by the Legislative Assembly prior to the conclusion of the current session to function during prorogation. Provision has also been made to allow for any Legislation Committee of the Legislative Assembly which extends its date of reporting beyond the end of the session to continue to function during prorogation.

I commend the bill to the House.

The Hon. M. R. EGAN (Leader of the Opposition) [6.22]: The Opposition supports the bill.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.22], in reply: I thank honourable members for their support of the bill and commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COMMUNITY WELFARE (AMENDMENT) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council), on behalf of the Hon. Virginia Chadwick [6.23]: 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.

Page 10316

This bill is a machinery measure to facilitate the transfer of staff from the Community Welfare Employment Corporation to employment under the Public Sector Management Act 1988. One of the major initiatives taken by the Government in the area of the care of people with developmental disabilities was the transfer of responsibility for delivery of services to the developmentally disabled from the Department of Health to the then Department of Family and Community Services on 1st July, 1989. The transfer recognised that persons with a developmental disability are not ill in the traditional sense of the word and that they have different but special needs. I am pleased to say that at the time of the transfer there was strong bipartisan support for the initiative from both sides of the House. In fact, the honourable member for Riverstone said in this House that it was an initiative he would have "loved to preside over" when he was Minister.

At the time of the transfer the Community Welfare Employment Corporation was established specifically to allow for the transfer of staff who were then employed in the provision of community-based services to the developmentally disabled within the various area health services. Though this arrangement was appropriate at the time of transfer, the department's corporate structure has changed significantly since 1989. Today there is a single integrated department based on an area management model that emphasises the complementary use of resources in meeting client needs at a local level. The continuing existence of two separate employing authorities within the department is a strong barrier to efficient management of a single integrated organisation. For instance, there is no ability to transfer staff between the corporation and the department, and many staff work side-by-side with differing conditions of employment depending on whether they are employed by the corporation or under the Public Sector Management Act 1988.

The present legislation will remove these barriers and allow the department to become more efficient in the way in which it utilises the resources available to it. This will result in the department being able to enhance its service delivery to the people of New South Wales. Present conditions of employment for staff currently employed in the corporation will remain intact except where those conditions differ from the conditions prescribed under the Public Sector Management Act. Where there is a difference in conditions the provisions of the Public Sector Management Act will prevail. The legislation also seeks to correct some uncertainty that exists with respect to the transfer of staff to the Community Welfare Employment Corporation in 1989. The transfer of staff was effected by the signing of a transfer agreement - No. 2522 of 1989 - between the Community Welfare Employment Corporation, the Public Employment Industrial Relations Authority, and various unions. However, as a result of recent proceedings before the Industrial Relations Commission of New South Wales the validity, in a strictly legal sense, of that transfer agreement is now in some doubt. Advice has been received that it would be appropriate for the 1989 transfer of staff to be confirmed through this legislation and to remove any question as to the validity of the transfer agreement. The unions and staff of the corporation have been kept informed of the proposed legislation and there is general agreement between all parties that the legislation now before the House is appropriate and necessary in the interests of effective management.

The Hon. R. D. DYER [6.23]: The Opposition supports the bill. As it relates to my shadow portfolio I shall make some brief comments about it. In 1989 the administration of the Developmental Disability Services was transferred from the

Department of Health to the Department of Family and Community Services, as it was then known. The Community Welfare Employment Corporation was set up as an employment vehicle, so to speak, to be the employer for the purposes of community welfare legislation. It must be noted that the persons who have been employed by that corporation are not public servants. The objects of the measure before the House are to amend the principal Act, the Community Welfare Act of 1987, first to dissolve the Community Welfare Employment Corporation, and second, to provide for the transfer of staff who are employed by that corporation to the Department of Community Services. Essentially the bill can be said to be of a machinery character, as it has the effect of facilitating the transfer of staff from the corporation to employment by the department under the Public Sector Management Act. At the time of transfer of developmental disability staff from the Department of Health to FACS, as it was then known, in 1989,

Page 10317

the Community Welfare Employment Corporation was established to allow the transfer of staff who were then employed in the provision of community-based services to the developmentally disabled within the various area health services.

The Department of Community Services takes the view - and I can well understand it - that the existence of two separate employing authorities within the department is not a particularly efficient or happy arrangement. It is regarded by the department as a barrier to the efficient management of a single integrated organisation, especially as there is no ability to transfer staff between the corporation and the department. The Opposition is pleased to note that transferred employees will be entitled to the same salaries, wages and allowances as applied to them prior to the transfer, and that other conditions of employment are to remain the same unless they conflict with the Public Sector Management Act. In addition, the rights accrued as an employee of the corporation are retained. Those rights include deferred or extended leave payments, pensions and gratuities. The Opposition has consulted both of the principal unions involved in the employment of staff of the present corporation, that is, the Public Service Association of New South Wales and the Health and Research Employees Association. The Health and Research Employees Association has no qualms about the bill, but two relatively minor queries have been raised by the Public Service Association, and I have taken the liberty of raising them with the Minister's advisers prior to the bill coming on for debate in the House. The first of those matters relates to clause 7(2) of proposed new schedule 4. I shall quote a brief passage from the correspondence I have received from the Public Service Association:

We can understand why it may be thought desirable that appointment to an actual position under the Public Sector Management Act should be achieved in the usual way, by order in the Gazette. If, however, a transferred officer is not so appointed, they would be supernumeraries and subject to redundancy provisions. We would hope that Government might give an assurance that all transferred staff will be appointed to an appropriate position.

It is my belief that in all probability that is the Government's intention in any event, but I place that matter before the House for any comment or assurance the Minister may wish to give. The second matter raised by the Public Service Association relates to clause 9(2) of proposed new schedule 4 which provides, in effect, that conditions which conflict with the provisions of the Public Sector Management Act or regulations will not continue to apply. The Public Service Association states in its correspondence that it has not identified any such condition in relation to its members but is unsure about the reason for the inclusion of this provision. It is my belief that the Government and the Parliamentary Counsel have included this provision, to use a lawyer's phrase, for further assurance or by way of precaution. If that is the Minister's response, I can well

understand that is the reason for its insertion in the legislation. As I said at the outset, the Opposition does not have any particular qualms about the proposed legislation. We believe it is appropriate in all the circumstances and therefore I indicate our support for the bill.

The Hon. ELISABETH KIRKBY [6.30]: The Australian Democrats support the Community Welfare (Amendment) Bill. As has been pointed out by the Hon. R. D. Dyer, this bill will dissolve the Community Welfare Employment Corporation and provide for the transfer of staff to the Department of Community Services. The structure of the Department of Community Services is now substantially different from what it was three years ago. The Community Welfare Employment Corporation is probably no longer necessary. However, I raise a point made in the other place by the Minister for Community Service, the honourable member for Pittwater, who is in the Chamber on this occasion. He said:

Today there is a single integrated department based on an area management model that emphasises the complementary use of resources in meeting client needs at a local level.

Page 10318

When referring to the legislation he stated:

This will result in the department being able to enhance its service delivery to the people of New South Wales.

It so happens that today I received a media release from the New South Wales Council for Intellectual Disability, and I dare say that the Minister has probably seen this document also. The council has concerns which are demonstrated by the heading entitled "Crisis For People With Intellectual Disability". The council believes there is a deplorable lack of services for people with intellectual disabilities. The media release states:

Council Chairperson Mr John Jacobsen stated: "the situation is so bad that the Department of Community Services is telling parents that they will have to stay at home to look after their sons and daughters because the Department has insufficient funds to provide accommodation or day programs".

"Council's research has shown that up to 70% of young people with intellectual disability have nothing to go to when they leave school. These young people are being denied opportunities to further their education, opportunities available to other young people in NSW."

"Council has been inundated by calls and letters from distraught parents who have been fighting for services for years. Parents want less talk and more action from the government."

"In its 'Statement of Principles for People with Disabilities and Their Families', the NSW government confirmed its commitment to meeting the needs of people with disabilities. It stated that it will 'ensure access to educational and employment opportunities' and will guarantee security by 'providing appropriate housing' and 'reliable support services'."

Council believes that the government has failed to live up to the provisions of that document, with the result being that many people with intellectual disability are denied the access to services available to other community members.

"It is a sad reflection on the government's real commitment to people with intellectual

disability that we have to launch such a campaign" said Mr Jacobsen.

