LEGISLATIVE COUNCIL

Thursday, 28th October, 1993

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

The President offered the Prayers.

TELEVISING OF PROCEEDINGS

The PRESIDENT: Order! Pursuant to the resolution of 26th October, and after consultation with the party leaders, I have given permission for question time today to be filmed.

UGANDAN HUMAN RIGHTS

The Hon. R. D. DYER [10.34]: As secretary of the State Parliamentary Branch of Amnesty International, I move:

That this House:

(1) Acknowledges that:

(a) the government of Uganda has implemented improvements in human rights education in the face of a legacy of problems; and

(b) armed opposition groups have committed human rights violations in Uganda;

(2) Expresses its concern that, despite promises to respect human rights, violations have continued under the present government including dozens of massacres of civilians;

(3) Calls on the government of Uganda to ensure that the army respects the rule of law;

(4) Expresses concern about the use of serious charges as a pretext for detaining suspected opponents or critics, the widespread use of detention without charge or trial and about summary and unfair trials of soldiers under military law, especially those which lead to execution;

(5) Urges the government of Uganda to fully implement the international human rights treaties which it has acceded to, and to submit its periodic reports on the implementation of these treaties (the Convention Against Torture and the African Charter on Human and People's Rights); and

(6) Calls on the government of Uganda to ratify the International Covenant on Civil and Political Rights.

Motion agreed to.

MOTOR ACCIDENTS (AMENDMENT) BILL

Bill read a third time.

STANDING COMMITTEE UPON PARLIAMENTARY PRIVILEGE

Report: Newspaper Publication of In Camera Evidence

The Hon. BERYL EVANS [10.36]: I table the report of the Standing Committee upon Parliamentary Privilege entitled, "Report Concerning the Publication of an Article Appearing in the *Sun-Herald* Newspaper Containing Details of In Camera Evidence".

Ordered to be printed.

The Hon. BERYL EVANS, by leave: This report concerns the unauthorised publication in the *Sun-Herald* on 3rd January this year of details of evidence given in camera by the Hon. E. P. Pickering before the Joint Select Committee upon Police Administration. The matter was referred to the privileges committee by the President following the tabling of a special report on the subject by the joint select committee. The committee's task in conducting this inquiry was twofold. First, the committee attempted to ascertain the identity of the person who disclosed the information to the journalist who wrote the article, John Synnott. In doing this, the committee took detailed evidence from the chairman of the Joint Select Committee upon Police Administration, from Mr Synnott himself and from the acting editor of the *Sun-Herald*, who approved publication of the article.

The committee also carefully examined the procedures that were followed by the joint select committee in relation to the in camera evidence. However, despite extensive inquiries, the committee was unable to come to any conclusion as to who disclosed the in camera evidence to Mr Synnott. The second task of the committee was to determine whether the disclosure and subsequent publication of the in camera evidence amounted to a breach of privilege or a contempt of Parliament. The committee examined in some detail the law and precedents relating to breach of privilege and contempt as they pertain to the New South Wales Parliament.

The committee concluded that although the publication amounted to a breach of privilege, it did not constitute a contempt of Parliament, as there was no evidence that it had obstructed or impeded in any way the work of the joint select committee, of either House of Parliament or of the members of either House. Although the committee concluded that a breach of privilege had been committed, it recommended that no sanctions be imposed upon Mr Synnott or on the *Sun-Herald* in respect of that breach, as the principal offender in the matter was the unknown person who originally disclosed the information. However, in its report the committee recommended the adoption by the Parliament and its committees of various measures which will minimise the opportunities for similar future leaks of in camera evidence.

One disturbing feature to emerge from this inquiry was the view, expressed by the journalists who appeared before the committee, of the media's role in reporting proceedings in Parliament. Both members of the media who appeared conceded that there are valid reasons why parliamentary committees should be able to take evidence in private. However, they both expressed the view that, in some cases, the so-called "public interest" in having access to

information will override these reasons. The evidence given to the committee indicated that both witnesses believed that it was competent for them as journalists to be the arbiters of where the public interest lay in any particular case. However, the fact that there is no overriding journalistic privilege has been recognised by the courts in several cases, the most recent being the decision of the Supreme Court

of New South Wales in *ICAC* v. *Cornwall*.

Another disturbing feature to emerge from the evidence given by the journalists was the fact that both witnesses stated that they would not publish evidence given in camera before a court, whereas they would publish in camera evidence given before a parliamentary committee in certain circumstances. These and other statements made during the giving of evidence to the committee indicate that at least some members of the media fundamentally misunderstand the basic principles of parliamentary privilege. It was clear throughout the course of the inquiry that there is an immediate and pressing need for the Parliament to enact legislation to clarify the content and scope of parliamentary privilege in New South Wales.

At present, the powers and privileges of the New South Wales Parliament are less extensive and more uncertain than those of other Parliaments in Australia. In 1985 the Joint Select Committee upon Parliamentary Privilege recommended that the powers and privileges of the Parliament be clarified, but no action has yet been taken in that regard. I hope that this report will stimulate the Parliament to take steps to rectify this situation.

The PRESIDENT: Order! I am having difficulty hearing the honourable member due to the level of chatter, and this is a very important matter.

The Hon. BERYL EVANS: In order to facilitate the drafting of such important legislation the committee would welcome a reference from the House to inquire into and report on the measures to be included in a New South Wales Parliamentary Privilege Act. I conclude by quoting a remark made by His Honour Mr Justice Abadee in the New South Wales Supreme Court hearing of *ICAC* v. *Cornwall* in which he quoted from Lord Bridge in the Morgan-Grampian case, and said:

> The journalist cannot be left to be as judge in his or her own cause, to decide whether, when or under what circumstances to make disclosure. This would be an abdication of the role of Parliament and the courts and in practice would be tantamount to conferring an absolute privilege.

RETAIL TENANCIES REVIEW BILL

Suspension of Standing and Sessional Orders

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [10.44]: I move:

> That so much of the Standing and Sessional Orders be suspended as would preclude a motion being moved forthwith that the Order of the Day relating to the Retail Tenancies Review Bill be called on forthwith.

Question put.

The House divided.

Ayes, 20

Dr Burgmann	Mrs Nile
Ms Burnswoods	Revd F. J. Nile
Mr Dyer	Mr Obeid
Mr Egan	Mr O'Grady
Mr Enderbury	Mr Shaw
Mrs Isaksen	Mrs Symonds
Mr Johnson	Mr Vaughan

Mr Jones	
Mr Kaldis	*Tellers*,
Miss Kirkby	Mrs Arena
Mrs Kite	Mr Macdonald

Noes, 17

Mrs Chadwick	Dr Pezzutti
Mr Coleman	Mr Pickering
Mrs Evans	Mr Samios
Mrs Forsythe	Mrs Sham-Ho
Miss Gardiner	Mr Rowland Smith
Mr Hannaford	Mr Webster
Mr Jobling	*Tellers*,
Mr Moppett	Dr Goldsmith
Mr Mutch	Mr Ryan

Pairs

Mr Manson	Mr Bull
Mrs Walker	Mr Gay

Question so resolved in the affirmative.

Motion for suspension of standing and sessional orders agreed to.

Motion by the Hon. B. H. Vaughan agreed to:

That the General Business Order of the Day No. 16 relating to the Retail Tenancies Review Bill be called on forthwith.

Second Reading

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [10.52]: I move:

That this bill be now read a second time.

The Retail Tenancies Review Bill represents one of the most, if not the most, important reform for businesses operating in New South Wales, particularly small businesses, that has been introduced in many a good year. The Retail Tenancies Review Bill seeks to establish in clear legislation the fundamental rights and obligations of lessors and lessees who enter into commercial tenancy agreements for the purpose of the lessee carrying on a business - the supplying of goods or services to the public. The bill identifies that with regard to commercial tenancy agreements the concept that there exists a level playing field between lessor and lessee is an unsubstantiated myth.

The absence of legislation which sets out the fundamental rights and obligations of lessors and lessees has resulted in the unconscionable social and

economic exploitation of many lessees by some lessors. The bill seeks to prevent, once and for all, the wanton exploitation practices of some lessors. Invariably it seems to be lessors of large shopping centre complexes who are mostly at fault. A significant number of those lessors are members of the Builders, Owners and Managers Association of New South Wales, BOMA.

The reforms proposed by the Retail Tenancies Review Bill can be equated with the reforms ushered

in by the 1987 Residential Tenancies Act, for which the Labor Party was responsible and is proud. That Act is clearly a residential lessee protective measure; this bill is clearly a commercial lessee protective measure. Those who are opposed to it - the principal opponent is BOMA - are those who are financially gaining from the practices of leasing which presently exist. I emphasise from the outset that commercial lessors who are fair and just in their dealings with their lessees have nothing to fear from this legislation.

The protection for commercial lessees will come from the Contracts Review Act 1980. The Retail Tenancies Review Bill brings commercial tenancy agreements under the purview of that Act, thereby providing commercial lessees access to remedies available under that Act when commercial lessees encounter commercial tenancy agreements which are unjust, unfair and unconscionable. Under that Act remedies are sought from the Supreme Court of New South Wales.

But we in the Labor Party are conscious of the fact that access to the Supreme Court is expensive, and becomes more expensive year by year. The bill will allow the Commercial Tribunal of New South Wales to deal with matters brought under the Act in relation to commercial tenancy agreements. This will mean that struggling commercial lessees will have a more affordable and faster way of resolving their problems. Again, it must be stressed that this bill will impact only on those lessors who have been treating their lessees unfairly, unjustly and unconscionably.

Reliance on the Contracts Review Act 1980, apart from providing the mechanism where unfair, unjust and unconscionable contracts are effectively dealt with, fulfils the initial purpose of the Act. When the Act was introduced as a bill, it covered commercial contracts - of which commercial tenancy agreements form a category - but, as a result of political expediency, commercial contracts were omitted from the Contracts Review Act. This omission resulted in the Act being somewhat unbalanced, as described by Mr Justice Rogers, as he then was, in *Australian Bank Limited* v. *Stokes*, 1985, 3 New South Wales Law Reports, at page 174. Mr Justice Rogers stated:

> It seems illogical in the extreme that Parliament should have excluded, from the purview of the Act, relief to a two dollar company which is carried on by the corner grocer and to the grocer carrying on business in his own name, yet if that grocer carries on business in the name of the two dollar company and then gives a guarantee in respect of the business of the company, on the face of it he is not carrying on business for the purposes of section 6(2) and the Act operates in relation to a guarantee . . . I cannot identify the clear strand of reasoning which would allow me to give the provision the purposive interpretation that I am called upon to give it.