Through its Missing Services Campaign, Council will co-ordinate Statewide lobbying of all NSW Members of Parliament . . . "

An important part of the campaign will be to find solutions to this pressing problem. Council recognises that governments face difficult economic problems, so it will be seeking to involve all sectors of the community in finding solutions. It will also be calling for more detailed research and planning on the lack of services.

I hope that now that the department is being restructured through this legislation, and now that the corporation is to be disbanded and we will have one central body responsible for the care of people with developmental disabilities, the real needs of those people will be met. I ask the Minister to take into account the concern expressed to all members of the Parliament by members of the New South Wales Council for Intellectual Disability. They are the people at the coalface. They have done the research and understand what is required. I believe those people deserve every support in their fight for better services for the people they represent.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.35], in reply: I thank honourable members for their support for this legislation. The Hon. R. D. Dyer raised two matters arising out of a letter dated 23rd November forwarded to him from the Public Service Association. This raised questions concerning clause 7(2) and clause 9(2)

Page 10319

of proposed new schedule 4. In relation to clause 7(2) I inform the honourable member that there will be no redundant staff. All staff engaged in the Community Welfare Employment Corporation are doing real jobs, whether engaged permanently, temporarily or casually. Clause 7(1) will allow the mass transfer of CWEC staff to the public service. Subclause (2) in combination with subclause (3) recognises that certain appointment formalities are required before a person can become a permanent officer of the public service. This distinction between permanent and temporary staff is not a feature of the corporation's employment arrangements. Agreement has been reached with the unions about the process by which it will be decided whether staff are permanent, temporary or casual. In cases of dispute an agreed grievance mechanism will apply.

In relation to clause 9(2) of proposed new schedule 4 I inform the honourable member that the department is not aware of any conditions of employment carried over by CWEC staff that would be in direct conflict with public service conditions. The Public Service Association seems to have reached the same conclusion. However, conditions of employment are covered by awards, agreements and determinations, and for abundant caution the bill states that where there is direct conflict, public service conditions prevail in the interests of industrial harmony. Clause 8 will preserve salary, wages and allowances even where those are more favourable than the public service conditions, even to the extent of the salary maintenance judgment handed down today by the Industrial Commission. In relation to the issues raised by the Hon. Elisabeth Kirkby on disability services, I inform the honourable member that the Government is currently in the middle of extensive consultations on the draft disability services bill, which will enable better delivery of services through the commencement of the Commonwealth-State disability agreement signed by the heads of government in June 1991. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILL RETURNED

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

Financial Transaction Reports Bill.

TAMWORTH TOURIST INFORMATION CENTRE BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [6.40]: I move:

That this bill be now read a second time.

The Tamworth Tourist Information Centre Bill was introduced into the other place by the honourable member for Tamworth. This bill provides that the Tamworth City Council is authorised to construct and operate a tourist information centre and ancillary facilities. It also provides for an interchange facility or terminal for passenger coaches and buses.

Page 10320

The community of Tamworth, one of the largest cities in the north of the State, has required this type of facility for many years. The honourable member for Tamworth has stated that support within the community essentially has been unanimous. This facility will benefit not only the community and district at Tamworth but also the north of the State generally. I commend the bill to the House.

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [6.41]: The alternative government supports the Tamworth Tourist Information Centre Bill.

The Hon. JENNIFER GARDINER [6.41]: I have pleasure in supporting the Tamworth Tourist Information Centre Bill. Since March 1989 the Tamworth City Council has endeavoured to obtain approval to develop a much-needed tourist information centre, coach interchange and ancillary services on land declared to be a public reserve under the Local Government Act. The land in question has been occupied by the council since 1950. Part of that land is now used and operated by the council as a caravan park known as the Paradise Caravan Park. This particular piece of land was dedicated as a public reserve for the purposes of the Local Government Act in 1977 and was vested in the Tamworth City Council for an estate in fee under the Crown Lands Consolidation Act. The council has tried a number of ways to secure approval to develop a tourist information centre and coach interchange on this particular piece of land. First, it tried to resume the land under the Local Government Act, but the Solicitor General advised that the council could not resume public reserve land to itself for the desired purposes. The council then was advised that perhaps section 28 of the Environmental Planning and Assessment Act provided a solution to the dilemma by the council resuming an outstanding interest in the land. But the council was then advised

by the Department of Planning of possible barriers to erecting a building on that site specifically for the purpose of a tourist bureau. So it was back to the local government department which, of course, at that time was, and still is, involved in the lengthy process of a complete overhaul of the Local Government Act. That overhaul will possibly address the problem the Tamworth City Council found with this particular block of land.

Rather than wait for the passage of the new Act, the Government has seen fit to support the private bill moved in the other place by the honourable member for Tamworth, Mr Windsor, to specifically extinguish the public reserve status of the portion of land at issue. The bill has been examined by a select committee of the Legislative Assembly, and honourable members are advised that the timeliness of this bill is related to the fact that the New England Highway is currently being diverted away from the Tamworth City Council central business area. There is a new bridge over the Peel River; the site is just near the new diversion and the new Oxley Highway is just 500 metres away. The new site is located near the Tamworth Post Office and is a most desirable place for a tourist information centre to be built. The coach interchange is very much needed by the people of Tamworth. There has been a lot of controversy in the district because Tamworth is one of the few major cities along the eastern seaboard that does not have such a facility. Given the extremes of temperature experienced in Tamworth and the number of coaches that pass through each night - five heading north and five heading south - many people have complained over the years that there is no adequate shelter in the middle of the night when waiting to catch the bus. This problem has caused much anguish to the people of Tamworth, their families and friends. The community of Tamworth overwhelmingly supports the bill, and I strongly urge all members of the Legislative Council to support it.

The Hon. R. S. L. JONES [6.45]: On behalf of the Australian Democrats I am happy to support this private bill - as opposed to a private member's bill - which is history-making in a sense. I congratulate the honourable member for Tamworth on

Page 10321

assisting in the making of history. It will be the first time since 1910 that a private bill has passed both Houses. Representations were made to me from residents of Kootingal concerned that the land being spoken about was their children's playground. I am assured it is not the same land. When I first became aware of the bill I thought it was the Kootingal land that was to be developed for a bus terminal and tourist information centre. However, the Kootingal land is and has been a playground for many years. Apparently part of the land proposed to be used for the tourist information centre is currently used as a caravan park and is available. I understand the private bill has received the support of the local community and that it has the unanimous support of both Houses of Parliament. I am very happy to support the first private bill since 1910.

Reverend the Hon. F. J. NILE [6.46]: I wish to place on the record the support of the Call to Australia group for the Tamworth Tourist Information Centre Bill. This bill will enable the Council of the City of Tamworth to construct and operate a tourist information centre, a coach interchange facility and associated tourist facilities on certain land at East Tamworth that now constitutes a public reserve. The city of Tamworth, as many people who have visited it regularly would know, is a beautiful and very progressive city. Over many years the council and the citizens of Tamworth have demonstrated a deep concern about many important issues that have arisen in the State. It is my observation that a higher percentage of people attend community meetings on various social issues in Tamworth than in any other regional centre in the State or perhaps in Australia. We are very pleased to support the bill, which will help Tamworth to become an even more important regional centre in our State and nation.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.47], in reply: I thank honourable members for their support for the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILL RETURNED

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

Criminal Procedure (Sentence Indication) Amendment Bill.

CO-OPERATIVES (AMENDMENT) BILL

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [6.49]: I move:

That this bill be now read a second time.

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

Leave granted.

The Co-operatives (Amendment) Bill 1992, amends Section 206(3) of the Co-operatives Act 1992, in regard to the composition of the board of directors of a Co-operative by non-active member directors.

Page 10322

This provision effectively replaces the current provisions of Section 84(7) of the Co-operative Act 1923, which enables the Advisory Council to grant approval to a co-operative to have non-member directors on its board.

It also replaces the provision that enables the Minister to make an order enabling a person to qualify as a non member director who holds a qualification as specified in the rules of the society.

The object of this Bill is to amend the provisions of Section 206(3) of the Co-operatives Act and to insert other provisions to enable a co-operative to have, in certain circumstances, more than one in four non-active member directors on its board.