In passing, I note that Mr Rogers was recently appointed to the board of Westfield Holdings. The Retail Tenancies Review Bill further seeks to bring New South Wales in line with the other mainland States. To put that another way, New South Wales is the only mainland State that does not offer legislative protection to commercial lessees. This failure to do so puts New South Wales business on a definite disadvantage when it competes against its interstate rivals. Commercial lessees in the other States have certainty in their dealings with their lessors. This must inevitably be translated into lower prices. There is no certainty in New South Wales. Lessors seek to gain more and more from lessees, so prices of New South Wales services and goods must rise, and do rise. It is simply economic and good management sense that calls for this bill. The Institute of Chartered Accountants stated in a letter to me:

> The bill's intended objective represents much needed support to retail traders in the small business environment. Such support is vital, not only in the present business climate but also through any future climate in which small business operates.

That is so right. In respect of New South Wales being the only mainland State without protection for commercial lessees, it can be said that the protection proposed in the current bill is even a decade too late. The first government to introduce such legislative protection was the National Party Government of Joh Bjelke-Petersen in Queensland in 1984. That Government sought to protect business operators in that State. The most vocal critic of the bill in Queensland was the Building Owners and Managers

Association. Before dealing with the specifics of the bill I shall give the history of the issue, because we must learn from history to avoid the sins of the past. In 1987 that very able Minister and friend of mine, the then Minister for Consumer Affairs, the Hon. Deirdre Grusovin, sought to introduce such legislation in New South Wales but the defeat of the Unsworth Government brought her attempts to a premature end.

The incoming Minister for Business and Consumer Affairs, for whom I have tremendous regard, the Hon. Gerry Peacocke, sought to legislate by way of a mandatory code attached to the Fair Trading Act. As with his predecessor, the biggest barrier in providing relief to commercial lessees was BOMA. It is important at this stage to assess who and what BOMA stands for. BOMA represents some large shopping centre owners. At the same time it proclaims that it is the voice of the property industry. I have been told, and I have no reason to doubt, that this is a myth: BOMA represents less than 25 per cent of commercial lessors in this State. This is a significant percentage. We are often told by conservative forces that the Australian Labor Party and the trade union movement in particular are not representative of the working people of this country because only between 30 per cent and 40 per cent of workers belong to trade unions. If the same logic is

applied with regard to BOMA, it becomes apparent that BOMA is less representative than the trade union movement.

The Hon. Gerry Peacocke's draft mandatory code was assessed by BOMA, which offered some cosmetic amendments. However, immediately after the May 1991 State election BOMA wrote to the then Premier, Mr Greiner, repudiating the mandatory code. BOMA has exercised influence over governments of all persuasion throughout the years and an unenforceable and unintelligible voluntary code of practice - which only one lessor, Woolworths, fully adheres to - was brought about. BOMA procrastinated and destroyed the Peacocke mandatory code, but there is nothing new about that. A letter from the Western Australian President of the Retail Traders Association appeared in a publication of the New South Wales branch of the association in September 1991. It stated:

> This association experienced the same obstructive procrastination with BOMA when seeking the introduction of the Commercial Tenancy Act here in Western Australia back in 1985 . . . It has taken the Commercial Tenancy Act here in Western Australia for BOMA to be made accountable for its actions . . . Retailers in New South Wales are foolish to think that they will achieve anything by adopting a conciliatory approach . . . How long must they take to wake up to the BOMA organisation for what it really is?

The same sentiments were expressed in 1983 by the Queensland Minister for Small Business, Mr Mike Ahern, when he introduced the Retail Shop Leases Act in the Queensland Legislative Assembly. He said:

> Detailed negotiations with BOMA again proved fruitless, and the Government was left with little option but to consider the introduction of legislation to re-establish the balance between landlord and tenant.

That is what we are trying to do today. Between July 1991 and December 1991 the Retail Traders Association approached my office asking for assistance.

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! There is far too much audible conversation in the Chamber, which must be making it very difficult for Hansard.

The Hon. B. H. VAUGHAN: Any press statements of mine involving BOMA and the Retail Traders Association seemed to take on a very different slant to say the least by the time they were published in newspapers. It has been a common line from BOMA that no complaints have been received by it. But this is just untrue. I have numerous case studies and correspondence outlining complaints. There may be something Jesuitical about BOMA's approach in this regard. It might not have received any

complaints, but I put it to the House that the reason for that is that tenants are in absolute terror of that organisation. And I say that advisedly. A similar common line is that the voluntary code has established common and fair ground between lessee and lessor. How can this be the case when to the best of our knowledge and belief only one lessor in this State abides by the voluntary code?

What is proved beyond reasonable doubt is that BOMA's representation of a review into the voluntary code has got nobody anywhere. Since I introduced the bill in May BOMA has strenuously denied the need for such a measure. The organisation's New South Wales executive director has attempted to be most persuasive in suggesting to me that the legislation should be dropped. However, the New South Wales president has indicated his willingness to entertain the notion of legislating minimum rights and obligations for commercial lessees and lessors. Opposition members know from experiences interstate that that means nothing. I have already stated that in my view BOMA has been most obstructive on the issue. Today I ask BOMA to abandon its intransigence and begin to show some effort to co-operate with the Retail Traders Association, which, by analogy, is a body somewhat similar to the Australian Council of Trade Unions. It has been and is very representative of hundreds and hundreds of persons carrying on retail businesses in this State.

It would be beneficial for me to mention the key issues of a proposed BOMA bill, which was sent to me only this week. This will highlight the significance and importance of my bill. It will show that BOMA really does not have its heart in legislating for a correction or a re-establishment of the balance between landlord and tenant. BOMA's suggestion, in a very clumsily drawn bill - if I might be so bold - seems to attempt to set up a quasi-judicial body of representatives of BOMA and the RTA to arbitrate all future leases in this State. It would go even further: it would be given the power to enforce the terms and conditions of a particular code, whatever the code might be.

That would be absurd. No court would allow two organisations such as the Retail Traders Association and BOMA to set up, in effect, their own Star Chamber. The entire purport of BOMA's proposed bill is to ensure that things stay just as they are. I remind honourable members that when Mr Ahern introduced the Queensland legislation he said, "Detailed negotiations with BOMA again proved fruitless". The bill seeks to re-establish the proper and correct balance between commercial lessee and commercial lessor. At this stage it seems appropriate to refer to the clauses of the bill and put to rest once and for all various disinformation put out about the bill and what it is claimed it will do.

Clause 3 contains a definition of retail shop that includes all businesses in which goods or services are sold. Critics of the bill say that definition is too wide. In my view the definition is warranted because to limit it would render the bill applicable only to some tenants. All commercial tenants need and are desperate to receive protection. The Queensland Act, for example, contains list after list of businesses to which the legislation applies. Clauses 4 and 5 concern reliance on the Contract Review Act 1980 - and that is pivotal - and the use as a consequence of that section of the Commercial Tribunal of New South Wales. Similarly, clauses 6 and 7 relate to the application of clauses 4 and 5. Accordingly, I will

not canvass them. However, it is important to note that BOMA objects to having the Contracts Review Act referred to. That objection, in my view, cannot be argued.

Clause 8 deals with the granting of options to lessees. This clause is productive in so far as it establishes certainty for both lessee and lessor. The clause allows for this option to be waived only after a barrister or solicitor has advised the potential lessee of the consequences of what the lessee is about to do. It was felt that this requirement was necessary so that the lessee is required to consult expert advice before entering into an agreement which the lessee may later regret. Clause 8 seems to provide BOMA with an opportunity to spread perhaps the most extraordinary piece of misinformation that the bill, through having entrenched in it the right of a tenant to an option, produces a lease in perpetuity. Indeed, that was stated in the insert in the September issue of BOMA's bulletin, which quoted a lease of five and five - a five year lease with a five year option - as a lease in perpetuity.

When I went to law school a lease in perpetuity was for 99 years. No one has suggested that my proposed legislation will give any retailer in this State a 99-year term. Why does a retailer so desperately need an option? A retailer needs that option because without it he has nothing to sell should he wish to dispose of his business. Any purchaser of a business is most unlikely to pay out money if all that is on offer is perhaps one year of an unexpired term of five years. The only way in which a retailer can operate with any kind of security in selling something that he has put his sweat into - and regrettably in so many cases his house - is to have that option behind him. Members might be surprised to discover that it is most unusual for a shopping centre landlord to provide an option.

Clause 9 requires that the lessee must have substantially performed the lessee's side of the bargain before the agreement can be renewed. Clauses 10, 11, 12 and 13 go to the heart of the bill. In those clauses certain things are deemed to be unfair, namely, compelling the lessee to undertake unnecessary refurbishment in consideration of being granted a new term - tantamount to key money - and also requiring a certain level of turnover whereupon if the lessee fails to reach such a turnover the agreement is terminated. That is a form of commercial blackmail. Clauses 14, 15, 16 and 17 deal with orders, injunctions and the judicial overlaps between the Supreme Court and the Commercial Tribunal.

Clause 18, the savings clause, also has proved to be controversial in the eyes of BOMA, which believes that it provides retrospectivity. In due course I will be inviting all honourable members to read clause 18, which specifically states that the bill is not retrospective. That is another piece of disinformation that distressed me considerably. Honourable members will recall that when I introduced the bill on 20th May I did so for the purpose of canvassing opinions on the bill. With the exception of BOMA and some clients of BOMA, all have been very supportive. Indeed, it can be said that this bill has attracted a great deal of interest in the business community. I would think, to say the least, that most members of both Houses of the New South Wales Parliament know something about this bill.

For the benefit of all honourable members I shall list some of those who have written to me. Small shopowners have rung me, for as a rule they have no letterheads and have no time to write letters. Not surprisingly, those who have written to me are the Retail Traders Association of New South Wales, the Pharmacy Guild of Australia - New South Wales branch, the Institute of Chartered Accountants, the Hardware Association of New South Wales, the Food Retailers Association of New South Wales, the Newsagents Association of New South Wales, the Law Society of New South Wales, the Retail Confectionary and Mixed Business Association of New South Wales, the Baking Industry Employers Association, the Restaurant and Catering Association of New South Wales, Lowes, Sussan, Suzanne Grae, Fashion Fair, Jeans West, Just Jeans, Katies, Clearhaze Records, Carlingford Music Centre, Inside Out Leisure Living, Kinney Shoes, Athlete's Foot Australia, Freedom Furniture, Cut Price Deli, OPSM, Backcountry Thredbo, Darrell Lea Chocolate shops, Budget Fashions, Minto Health and Nutrition Centre, Goodyon Pty Limited, Elysium Coffee Lounge and Restaurant, Handbags International, Williams The Shoeman, Mathers Shoes, Jensens Shoes, Gallery, Footlocker, and Randy River Boot Company. The Hon. John Fahey received a letter dated 11th October from Katies, and I have a copy of it. I am talking about businesses like Katies that have a hundred branches. A lot of people are employed in a hundred branches. Katies wrote in its letter:

> The Deputy Leader of the Opposition, in the Legislative Council, The Honourable Brian Vaughan, MLC is to be congratulated for introducing a Private Members Bill, the "Retail Tenancies Review Bill 1993", into the Legislative Council.
>
> Katies have welcomed this initiative in seeking to introduce mandatory regulation of retail tenancy leases. The Bill, which incorporates the provision of the current Retail Tenancies Leases Code of Practice as a mandatory Code, sets out the essential conditions for the negotiation and execution of leases and provides dispute resolution.