As presently drafted, Section 206(3) provides a formula of one in four non-active member directors for determining the maximum number of non-active member directors which a co-operative may have elected to its board.

Since the passing of the Co-operatives Act it has come to my attention that the provisions of Section 206(3) are restrictive in that they do not permit co-operatives with existing Advisory Council approval, or Ministerial approval, to continue to have more than one in four non-active member directors after the Act is proclaimed.

The requirement to continue existing approvals was overlooked during the consideration of the provisions of Section 206 at the Bill stage.

It was never intended for the section to restrict existing board arrangements approved of under the 1923 Act.

The Subsection was included to recognise the need for co-operatives to have non-active member directors on their boards, and to provide a mechanism to permit them without the requirement for outside approval.

This Bill will exclude the operation of Section 206(3) to co-operatives which have Advisory Council approvals and Ministerial orders in force immediately before the commencement of the Co-operatives Act.

The Amendment will also permit exemption from the statutory formula to enable a co-operative to have a greater number of non-active member directors after the Act is proclaimed. This provision is required to take account of those exceptional circumstances where additional non-active member directors are required to supplement existing board expertise.

Clause 1 of Schedule 1 of the Bill will amend Section 206(3) of the Co-operatives Act to exclude the restriction of one in four non-active member directors where an exemption is granted pursuant to Section 206A, and where the conditions, if any, attached to the exemption are complied with.

Clause 2 of Schedule 2 of the Bill will insert Section 206A which will permit the Minister, by order in writing, to exempt a co-operative from operation of Section 206(3).

Before an order is made pursuant to Section 206A the Minister of the day will need to be satisfied that the exemption complies with the following three tests:

1. It is in the interests of the co-operative generally, including the long term viability of the co-operative;
2. It will not result in the board of the co-operative being controlled by a person who is not a member of the co-operative or persons together who are not members of the co-operative;
3. It is in the public interest.

The three tests must be considered by the Minister before an order can be made pursuant to the Section.

The tests are drafted in wide terms to ensure that the overall interests of the members and the community are protected, and that the control of the board remains with the active member directors.

The proposed amendment is more restrictive than the current provisions under Section 84(7) of the 1923 Act, which remain silent as to those matters which must be considered by the Advisory Council, or the Minister, before approval is granted or an order is made, as the case may be.

This clearly has to be the case as the proposed provisions are intended to extend the statutory formula thereby increasing the risk that control will be removed from the members of the co-operative. The tests included in the Bill enable a balance to be achieved.

The onus will lie on a co-operative seeking an exemption to satisfy the Minister that the particular circumstances of the co-operative will satisfy the three tests and are such as to call for an exemption to the one in four formula as found in Section 206.

It is anticipated that an order will only be made where the circumstances are of an exceptional nature.

Where an exemption is granted, the Section will preclude a majority of the directors being non-active member directors.

In addition, a quorum is not to be constituted at a meeting of the board unless a majority of the directors present at the meeting are active members of the co-operative.

Section 206A will permit the Minister to grant an exemption, with or without conditions and to limit the operation of the exemption to a set period of time.

The Minister will also be permitted to revoke an exemption at any time by giving notice in writing to the co-operative of the intention to do so.

An exemption may be revoked even though it is granted for a particular period and that period has not, at the time of revocation, expired.

The effect of this provision is to enable the Minister to tailor an exemption to the particular circumstances involved so as to effectively monitor the management requirements of a co-operative.

This provision is wide enough to enable further action to be taken in the future to vary the conditions of the exemption, or to enable an exemption to lapse where the Minister is satisfied that the requirement for additional non-active member directors is no longer required.

Where an application is made to the Minister to consider an extension of an exemption, the three tests will be required to be satisfied on the basis of facts as they exist at the time that consideration of a further order is made.

Clause 3 of Schedule 1 will introduce Clause 13 to Schedule 6 of the Co-operatives Act.

The clause is a savings and transitional provision to enable co-operatives which have Advisory Council approvals and Ministerial orders in force, immediately before the commencement of the Co-operatives Act, to be exempted from Section 206(3).

This provision will also provide for the exemption to continue to apply to a co-operative until the Minister revokes the application of the Clause by notice in writing.

Where a co-operative has the benefit of the savings provision a majority of its directors must, at all times, be active members of the co-operative.

In addition a quorum will not be constituted unless a majority of the directors present at a meeting are active members of the co-operative.

The amendments contained in this Bill are consistent with the Government's policy to provide flexibility to the operations of co-operatives.

I commend the bill to the House and table explanatory notes for the information of

honourable members.

The Hon. JUDITH WALKER [6.50]: The Opposition supports the bill, as it supported the original bill which was moved earlier this year. The original bill contained a provision that was unintended. The bill now before the House is of a housekeeping nature and allows an arrangement that was made with the Letona Co-operative to continue to have a larger number of outside appointments. There is no problem about that;

Page 10324

everyone is in favour of it, and the association has indicated its support also.

The Hon. R. S. L. JONES [6.51]: The Australian Democrats support the amendment to the Co-operatives Bill, which passed through this House some weeks ago, and that was a proud moment for the Hon. Gerry Peacocke. This bill proposes a small alteration to that measure.

Reverend the Hon. F. J. NILE [6.51]: Call to Australia fully supports the Co-operatives (Amendment) Bill. Co-operatives play a very important part in our society and this bill will help them function more efficiently, for the benefit of our State.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [6.52], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CONSTITUTION (AMENDMENT) BILL

CONSTITUTION (ENTRENCHMENT) AMENDMENT BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [6.53]: I move:

That these bills be now read a second time.

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

Leave granted.

The underlying purpose of the Constitution (Amendment) Bill and the Constitution (Entrenchment) Amendment Bill is to implement certain matters arising from the memorandum of understanding between the Government and the Independent members of the Legislative Assembly. These matters are as set out in the following brief description of the bills. First, the Constitution (Amendment) Bill will insert a new part into the Constitution Act which deals with the independence of the judiciary. This new part will become part 9. Under the proposed provisions of new part 9 no holder of a judicial office, which is defined to include a magistrate, can be removed from office except by the Governor, on the ground of proved misbehaviour or incapacity, following an address by each House of the Parliament. The bill provides that legislation may lay down additional procedures and requirements to be complied with before a judicial officer may be removed from office. In this context I should explain to honourable members that it is intended that the new provisions in the Constitution (Amendment) Bill will

operate in conjunction with the provisions of the Judicial Officers Act 1986 which deal with the suspension and removal of judicial officers.

Under the Judicial Officers Act the Governor can remove a judicial officer from office only on the address of both Houses of the Parliament if a report has first been presented to the Governor by the conduct division of the Judicial Commission. This report must set out the conduct division's opinion that a matter could justify parliamentary consideration of the removal of a judicial officer. The need for such a report from the

Page 10325

conduct division of the Judicial Commission before a judge can be removed will remain in effect. The Constitution (Amendment) Bill will make some amendments to the Judicial Officers Act to provide for conformity between that Act and the proposed new legislation, particularly with regard to the grounds on which a judicial officer can be removed. The provisions of the proposed new part of the Constitution Act will not prevent a change of the age at which judicial officers are required to retire at law or prevent the abolition of a judicial office. However, a person holding a judicial office which is abolished is given an entitlement to be appointed to another judicial office in the same court or in a court of an equivalent or higher status.

The most significant innovation that is proposed with respect to judicial independence is contained in the cognate Constitution (Entrenchment) Amendment Bill. This bill will entrench new part 9 of the Constitution Act, so that it can only be amended with the approval of the electors voting at a referendum. As the Constitution (Entrenchment) Amendment Bill involves an amendment to section 7B of the Constitution Act, it will need to be itself approved by the electors at a referendum. Hence, it is proposed to submit the proposal to entrench the new provisions relating to judicial independence to a referendum. If the proposal is approved, any amendment or repeal of these provisions will require a further referendum. If the proposal is not approved, the provisions relating to judicial independence will be law but will not be entrenched. It is intended to submit the entrenchment proposal to the electors at a referendum to be held in conjunction with the next general election. As there is already to be a referendum held at the next general election to deal with the question of fixed four-year term parliaments, the cost of an additional referendum question should not be high.