I will refer to more of this in the committee stage. The Law Society of New South Wales said in its letter:

Generally speaking the Bill was regarded as being fairly neutral, preserving the fundamental right of contracting parties to make their contract in such terms as they wish with only minimal statutory interference, a philosophy with which the Committee of the Law Society generally agreed.

The Institute of Chartered Accountants, which incidentally was the first body to respond to me, wrote:

The Bill's intended objective represents much needed support to retail traders in the small business environment. Such support is vital, not only in the present business climate but also through any future climate in which small business operates.

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This morning a very distinguished member of the National Party and of this House told me that he was surprised at what a vital and pressing issue this matter is in country New South Wales. All the respondents in favour of the bill have requested that I attach, as a schedule to the bill, a retail tenancy code of practice. Consequently, I foreshadow that in committee I shall move an amendment whereby a retail tenancy code of practice will be incorporated in the bill. It is with a great deal of pleasure that I announce that the code is fundamentally the Gerry Peacocke mandatory code of 1991. I place on record the support I have had from the Hon. Gerry Peacocke in recent weeks.

In light of the support for this bill I have cited, I cannot see how the Government can stand in the way of this momentum for reform. I counsel the Government not to heed the recommendations of the Building Owners and Managers Association but to examine this legislation, which I hope it has done by now, and support it. Recently I offered to the new president of BOMA to chair a meeting between representatives of the Retail Traders Association and BOMA to scrutinise, if need be, the code of practice yet again. I record here the alacrity with which he agreed. The Retail Traders Association stands ready at any time to meet with BOMA to discuss this matter because no other organisation in the country knows the extent to which retailers are going bankrupt day after day.

I was fascinated to learn that those who feel very deeply about this matter are not only the husband-and-wife shop, or the couple-of-people shop, or the small shop in a shopping centre or strip, but the large shops, the big employers of people - establishments such as Sussan, Suzanne Grae, and the chain stores, which have 75 shops in one chain and 110 in another. The Labor Party represents the people who work in those shops. I foreshadow the amendment and I commend the bill.

Debate adjourned on motion by Reverend the Hon. F. J. Nile.

STANDING COMMITTEE ON STATE DEVELOPMENT

Discussion Paper - Regional Business Development in New South Wales: Trends, Policies and Issues

Debate resumed from 14th October.

The Hon. I. M. MACDONALD [11.23]: Madam Deputy-President -

The Hon. R. J. Webster: Do not go over the same old ground.

The Hon. I. M. MACDONALD: I intend to move on to some other issues in the context of this report that are important, particularly to rural-based members of this Chamber. I am sure the Minister will be pleased to learn of the material I unearthed while overseas during the recent non-sitting period of the Parliament which will play a vital role in assisting with the development of regional economies. The Hon. Patricia Forsythe made it quite clear in her contribution that the issues I am dealing with in detail are of

importance to the committee. I am sure the Hon. R. B. Rowland Smith would be supportive of more initiatives to develop regional economies throughout New South Wales.

The Hon. R. J. Webster: I can send you a copy of the speech I made at Bathurst.

The Hon. I. M. MACDONALD: I would be pleased to receive a copy of the Minister's speech that was made in Bathurst and I hope the Minister will forward that to me in the near future.

The Hon. R. J. Webster: It was well reported in the *Western Advocate*.

The Hon. I. M. MACDONALD: I would much prefer to read the actual speech, I trust the Minister will send me a copy. I started my speech on this debate a fortnight ago and had reached the seventh point of my thoughts on the operation of various regional development schemes in the United States. Immediately after that speech I spoke in the debate on the Budget Estimates and related papers, at which time I expanded on similar material. Rather than go over old territory I will continue on from what I was referring to in my speech relating to the Budget Papers. In effect, this will be the third part of my contribution to this report.

In the review of the various schemes in the United States that pertained centrally to the report tabled by the Hon. Patricia Forsythe, the chairperson of the committee, the committee considered other initiatives including bank guarantees. The reluctance of banks to finance risky start-ups, as the Minister would know, particularly with regard to new technology, was a common problem throughout North America. Honourable members will recall that the recent McKinsey report, which dealt with bank finance for start-up ventures, particularly for new technology and export ventures, stated that all 700 firms surveyed and analysed had great difficulty achieving bank finance for export-related development.

The significance of that report is that banks seemed more eager to loan to ventures based in Australia that were exporting only from State to State. The report concluded that the more acceptable risk was for a manufactured product to be exported from Sydney to Brisbane than from Sydney to South-east Asia, where there is great growth and economic dynamism. The report was clear in its reference to the reluctance of the banking industry, and industry in general, to obtain venture capital particularly relating to export development. This type of problem is not unique to Australia as I have indicated. Many of the more direct government programs in the United States are focused towards assisting start-up development because of the perceived nervousness of the nation's banks to engage in the more riskier venture capital - which is similar to some perceptions here.