The Constitution (Amendment) Bill also deals with certain other matters. I would emphasise that it is not proposed to entrench these provisions of the bill. The bill will give statutory recognition to the President of the Legislative Council and the Speaker of the Legislative Assembly as the Presiding Officers of their respective Houses of Parliament and as the independent and impartial representatives of those Houses. The Constitution (Amendment) Bill will also amend the Constitution Act to specify the method of election of the Speaker of the Legislative Assembly. The bill provides that the election of the Speaker will be conducted by secret ballot. Balloting will continue until one member who has been nominated obtains the votes of at least two-thirds of the number of members of the Assembly. However, where the number of candidates is or has been reduced to two, the successful candidate will be elected by a simple majority of those voting. Where candidates receive an equal number of votes in two successive ballots, there is provision to resolve the deadlock by lot.

I commend the bills to the House.

The Hon. R. D. DYER [6.54]: The Opposition supports both the Constitution (Amendment) Bill and the Constitution (Entrenchment) Amendment Bill. As the Premier said in another place, both of these measures implement certain matters arising from the memorandum of understanding between the Government and the Independent members in another place. I might add that a similar memorandum of understanding exists between the Independents in another place and the Opposition to the same or similar effect. The matters encompassed in these measures are quite important but,

having regard to the pressure of business on the House, I shall not deal with them at length. I shall be content merely to point to the matters covered by these measures. The Constitution (Amendment) Bill will have the effect of securing the independence of the judiciary, and that is a most important consideration for any system of government such as ours which relies on the separation of powers as between the Legislature, the Executive and the judiciary. A second objective of this measure is to recognise the offices of both the President of this House and the Speaker of the Legislative Assembly. The final important objective of the Constitution (Amendment) Bill is to provide for the election of the Speaker in another place by secret ballot. All those measures are wholeheartedly supported by the Opposition.

The objective of the Constitution (Entrenchment) Amendment Bill is to amend section 7B of the Constitution Act 1902 so that any amendment or repeal of provisions relating to the independence of the judiciary proposed to be inserted in the Act, that is, the Constitution Act, by the Constitution (Amendment) Bill 1992, to which I have just referred, will be required to be submitted to a referendum and will not become law unless

Page 10326
approved by a majority of electors. In other words, the provision contained in the Constitution (Amendment) Bill that deals with the independence of the judiciary, to which I was referring a moment ago, will be entrenched by virtue of the provisions of the Constitution (Entrenchment) Amendment Bill. The only rider I would add is that amendments by way of additions to the list of judicial offices will not require a referendum. That is a short statement of the objectives of these measures and I indicate the firm support of the Opposition for them.

The Hon. ELISABETH KIRKBY [6.56]: I wish to support the remarks of the Hon. R. D. Dyer, and to support the Constitution (Amendment) Bill and the Constitution (Entrenchment) Amendment Bill. I doubt that any honourable member would disagree that this is an important measure in that it seeks to secure the independence of the judiciary, to recognise the independence of the offices of the President of the Legislative Council and of the Speaker of the Legislative Assembly, and, in particular, to provide for the election of the Speaker by secret ballot. I shall deal first with the independence of the judiciary. The doctrine of the separation of powers is the cornerstone of our democracy. The fact that there are a number of institutions in our society that share and compete for power reduces the possibility of tyranny. It was in 1764 that Montesquieu, observing the British system, pointed to the three powers in government - the Legislature, the Executive and the judiciary. I believe his views are as valid today as they were in 1764 when he said:

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

I believe the provisions in this bill will go a substantial way to securing the independence of the judiciary in New South Wales. It is proposed that the holder of a judicial office

may be removed from office only by the Governor on the grounds of inability or misbehaviour, following an address by each House of Parliament. A judicial officer cannot be removed from office in the absence of a report of the Conduct Division of the Judicial Commission setting out its opinion that there is justification for parliamentary consideration of the removal of the judicial officer on the ground of proved misbehaviour. These proposals are in line substantially with the recommendation of the final report of the Constitutional Commission relating to the removal of judges from State superior courts. Clearly, security of tenure has a major impact on the independence of the judiciary. There are presently no provisions relating to the judiciary in the New South Wales Constitution. Under the Judicial Officers Act 1986 a report of the Conduct Division stating its opinion that a matter could justify the removal of a judicial officer is required and must form the basis of an address of the Houses of Parliament. What this bill will do, along with the Constitution (Entrenchment) Bill, is entrench these provisions in the Constitution, to be passed by a referendum. The independence of the Presiding Officers is also now entrenched and I should like to turn to the paper by the Speaker of the Legislative Assembly of New South Wales entitled "A Proposal for an Independent Continuing Speakership for the Legislative Assembly of New South Wales". The Hon. Kevin Rozzoli stated:

A fair and impartial parliament is fundamental to the proper functioning of any democratic

Page 10327

government. Essential to such a Parliament is the independence of the Speaker from party influences in the conduct of debates before the House and in the administration of parliamentary services.

Also, in the Queensland "Report of a Commission of Inquiry Pursuant to Orders in Council", it was argued:

Because of its necessary numerical strength, the Government in a parliamentary democracy is obviously able to change and ignore the rules. In these circumstances the authority and neutrality of the 'referee' is of critical importance. The Speaker cannot afford to adopt a partisan role, either voluntarily, or in order to retain the confidence and support of the Government party. If the Speaker enters the arena, there is a risk that Parliament will not be able to make the Government accountable.

One can apply those comments equally to the position of the President of the Legislative Council. In the past and in other Parliaments in Australia the position of Speaker has been looked upon as a partisan position, one given to a loyal party member in return for loyalty. Gavin Souter, in his book on the Commonwealth Parliament, *Acts of Parliament*, wrote:

Less was heard also about political neutrality in the Chair. The office became virtually a party appointment, as it was already in most State parliaments. Without consulting the Opposition, Deacon lent his support to an undistinguished but loyal personal follower.

Henceforth a change in Government would usually mean a change in Speakership.

In the past Speakers who behaved impartially were not looked upon with favour. The report of the Western Australian Parliament into standards of conduct stated:

There is no doubt that the record of Governments in supporting a Speaker from their own ranks who tries to administer the rules impartially is not good in Australia. For a number of reasons few Government MPs are ever suspended, at least in lower Houses, and when, for example, Speaker Cope in the Australian House of Representatives in 1975 tried to discipline a

Minister of the Crown from the party of which he was a member he was openly repudiated by the Prime Minister and other members from the governing party.

The report from the Western Australian Parliament stated further:

It is absolutely fundamental to achieving the objectives of this Report that everything possible must be done to encourage the development of an ethos amongst members that Parliament is superior to party consideration and that respect for the office of the Presiding Officer is the starting point for respect for Parliament itself.

Under the proposed legislation Presiding Officers are given statutory recognition and, in future, will be recognised as independent and impartial representatives of their respective Houses. The Australian Democrats wholeheartedly support this but believe there must be procedural amendments to ensure that these principles are put into practice. The bill goes some way towards this by putting forward a means by which a Speaker may be elected by secret ballot, and that, I believe, has to be applauded and is something that perhaps should have been done in this Parliament a very long time ago. The identity of the nominators and seconders is to be confidential. The election is to be by successive secret ballots and are to continue until a candidate is elected by a two-thirds majority. If the number of candidates is or has been reduced to two, the election will be by a simple majority of the members voting at the ballot.

The importance of the secret ballot cannot be stressed too heavily and it will do much to break the party lines on which most of the voting in our Parliaments takes place. It will ensure that the Speaker elected is truly supportive of the parliamentary process. In conclusion I should like to add that I hope, in the debate on the report that was tabled yesterday of the committee that inquired into the management of the Parliament, on which

Page 10328

I and other members of this Chamber have been working for the past few months, that equal consideration will be given in legislation that may follow that report to also entrench the independence of the table officers. I do not think any honourable member who may already have read that report would be unaware that there is a division of opinion among members of the committee about the independence of the table officers. But I believe that it is crucial that the work they do, giving impartial advice to both sides of the House and the crossbenches in a confidential manner, must not be jeopardised, and we certainly cannot have the situation where it might be suggested that they be special executive officers and therefore become creatures of the Government of the day. Most special executive service appointments are political appointments, and although this may be very helpful to the Government in appointing senior advisers, it certainly would not assist the running of the Parliament or the impartiality of table officers if they were appointed on the same grounds. I want honourable members to think about that.