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The innovative means that committee members were able to assess to avoid some of the pitfalls of reluctant banks to meet community needs for economic development are being addressed in the State of New York. There the Department of Economic Development, in liaison with a number of banks, has provided a program of loan guarantees which have greatly assisted banks to provide capital for start-ups. Such guarantees are not freely given. Rather they require proponent equity, solid agreements concerning objectives to be met, and often the spreading of the risk amongst a number of financial institutions - a co-operative approach to lending which the Government has in effect kick started by its involvement in the program.

This program and these loans in New York are targeted at helping smaller firms generate business activity in the small business sector. It is clear in the United States - and it is also true here - that smaller firms have the largest number of employees and tend to engage additional employees quickly. Their role in the reduction of unemployment levels in this State and overseas is crucial. In the State of New York the Department of Economic Development conducts an innovative program that provides direct grants to firms wishing to upgrade their technology to best practice standards. The rate of assistance is on a dollar-for-dollar basis. It is nothing short of massive government intervention to assist technological

development in that State. The members of the committee, who had not previously seen a program of its size and scope, found it amazing. The Government matches employer contributions, thus ensuring a full-scale technology upgrade. The program was based upon that technology being to world best practice standards. An obvious spin-off of the program is the new technology constantly coming on stream in the State of New York.

Committee members also had the opportunity to review development banks. There are numerous examples of the trend to use specific development banks and finance institutions. For example, the Southern Development Bancorporation was created in 1986 in Arkansas, which has a rural-based economy, through the energetic commitment of Governor Clinton, who, as all honourable members know, has gone on to greater things. Seed funding was provided by the Arkansas Government through a quasi-public agency, the Arkansas Capital Corporation. The Southern Development Bancorporation is oriented towards creating economic opportunities for low-income rural Arkansas, the sort of program that would be useful in the Albury-Holbrook area. I am sure the Hon. R. T. M. Bull would concur. Small business loans are a feature of that bank. Other initiatives of a similar nature, which I would describe in general terms as development banks, include the Michigan Capital Access Program, which features risk pooling as a means of providing riskier venture funding to small industries. Another institution, the Massachusetts Capital Resource Company, links insurance company investment funds to a substantial pool for unsecured loans or investments in business that have failed to attain funding from other sources.

In the period from 1978 to 1987 the Massachusetts Capital Resource Company invested more than $US223 million in 150 different businesses, thus creating 10,000 jobs. Honourable members should contemplate that record when they read the committee's final report on this topic and consider the development bank concept, the role of bank guarantees and the role of the State in both those sorts of programs. That might enable them to target innovative programs at small industry in regional areas to encourage employment. The programs could then be targeted effectively at new technologies or new industries based in regional areas.

On another stream of thinking on regional economic development, the State could become an investor. In a number of States the level of intervention in the market is even more substantial than under many of the schemes I have outlined both in this and previous contributions to this debate. Some programs envisage the State as an active investor in economic development, particularly regional economic development. There are many examples of these types of programs, including the Minnesota Community Investment Fund, which is designed to recapitalise development agencies by creating a secondary market for their loans and providing developmental loans. The CIF has targeted socially motivated investors, including some banks, insurance companies and a church pension fund. The CIF endeavours to encourage more private investment in areas experiencing economic decline.

Another example is the creation of business and industrial development corporations, which are often called BIDCOs. Michigan used a strategic fund, that is, a State fund, to provide an initial capital investment in a number of BIDCOs in the State. Resources raised through initial State investment is used to leverage additional private lending to meet the specific capital needs of small businesses. I am sure it must be music to the ears of the Hon. Dr B. P. V. Pezzutti to hear that the United States and Canada encourage business activity by this type of direct State involvement.

The Hon. Dr B. P. V. Pezzutti: We used to have that in Australia, too.

The Hon. I. M. MACDONALD: The Hon. Dr B. P. V. Pezzutti said, "We used to have that in Australia, too". At a recent Estimates Committee the Minister for Small Business and Minister for Regional Development, Mr Chappell, said that part of the regional development budget - about $8 million to $9 million - is allocated for regional development assistance programs. About $4 million to $5 million will be spent on one industrial development in the city. Undoubtedly the industrial development is an effective and proper State investment, but the fact is that half of the entire budget will go to one area. The honourable member's attempt to slight effective Labor Party interventions over many years by saying that

we used to have these sorts of things in Australia falls far short of reality. The Government's present investment in regional assistance packages is not

enough when 50 per cent of the available funds will be spent on one Sydney project. The Hon. Dr B. P. V. Pezzutti should get his facts right before he comments about regional development.

Technical assistance is another element of government intervention. The provision of small business development centres in many States provides detailed assistance on modern technology, loans for modernisation, product promotion and distribution to small firms that lack the resources or skills to obtain certain relevant business information. An example of that initiative is Michigan's Northern Economic Initiatives Centre, which serves entrepreneurs and small businesses and links private, public and university resources. Committee members also had the opportunity when they visited Victoria, Canada, to look at an effective business centre that is clearly assisting the government to particularly meet the needs of small business and the new forms of business springing up in the United States and Canada that are described as home-based industries. Finally, the committee looked at the critical question of research and development as it applies to improving and developing the industrial re-engineering program of the United States and Canada.