Earlier I gave notice that I would move a motion to allow debate on the report of the management of the Parliament to be brought on, because at that time I thought we were going to sit next Thursday. I have since learned that that is not the case, and therefore we shall not have the opportunity to debate what I believe is a very important report before we return in February. I am grateful that this legislation has given me the opportunity to put on record the vitally important comment, which I beg all honourable members to consider, about the necessity to maintain the total and absolute independence of the table officers of this Parliament. I support the bill.

Reverend the Hon. F. J. NILE [7.6]: Call to Australia fully and enthusiastically supports the Constitution (Amendment) Bill and the Constitution

(Entrenchment) Amendment Bill. The main bill will secure the independence of the judiciary, or seek to secure the independence of the judiciary; will recognise the offices of President of the Legislative Council and Speaker of the Legislative Assembly; and, will provide for the election of the Speaker by secret ballot. I think it is very important that the judiciary be independent and we have now spelled out further detailed procedures concerning the removal of a judge. Though the selection of judges has always been important, this legislation will make the process even more important. Great care must be taken in selecting judges - only men and women of the highest moral quality should be chosen. I certainly question what has become a practice at various times: governments appointing politicians as judges. I suggest that judges should be chosen from the ranks of the most skilled and experienced Queen's Counsel or other proven barristers so that we do not have what has occasionally occurred over the years. Irrespective of whether a judge who was a politician is fair, there is always the allegation that his judgment is affected by his previous political allegiance; whether that has been on the conservative side of politics or the Labor side of politics. It is very important that we recognise the offices of President of the Legislative Council and Speaker of the Legislative Assembly and I am very pleased that this legislation does that. Call to Australia fully supports it.

The Hon. J. R. JOHNSON [7.8]: In supporting the legislation one could have some fun, if one was minded to move or foreshadow the moving of a couple of amendments in relation to the Constitution (Amendment) Act. On page 2, dealing with transitional provisions, one could move to delete "Nothing in this Act affects", retain "The tenure of office of the person holding office as President of the Legislative Council immediately before the commencement of this Act" and insert "is hereby extended for the term of his natural life". One wonders whether that would get much support. Sections 22G and 31 of the Constitution (Amendment) Act refer to the President and the Speaker. Proposed new subsection (1) of section 22G states:

(1) There shall be a President of the Legislative Council -

Page 10329

What a profound statement! The proposed subsection continues:

- who is the Presiding Officer of the Legislative Council and is recognised as its independent and impartial representative.

Proposed new subsection (1) of section 31 refers in the same terms to the Speaker of the Legislative Assembly. Do I take it that in the future neither Presiding Officer will vote? We could add to these proposed new paragraphs the following words, "and he is acknowledged to have been born without original sin". It is just superfluous nonsense.

The Hon. R. S. L. JONES [7.11]: This is history-making and important legislation, but I will speak briefly. The only point I would like to make is that once this legislation has been passed the President will not be able to vote in this Chamber. Henceforth the President will be truly independent and impartial.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [7.11], in reply: I thank honourable members for their support of the bills and I commend them.

Motion agreed to.

Bills read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Special Adjournment

Suspension of certain standing orders, by leave, agreed to.

Motion by the Hon. J. P. Hannaford agreed to:

That the resolution adopted today relating to the adjournment of the House until Thursday, 3rd December, 1992, be rescinded.

SPECIAL ADJOURNMENT

Seasonal Felicitations

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council) [7.14]: I move:

That this House at its rising today do adjourn until Tuesday, 23rd February, 1993, at 2.30 p.m. unless the President, or if the President be unable to act on account of illness or other cause, the Chairman of Committees, shall, prior to that date, by communication addressed to each member of the House, fix an alternative day and/or hour of the meeting.

This motion gives me the opportunity to wish all members and their families a happy and holy Christmas. I hope next year brings for all of them that which they will expect and hope for themselves and their families. At this time we take this opportunity to recognise the significant contribution of many people in the Parliament to ensure harmony for all of us in the course of the year. I do not think I need mention all those who provide services to us; they know who they are. But we appreciate every effort they make to ensure the proper workings of the Parliament and to ensure that we benefit from our period here. Unfortunately, during the year the Hon. Ted Pickering ceased to be Leader

Page 10330

of the Government in this House. During his period of leadership we saw significant changes in the operations of the Parliament. I take this opportunity to thank him for his services and for his contributions as Leader of the Government in this House. He was Leader of the Government in this House since 1984 - the longest serving leader of the Liberal Party in the Legislative Council.

This year has had its high points and its low points. The high point was when Duncan Gay was able to organise for Doug Moppett to miss a vote, giving Duncan Gay the opportunity to do what he has always wanted to: throw Max Willis out of a division. I am sure Duncan Gay will look forward to being able to orchestrate this on some future occasion. All honourable members enjoyed the Hon. Franca Arena boycotting a function organised by the Presiding Officers. She did so because the guest was to be a representative of the Imperial Parliament, Sir Oliver Pratt. But our Imperial guest turned out to be that great impersonator, Campbell McComas. I suppose because the Hon. Franca Arena boycotted the opening of the Parliament by the Queen, it was consistent for her to boycott that function.

The Hon. Ann Symonds: She attended the opening.

The Hon. J. P. HANNAFORD: I think she had intended to be absent. From time to time these high and low moments ease the tension in this place. I thank all my colleagues for the support they have given me in the short period I have been Leader of the Government in this House. I thank them also for their support and friendship. This is an opportunity for me to reflect on a comment on politics which was made by my former senior partner. He said, "When you are on the floor of the House you play the game as hard as you can and you must recognise that people on the other side will do exactly the same. But when you walk out of the House do not take the arguments and the fights with you. Always remember that you can sit down and have a glass of scotch with your colleagues. If you cannot do that, if you take yourself and the arguments in the House too seriously, that comradeship will not stay with you". That is something we should always remember. I thank my colleagues for their comradeship.

The Hon. M. R. EGAN (Leader of the Opposition) [7.18]: I join with the Leader of the Government in this House in wishing all honourable members and their families a happy Christmas. I also join with him in thanking all the parliamentary staff for their great assistance to members during the year and for their great work in keeping this place running as smoothly and as efficiently as it has. Politically it has been a fairly tumultuous year. It is therefore worthy of note that this is the first year for quite some time that the membership of this House is the same at the end of the year as it was at the beginning. Unfortunately, for the past few weeks we have not had the company of the Hon. Dr B. P. V. Pezzutti. Last night it was pleasing to see him, so obviously fit and healthy, having Christmas drinks in the office of the Leader of the Government. I hope that over the forthcoming Christmas recess all members and all staff will have an opportunity to take a short holiday so that they can all return in February rested and ready and willing to do battle with one another once again. I wish everyone a happy Christmas.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [7.20]: On behalf of my colleagues in the National Party I would like to join the Leader of the Government and the Leader of the Opposition in wishing all honourable members a very happy and restful Christmas and, hopefully, a much more prosperous New Year. I would like to say a few things about the events of the past year. On behalf of the National Party I express appreciation for the co-operation of the Hon. Ted Pickering while he was the Leader of the Government in this House. I developed a very good

Page 10331

working relationship with Ted, and I regret very much the circumstances of his departure from the Ministry. I am sure that ultimately he will be vindicated. I also put on record the sadness that I felt, which I am sure all honourable members felt, at the passing this year of Sir Adrian Solomons, one of the more distinguished members of this Chamber. I express my appreciation of my two ministerial colleagues, the Hon. John Hannaford and the Hon. Virginia Chadwick for their friendship and co-operation in what has been a very busy year. I thank you, Mr President; my friend and colleague the Chairman of Committees, the Hon. Duncan Gay; the Government Whip, the Hon. John Jobling; the National Party Whip, the Hon. Richard Bull; the Labor Party Whip, the Hon. Keith Enderbury, for your co-operation during the year.

I thank my National Party colleagues for their support and the way in which they have conducted themselves in the House. To all members of the House I say I thank you for the spirit in which you approach the Parliament. It is different in the upper House. A number of honourable members, including the Hon. Michael Egan, told me it would be different when I came here. There is a fundamental difference between this place and the other place. There is more time to do things, and to do things differently. While I will not say that I do not miss the lower House, I am certainly enjoying my time here

more than I did when I first arrived. For that I thank all honourable members. To all the staff, to the attendants, to Hansard, to everyone who helps us in Parliament House, I express my appreciation on behalf of my National Party colleagues for doing a tremendous job with such a generous spirit. It is not easy being here night after night, particularly so late. I wish all honourable members and their families a very merry Christmas. I hope we all take the opportunity to have a good rest over Christmas and regroup for another year. Christmas is a special time of the year, particularly for those of us who are Christians. I wish you all a very happy Christmas and a prosperous and healthy New Year.

Reverend the Hon. F. J. NILE [7.22]: On behalf of the Call to Australia group and my wife, the Hon. Elaine Nile, I support the statements that have been made by the Leader of the Government in this House and the Leader of the Opposition. I thank all members for their help and co-operation during the year. I would like to wish everyone a blessed, joyful and holy Christmas. I also include in my Christmas greetings Mr President, the Chairman of Committees, the Clerks and the staff of the Parliament for all their help and co-operation during this past year. I add my thanks to the Hon. Ted Pickering for his help, advice and guidance over a long period from 1988 until 1992. I express my Christmas greetings, as I usually do, with a few words from the Bible - from the word of God - in Luke Chapter 2. The words are said by the angel and by the heavenly host in speaking to the shepherds. Verse 10 states:

And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.

For unto you is born this day in the city of David a Saviour, which is Christ the Lord.

And this *shall be* a sign unto you; Ye shall find the babe wrapped in swaddling clothes, lying in a manger.

And suddenly there was with the angel a multitude of the heavenly host praising God, and saying,

Glory to God in the highest, and on earth peace, good will toward men.

The Hon. ELISABETH KIRKBY [7.24]: On behalf of my colleague the Hon. Richard Jones and myself I should like to say that the Democrats add to and support the words of the Leader of the Government, the Leader of the Opposition, the Hon. Robert Webster and Reverend the Hon. Fred Nile. As was said by the Leader of the
Page 10332

Opposition, there have been momentous changes during 1992 and many of those changes have brought great sadness and great distress to people whom I hold in the highest regard. I agree with the remarks that have been made about the former Leader of the Government, the Hon. Ted Pickering. During his period as leader he assisted the crossbenchers greatly, considering the fact that we have to act as a shadow cabinet of two - and originally when I joined this House, as a shadow cabinet of one - and he made it much easier for us by arranging the order of legislation so that we had time to get on top of it, even when we had a chaotic day such as we have had today.

I wish the new Leader of the Government in this House a very happy Christmas with his family, and time to recuperate from having become leader, as well as carrying very heavy portfolio responsibilities which previously have never been under the control of one Minister. I particularly want to thank the people who do so much to make it possible for us to function at all. They include the table officers; the attendants; the

library staff in particular, who give us such outstanding service; and the whole of the staff of the Parliament that makes this building work. It was said a few moments ago that we are all going to go on holiday until 24th February. Perhaps it has not dawned on some people that with the changes in the Parliament and the democratic system that have been worked out between the Government and the Independents, the committee work faced by most members of this Chamber and those in another place is such that we shall certainly be working next week and the week after, and we shall certainly be working throughout February until the House resumes. We are not all going away for a wonderful, two-month paid holiday. I think that should be brought to the attention of the public, because they frequently have the idea that parliamentarians are paid far too much, never do any work at all, and what they do is irrelevant to them anyway.

It will be good for all of us to be able to approach the committee work without also having to consider the legislation before the House. The committee work is important, particularly at the moment. There are three committees with which many members of this House are involved, which I believe are of the greatest importance: the Standing Committee on Social Issues; the Joint Select Committee upon the Management of the Parliament, which will have an impact on all of us; and the Joint Select Committee upon Police Administration. I hope that before we return for committee work, honourable members will be able to have a holiday with their families and enjoy the peace of Christmas. We are particularly fortunate in Australia and in New South Wales that we can look forward to a peaceful Christmas, free from fear of armed conflict. That is certainly not the case for many people in Europe, South-east Asia and particularly Cambodia. I wish you all a very happy Christmas and thank you again for your friendship and fellowship in 1992.

The PRESIDENT: I would like to be associated with the remarks of the Leader of the House and other honourable members. This year in the life of the Fiftieth Parliament under responsible government has indeed been a momentous one. Many events have occurred in this House that will assume a place in the history of this institution. I thank honourable members for their courteous comments about me. I thank also the members of the staff of the Parliament for the courteous and helpful manner in which they have dealt with me during this year. As you all know, I am decidedly proud to hold the office of the President of the Legislative Council. I am indeed flattered that shortly, by Act of Parliament, I am to be declared impartial and independent. Further, I should like to bring to the attention of honourable members that although the Parliament to which we belong technically and constitutionally is only the members of the respective Houses, it is in fact a far bigger institution.

Page 10333

I should like to convey my felicitations for the festive season to all of the members, table officers and all who work in all the departments of this institution - many of whom we never see. Without exception I can say that the last year has taught me that all of these people, from members right through to the cleaners and the security people, are dedicated servants of this Parliament. The Parliament is a unique and precious institution. It is a very difficult institution to understand, as I am sure those members of the House who participated in the Joint Select Committee upon the Management of the Parliament know only too well. It is an institution which should be interfered with only very carefully. But it is an institution to which everyone contributes - the members, the staff, the table officers and all of those unseen people who work in various parts of the building at night and in the early hours of the morning. I thank you again and wish you all a happy and holy Christmas. During the festive season may God be with you.

Motion agreed to.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 3)

Message

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

ADJOURNMENT

The Hon. J. P. HANNAFORD (Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council [7.32]: I move:

That this House do now adjourn.

CARBONATED SOFT DRINKS

The Hon. PATRICIA FORSYTHE [7.32]: Over recent weeks we have seen, first in the estimates committees but also at question time, a most extraordinary campaign, based on ignorance or prejudice, over the issue of the healthy school canteen policy, particularly as it relates to soft drinks. I have no intention of discussing the issue of a canteen policy in detail, but I do want to discuss soft drinks. In doing so, however, I have no difficulty declaring that throughout 1987 and into 1988 I acted as executive officer to the industry association and was its government affairs manager. Arising from that role I became aware of a general inconsistency in the way governments in a variety of portfolios treat carbonated soft drinks, and therefore I have maintained an interest in the subject. I have certainly written to the Minister about soft drinks and my concerns as to how they should be treated in schools. It is that concern that I seek to share with the House. When I wrote to the Minister in October I had just read the draft youth alcohol strategy published by the New South Wales Department of Health. I am interested in that issue because of my membership of the Staysafe committee and the work of the committee on the issue of drinking and driving, and in particular the high correlation between road accidents involving young drivers and alcohol consumption; but also because it is a significant issue that affects all young people. Given that young drivers cannot drink and drive legally, and the general problem young people have in learning to cope with their lives in a society that accepts - indeed encourages - alcohol consumption, I believe teenagers have to be encouraged with a realistic approach to their lifestyle as they develop and make choices.

Page 10334

Carbonated soft drinks, as an alternative to alcohol, at parties, discos or anywhere young people gather, may pass the test of peer pressure but no one can realistically believe that fruit juice, milk or water will. It therefore makes more difficult the task of educating young people to think about acceptable alternatives to alcohol if the government - when wearing its education hat - and adults, especially teachers, say to young people "not recommended", while at other times adults say "recommended". I wrote to the Minister and said it is time we stopped developing canteen policies in isolation based on so-called healthy diet standards. I hope the New South Wales Department of Health will take note that it is time we started to think of such policies as lifestyle policies. In support of that position I quote from a letter that was sent to the Minister by Professor Wilson, head of the Department of Food Science and Technology at the University of New South Wales:

I believe it is very important that we all give consistent messages in relation to the quality and safety of the nation's food supply. Any attempt to divide foods into "good" and "bad" or "recommended" and "not recommended" is to be deplored because of its implication. In addition it does not help in the educative process. We need to educate young people in relation to their total dietary intake and to implant the essential message of eating a wide variety of foods in relation to need. Eating a variety of foods from each of the food groups ensures that all the nutrients we need for good health are included in our diet. Developing moderation in our habits, avoiding excess and being involved regularly with physical activities/sports are also very important messages to be learned at school.

Fortunately our society stands for freedom of choice, but restricting freedom of food choice at school does nothing to educate the young about making choices in the real world outside school.