All States in both countries have extensive programs involving substantial tax advantages to promote research and development. The State and Federal tax cuts available are much more extensive than those available in Australia. It is only logical to note that the research and development performance as a percentage of business gross domestic product is much higher than that realised in Australia. Clearly, all economic development strategies in North America are directed towards further increasing research and development, both at an educational and individual company level. For instance, Industry Science and Technology, Canada, a joint federal and province organisation, provides through regional development partnerships - a concept unheard of in this country - a range of grants and contributions for small business research and development in the State of Alberta. It concentrates on tourism, fishing and services and is oriented towards assisting in feasibility, product development, provision of expertise and skills upgrading. It provides funding of up to $200,000, and its grants and contributions are repayable out of the development process only if the project meets its objectives.

I would like to conclude with a summary of what I believe is the role of government in regional development - and, indeed, in economic development. Obviously, this is the hub of the question that the committee will be analysing throughout New South Wales and interstate over the next few months, with a view to making a final report by mid-1994. Clearly, from this survey of schemes available in North America - which is more than matched in the European Community, to which I am sure other members of the committee will refer - governments of all political persuasions, conservative and progressive, are, and continue to be, interventionist in the economy. I can only wonder at the state of glee obvious on the Government benches following the result in the Canadian elections, where a Maggie Thatcher-like phoenix, who had risen from the ashes to take power in a coup earlier this year for the so-called Progressive Conservatives, lost her seat in the recent election along with 153 of her colleagues.

The Hon. Patricia Forsythe: A bit like Unsworth in 1988.

The Hon. I. M. MACDONALD: Even on the most optimistic, conservative appraisal, the Unsworth result does not match the result of the Progressive Conservative Party in Canada. It really is a first for world politics.

The Hon. Patricia Forsythe: No, but it is a taste of what will happen in South Australia, is it not? Tell us about the South Australian elections while you are about it.

The Hon. I. M. MACDONALD: I am not going to predict the results of the South Australian elections, other than to say that the better party probably has an uphill task ahead of it. Though there is a considerable body of opinion in certain circles against government intervention, the reality is that on the

ground there are massive and sustained government measures to stimulate employment and growth. The extent of government pump-priming in developing or maintaining industry in North America is remarkable. In both the United States of America and Canada the most important government role is at a local or state level, where policy initiatives can be more flexible and more readily applied to local needs and demands. It is interesting to note that there are many policy gaps in Federal regional and economic development policies, though the anticipated expansion of the Economic Development Agency and continued Department of Agriculture expenditure may redress this situation. Government has a number of important roles in regional and State development. Professor Michael Porter in "Toward a Shared Economic Vision for Massachusetts" - a copy of which was given to me by the chief economic adviser to the Governor of the State of California - summarised four of those roles as follows:

(i) To improve the quality and availability of the basic inputs that firms draw upon, such as human resources, technological infrastructure, physical infrastructure that applies to many industries and capital.

(ii) Government must create rules, regulations and incentives that encourage innovation and upgrading. Through regulations, tax policies, anti trust enforcement, and many other actions, Government policies influence the climate in which firms compete.

(iii) Government must build on and reinforce the formation of local clusters, both established and emerging. This leverages the investments of Governments and other institutions in building skills, research capabilities, and infrastructure because they feed whole groups of firms and industries.

(iv) Governments should "raise the sights of local firms, their managers, their other employees, and the region citizens . . . and educate the public about the imperatives of international competition, highlight the challenges facing industry, and articulate an economic vision for the future."

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A survey was undertaken for the National Governors Association by a very intelligent person we met, Jay Kayne, and an article entitled, "Investing in America's Economic Future: States and Industrial Incentives" outlines the following conclusions about economic development - and I hope that honourable members opposite will take a minute or two to think about them:

(i) In most instances, states use incentives to overcome economic disincentive such as high labour costs, business taxes, or transportation expenses.

(ii) During times of economic stagnation, state governments are under increasing pressure to "do something".

(iii) While incentives may not have any positive effect on the national economy, they can make a difference to a local or regional economy.

(iv) The number of states with various tax and financial incentives increased dramatically between 1977 and 1988.

Totally contrary to the perceived ideological statements made by Republican lovers:

(v) High-impact projects with thousands of new jobs are the exception.

(vi) States needs to become better negotiators during the site location process. Businesses that receive incentives must be held accountable for the benefits (jobs and investment) on which the incentives are based.

I agree with that totally:

(vii) Increasingly states offer incentives to existing businesses to expand or remain in the state.

(viii) State officials view job training and financing assistance as the most effective incentives; tax exemptions or credits are viewed as the least effective.

(ix) State officials acknowledge the need for better techniques for understanding the fiscal and economic impacts of incentives.

Those conclusions were reached after considerable research into the development of business culture within the States of the United States of America. They go far beyond the sort of consideration being given, unfortunately, at a Federal level and certainly at a State level. If we are not to be the only team on the so-called level playing field, we have to grapple with this program, run against the economic rationalist culture that is affecting everyone in the economic scene, and come back to the reality that in this country we need to develop newer industries. New South Wales has a major role to play in the development of those industries - not only in the metropolises of Sydney, Newcastle and Wollongong, but in the regional areas of the State - areas that the Hon. R. T. M. Bull has spoken about so strongly and effectively over such a long time.

Though people have attacked various government development finance programs, it has been revealed that risk rates in the United States and Canada are much lower. Default rates are 5 per cent lower than the average banking loss rate for risky joint ventures. Privately constructed economic funding for risky joint ventures in the United States is estimated to total about 30 per cent. The Government must come up with some innovative programs and find a way to balance the overall requirement for new investment initiatives in this State, obviously within budgetary constraints, over the next 10 years. It must realise that many of the programs that can be evolved will not entail the investment of millions of dollars and that the seed money can be most effective in creating jobs and new industries.