We need to realise that the messages we send out as adults to young people must be realistic and consistent.

AGRICULTURE AND ENVIRONMENT

Reverend the Hon. F. J. NILE [7.37]: I have received a letter dated 26th March, 1992, from Mr J. A. Stirling, which has brought home to me our responsibility as members of Parliament to look at proposed legislation from the point of view of consumers, those at the end of the line who are most affected. Mr Stirling outlined in his letter, in schedule form, some of the practical problems that are being experienced by farmers in the Kyogle and Lismore area. He stated that farmers undertake many practical activities including:

Back burning in preparation for bushfires and the application of chemical fire retardants such as Phoscheck.

Small scale clearing, preparing a previously unploughed field for planting and building new farm roads and fences.

Drought proofing a property by putting in new dams, spraying and removing noxious weeds and soil conservation techniques.

And controlling eucalypt regrowth and ploughing a trough to plant a new wind break (of) trees.

Mr Stirling states that to carry out those activities a farmer has to comply with the provisions of a number of Acts, which he listed. He further stated in his letter:

In order to try and demonstrate the maze of red tape one must go through to carry on one's business and abide by the law, I'll go step by step through the decision making process prior to actually undertaking any activity:

Question 1. - Do I need Development Consent from the Local Council?

Page 10335

Depending on the type of activity and the Council's Local Environment Plan the answer may be yes or no. If no, go to question 2. If yes, go to question 1.

Question 2. - Do I need a licence or approval from any other organisation, such as:

the Soil Conservation Service? - authorities are required for logging, clearing, road construction et cetera on Protected Land.

the Council? - permits are required for burning off in the Bush Fire Danger Period.

the Rural Lands Protection Board, the Forestry Commission or the National Parks and Wildlife Service? - their approval may be required to carry out noxious animal control.

If the answer is no, go to Question 3. If yes, go to Question 5.

Question 3. - Is the activity likely to "take" or kill endangered fauna?

Now this is where it starts to get tricky because the definition of "take" includes "the significant modification of the habitat of the fauna which is likely to adversely affect its essential behavioural patterns."

If I answer no to this, I'm home free.

However, it might well be argued, particularly by some of our more extreme critics, that most farming activities are likely to modify the habitat of some endangered species or other.

Take for example the Glossy Black-Cockatoo, which depends on Forest Oak for its food supply. It's likely to be affected by scrubbing and burning off; the Carpet Snake, which occurs almost everywhere from the machinery shed to the cane farm. It's likely to be affected by poisoning the mice or firing the cane; or the Eastern Bristlebird, which prefers tussocky undergrowth in clearings on the edge of the forest. It's likely to be affected by slashing or burning off.

There are quite a few others listed in the Revised (Interim) Schedule 12 of the National Parks and Wildlife Act which is attached as Appendix i.

If I answer yes, then I need to apply to the Director of the National Parks and Wildlife Service for a General Licence.

The application for a licence must be accompanied by a Faunal Impact Statement and an application fee of \$200.

The person preparing the FIS must consult with the Director of the NP&WS to obtain the requirements. These will be issued within 28 days of the written consultation.

The FIS must include:-

- 1) a full description of the fauna to be affected and the habitat used by the fauna;
- 2) an assessment of the regional and statewide distribution of the species and the habitat to be affected and any environmental pressures on them;
- 3) a description of the actions and how they will modify the environment and affect the essential behavioural patterns of the fauna in the short and long term where long time encompasses the time required to regenerate essential habitat components;
- 4) details of the measures to be taken to ameliorate the impacts;

5) details of the qualifications and experience in biological science and fauna management of the person preparing the FIS and of any other person who has conducted research or investigations relied upon.

It's very likely that I'm going to have to get a consultant to do the FIS for me, so that could run into several hundred to several thousand dollars.

The Director levies a processing fee of actual costs plus overheads incurred by the Service in assessment and processing of the application.

Page 10336

The FIS is placed on public display for at least 28 days and public submissions are invited.

Applications may be granted, granted with conditions or rejected.

So, after all that I still may not get a licence, or if I do, it may have that many limiting conditions it isn't practical to go ahead anyway.

Question 4. - Will the council require me to do a FIS?

The answer is almost certainly yes, because council is required to take into consideration those matters which are relevant under Part 4, Section 90 of the EPA Act, and one of those matters is the impact of the development on the environment. In fact I may even have to do an Environmental Impact Statement for certain activities.

The matters for consideration are attached in Appendix ii.

Question 5. - Will the determining authority require me to prepare a FIS?

The answer, again, is almost certainly yes.

Under Part 5 of the EP&A Act, the determining authority has to consider the likely impact of the activity on the environment and make a decision as to whether or not it is likely to be significant. The factors which must be considered are set out in the form of a check list in Appendix iii.

The effect of the recently introduced EFIP Act was to amend those factors to include point (e1) and Part B; the seven point test of whether or not there is likely to be a significant effect on the environment of endangered fauna.

Since most determining authorities will not have the expertise to adequately assess the effects of the activity on endangered fauna, they will in all probability require the preparation of a FIS.

Should the determining authority decide that the effect on the environment of endangered fauna is likely to be significant, or that endangered fauna are likely to be killed, then they will also require me to apply for a General Licence from the N&WS. In fact they may also require me to prepare an EIS.

The temptation, because of all of this, is to carry on as though nothing has changed and hope that no one complains. But can you afford the risk? You could be prosecuted and found

criminally liable and the fines and jail terms are substantial. [Time expired.]

INTERNATIONAL YEAR OF WORLD INDIGENOUS PEOPLE

The Hon. HELEN SHAM-HO [7.42]: It gives me great pleasure to draw to the attention of all honourable members that the United Nations has declared the theme for next year's International Year of World's Indigenous People "a new partnership". I am particularly interested in this area as I have become a member of the Council for the Aboriginal Reconciliation. Partnership between indigenous and non-indigenous Australians is an objective of the reconciliation. All honourable members of this House are well aware of the situation in Australia. We have heard and seen the pain and suffering experienced by the Aboriginal people as a result of government policies which dislocated families and disrupted cultural practices. The situation is worse for those living outside traditional communities.

These people experience all types of discrimination; unfair treatment and racism. The chairperson of the Council for Aboriginal Reconciliation, Mr Patrick Dodson, who was also a commissioner for the Royal Commission into Aboriginal Deaths in Custody, has described the Aboriginal and Torres Strait Islander people as being "placed in a twilight zone of neglect". This declaration by the United Nations for "a new partnership" in the year for indigenous people puts relations between colonising powers and indigenous

Page 10337

people into the international spotlight. I hope everyone will support and participate in this focus. The International Year of the World's Indigenous People will be launched on 10th December. Australians will be represented by the chairperson of the Aboriginal and Torres Strait Islander Commission, Mrs Lois O'Donoghue, as well as the recently voted and the most popular Aboriginal band Yothu Yindi. The Australian national launch will also take place on 10th December at Redfern Park, Sydney, at 11 a.m. It is being sponsored by CAR and ATSIC. A range of local performers will be featured. I urge all honourable members to attend if possible.

Motion agreed to.

House adjourned at 7.44 p.m. until Tuesday, 23rd February, 1993, at 2.30 p.m.

LEGISLATIVE COUNCIL

QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers*:

POLICE-CITIZENS YOUTH CLUB RESOURCES

Mrs Walker asked the Minister for Police and Emergency Services and Vice-President of the Executive Council—

- (1) Under what circumstances are the club/charity resources of the Federation of New South Wales Police Citizens Youth Clubs used for policing purposes?
- (2) Are charity resources used for the compilation of police reports, rosters, intelligence, filing?
- (3) If not, what allocation of monies are made to youth clubs each year on a branch basis for such work?

Answer—

(1-3) The club/charity resources are used for policing purposes consistent with the delivery of community policing services to young people. This is achieved by:

- The implementation of community based policing programs;
- Bringing to the notice of citizens and police their responsibilities towards young people in the community;
- Providing an interface between the Police Service and the citizens of New South Wales, especially young people, which fosters mutual respect and understanding;
- Providing educational programs pertaining to the maintenance of law and order, such programs consistent with the operational strategies of the New South Wales Police Service.

The Police Service pays the salaries and on-costs for the police attached to Police Citizens Youth Club Branches and Head Office. There are generally two police units at each Branch, whose main functions are co-ordinating and programming. All other costs are met from income received from donations, members' contributions and charges made for activities conducted at Branches.

PRISON METHADONE TREATMENT PROGRAMS

Mr Jones asked the Minister for Health and Community Services representing the Minister for Justice—

- (1) Have methadone treatment programs been removed from a number of prisons?
- (2) If so, how many prisons have they been removed from?
- (3) What will happen to those prisoners presently on the methadone treatment program?
- (4) Is it expected that the removal of these programs will cause an increase in:
 - (a) clandestine heroin use;
 - (b) HIV infection;
 - (c) the number of deaths in prisons?

Answer—

- (1) Yes.
- (2) Three. Inmates participating in the methadone program can no longer be transferred to Emu Plains Correctional Centre, Norma Parker Correctional Centre or the Industrial Centre of Long Bay Correctional Centre. It is proposed to decrease the number of methadone issuing correctional centres to 13 with a further 6 correctional centres providing methadone to inmates on specific rehabilitation programs.
- (3) No inmate will be removed from the methadone program as a direct result of reducing the number of methadone issuing correctional centres.
- (4) No.

COMPENSATION CLAIM BY Mr EDDIE AZZOPARDI

Mr Egan asked the Minister for Police and Emergency Services and Vice-President of the Executive Council—

- (1) Has the Government received a claim for compensation from Mr Eddie Azzopardi in respect of serious injustices he experienced at the hand of the New South Wales Justice System and Police Service?
- (2) Has this claim been rejected and, if so, why?

Answer—

- (1) Yes.
- (2) The question of compensation falls within the Premier's administration and as such, I am unable to comment on his response to Mr Azzopardi.

COMMERCIAL SERVICES GROUP VOLUNTARY REDUNDANCIES

Mr Egan asked the Minister for Planning, Minister for Energy, Minister for State Development, and Minister for Tourism representing the Chief Secretary and Minister for Administrative Services—

- (1) How many employees of the Commercial Services Group have taken voluntary redundancy within the last two years?
- (2) Have any of these employees subsequently been re-engaged by the Commercial Services Group as consultants or in any other position? If so:
 - (a) how many employees are involved; and
 - (b) in respect of each employee, what was the value of their redundancy payment and remuneration after their re-engagement?
- (3) How many consultants have been engaged by the Commercial Services Group over the last two years?
- (4) What was the purpose, duration and cost of each consultancy?
- (5) Are any consultants to the Commercial Services Group performing the functions of an executive assistant to members of the Senior Executive Service? If so:
 - (a) how many; and
 - (b) what is the value of their remuneration?

Answer—

(1) 2,088 employees of the Commercial Services Group have taken voluntary redundancy within the period 1 July 1990 - 30 June 1992.

(2) 5 non-cleaning staff have been re-engaged, referred to below as employees (a-e):

	Redundancy Value		Remuneration after re-engagement
(a)	\$13,628.91	\$450.05 (total payment)	
(b)	\$18,948.18	\$392.08	(total payment)
(c)	\$15,020.30	\$44,682.00	(per annum)
(d)	\$15,336.19	\$32,570.00	(per annum)
(e)	\$12,731.93	\$32,570.00	(per annum)

Information on the number of cleaning staff who have been re-engaged after accepting voluntary redundancy is not readily available. Such instances would have arisen as a result of the need to provide short-term casual relief staff to fulfil cleaning obligations.

(3-4) Refer to Annual Reports for those years.

(5) (a) No.

(b) Not applicable.

QUEANBEYAN POLICE SPEED TRAPS REVENUE

Mr Egan asked the Minister for Police and Emergency Services, Minister Assisting the Premier and Vice-President of the Executive Council—

- (1) How much revenue from "speed traps" was raised by Queanbeyan Police in the 12 months to June 1992?
- (2) How much revenue was raised from "speed traps" by Queanbeyan Police in the preceding 12 month period?
- (3) How does the 91/92 figure compare with other regional towns of similar size and population?

Answer—

(1) Radar detected speeding offences are measured in terms of their effect in an overall program to improve road safety. "Speed traps" do not exist. Enforcement is by way of mobile and static radar devices operated under approved procedures.

In the 12 months to June 1992, 6310 infringements for exceeding the speed limit were issued in the Queanbeyan District.

(2) In the 12 months to June 1991, 5,444 infringements for exceeding the speed limit were issued in the Queanbeyan District.

(3) Maitland and Wagga Wagga issued 7,190 and 6,494 infringements respectively, for exceeding the speed limit in

the 12 months ending June 1992.

ROUSE HILL ARCHAEOLOGICAL SITE

Mr Jones asked the Minister for Police and Emergency Services, Minister Assisting the Premier and Vice-President of the Executive Council representing the Premier and Treasurer—

- (1) What Aboriginal sites, artefacts and trees etc of archaeological significance have been found on the site set aside for the water and sewage treatment plant, north west sector development, at Rouse Hill?
- (2) Who undertook the survey?
- (3) What is being done to protect Aboriginal sites of archaeological significance?

Answer—

The Minister for the Environment has informed me that—

- (1) There are 27 known sites plus other areas with potential to contain sites.
- (2) Two consultant archaeologists have worked on the site since 1985 and have prepared at least five reports.
- (3) All Aboriginal relics in New South Wales are protected. A large important site at Rouse Hill will not be affected by the development and it is not known at this stage which, if any, of the other sites may finally be affected.

ART GALLERY PRAM AND WHEELCHAIR ACCESS

Mr Jones asked the Minister for Education and Youth Affairs and Minister for Employment and Training representing the Minister for State Development and Minister for Arts—

- (1) Would it be possible to supply perambulator and wheelchair access at the side of the front steps on the Art Gallery of New South Wales?

Answer—

- (1) Wheelchair and perambulator access via the front stairs at the Art Gallery of New South Wales is not possible as the construction necessary would conflict with the heritage status and value of the building. Access is provided for wheelchairs and perambulators through the security entrance at the rear of the building where disabled parking spaces are also provided.

OMBUDSMAN AND POLICE REINVESTIGATIONS

Ms Burnswoods asked the Minister for Justice, Minister for Emergency Services, Minister Assisting the Premier, and Vice-President of the Executive Council, representing the Premier and Treasurer—

- (1) On how many occasions in the following years has the Office of the Ombudsman requested the police to reinvestigate a matter following their initial inquiry and report to the Ombudsman in:
 - (a) 1990
 - (b) 1991
 - (c) 1992?
- (2) On how many occasions in each of those years have the police sought an extension of time to complete their investigation, and how many times was the extension granted?

Answer—

- (1) Police were asked further to investigate matters following their initial report to the Ombudsman's Office on 24 occasions in 1990; on 10 occasions in 1991; and on 5 occasions to date, in 1992.
- (2) In 1990, Police sought an extension of time to complete their investigation on 131 occasions and 126 requests

were granted. In 1991, 155 requests were made and 150 were granted. In 1992, to date, 101 requests have been made and 98 granted.

BREASTFEEDING IN PUBLIC

Ms Kirkby asked the Minister for School Education and Youth Affairs and Minister for Employment and Training representing the Chief Secretary and Minister for Administrative Services—

- (1) Has the Queensland Government amended its Anti-discrimination Act 1991 Section 7(1) to give women the right to breastfeed their children on public transport, and in shops and restaurants if necessary?
- (2) Is this right reflected in the Anti-discrimination legislation current in New South Wales?
- (3) If not, will the Government consider amending the Anti-discrimination Act to bring it in line with the Queensland legislation?
- (4) If not, why not?

Answer—

- (1) The combined effect of sections 7 and 46 of the Anti-discrimination Act 1991 (Queensland) is that it is unlawful for providers of goods and services to discriminate against women because they are breastfeeding. This means that it is unlawful to refuse goods and services, or provide them on less favourable terms, because a woman is breastfeeding. These provisions are not amendments to the Queensland Act but were included in the original Bill.
 - (2) Yes. Although breast feeding is not a specific ground of complaint under the Anti-Discrimination Act 1977, it is a "characteristic that appertains generally" to women and would consequently amount to sex discrimination pursuant to s 24(1) and s 33.
 - (3) Not applicable.
 - (4) Not applicable.
-