The Hon. Dr B. P. V. PEZZUTTI [11.51]: After much discussion, hard work and tremendous research by not only the committee's secretariat but also its members, the standing committee's trends, policies and issues paper was tabled recently by the new chairman, the Hon. Patricia Forsythe. It is one of the best researched discussion papers on regional development ever put together in Australia. Recently the focus on regional Australia has become somewhat intense, with the Commonwealth, local government and State Government as well as the committee becoming involved. This intense interest by the committee and other bureaucracies has not been lost on regional centres. To date committee members have visited the regional centres of Taree, Coffs Harbour, Lismore, Nowra, Wagga Wagga, Cobar, Albury, Deniliquin, Dubbo, Muswellbrook, Griffith and Armidale, and on Friday they will attend two major meetings at Forbes and Orange. This vigorous approach is to ensure that they understand what the committee is about and that the centres start to address not just their own pet theories about what can be done, but the totality of available information on which the committee will make its recommendations to the Parliament.

The committee has spoken to the movers and shakers of regional Australia - representatives of local government, business, the public sector, the Department of Planning, manufacturers and retailers - people who are committed to regional development. What do we hope to achieve? It became clear to the committee that the concept of taking industry to the bush is an absolute no-no. If members can convince people to stop describing regional Australia as the bush, we will get a lot further. People thinking of investing in regional Australia by relocating their businesses are turned off by their perception of the bush -

The Hon. I. M. Macdonald: People from the bush like being described as bushies.

The Hon. Dr B. P. V. PEZZUTTI: They do not. City families who think of relocating have a

common perception of the bush as "blowflies, desolation and dust, with no schools, no sporting opportunities, no opportunities for employment for their wives or children, no doctors, and no hospitals". Representatives of regional Australia continually ask that their centres not be described as the bush. The Mayor of Wagga Wagga, a man of vast experience, spoke to committee members at length about this issue. He said: Wagga Wagga is one of the largest inland centres, growing, vigorous and confident of the future. We can offer you a university, first-class sporting facilities, first-class medical facilities,

first-class local government facilities, first-class water, clean air and open space. We have a can-do attitude to development of regional business. We will not be described as bushies, because we are also extremely competent modern managers. We have a modern infrastructure for commercial and financial business. We have first-class communications, a first-class airport, and first-class international quality road and rail systems. We are not in the bush. We are one of the most modern regional centres in the world and we want people to recognise that we are a first-class adequately sized regional centre, which is appropriate for not only small businesses but also big businesses. We are crying out for people to take a serious look at what we are offering in Wagga Wagga.

We spoke at length about the development of a major chemical company moving to Wagga Wagga. That company, which had been looking at the cities of Sydney, Newcastle and Wollongong, found out about the available facilities at Wagga Wagga when an officer at the Department of State Development suggested it look at some regional centres. Officers of the company flew to Wagga Wagga, met the mayor, had a discussion with some local people and returned two weeks later with a definite proposal. The community has been consulted and that operation is up and running. Representatives of the company are astonished that this regional jewel is not being more heavily promoted.

The Hon. R. S. L. Jones: There are other jewels, too

The Hon. Dr B. P. V. PEZZUTTI: There are many others. This discussion paper will help change the awful attitude, if nothing else, that there is nothing west of the Blue Mountains but bush, flies and dust; no telephones or electricity, and people walk around in sandals or go barefoot. Nothing could be further from the truth. The development of regional New South Wales is the future of this State. The sooner this Parliament and this Government stop wasting money pursuing the urban spread of Sydney and the outlying parts of the Illawarra at enormous cost to the taxpayer and start to build up infrastructure for the continuing development of regional Australia - as this Government has done with major infrastructure development for hospitals, schools, the transport system and the provision of proper bureaucratic support - the sooner we will get an enormous return on our investment.

I will have more to say on this issue when this bill is next discussed. I am looking forward to the visit on Friday, with my colleagues the Hon. I. M. Macdonald and the Hon. Jennifer Gardiner, to Forbes and Orange. I was interested in the comments of the Hon. I. M. Macdonald. He referred to seed money, but he was not talking about massive Government input or support for existing industry. He was talking about new seed money for new industry moving into regional Australia. That is one of the strategies which can be adopted. I will be interested to see the results of our community consultations with the people who have been there and done that, to use the old expression, in regional Australia. We will, without any doubt, come up with some wisdom and some ability to confront this issue.

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

QUESTIONS WITHOUT NOTICE

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THE HON. E. P. PICKERING QUESTION WITHOUT NOTICE

The Hon. M. R. EGAN: My question without notice is directed to the Attorney General and Minister for Justice. Why was the Hon. E. P. Pickering summoned by Government leaders shortly before question time today? Is the Government putting pressure on the Hon. E. P. Pickering not to ask his intended question today?

The Hon. J. P. HANNAFORD: Obviously, the Leader of the Opposition is having some sort of flight of fancy again. I know of no meeting involving the Hon. E. P. Pickering. If there was one, the Leader of the Opposition should ask him whether there was supposed to be a question. I do not know what it is.

AUSTRALIAN TOURISM AWARDS

The Hon. J. F. RYAN: Would the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier inform the House how many Australian tourism awards have been won by New South Wales this year? Who were the New South Wales award recipients?

The Hon. VIRGINIA CHADWICK: I thank the Hon. J. F. Ryan for his question. Unlike some members opposite, he clearly takes a particular interest in an industry which is the biggest income generator and the fastest growing employer of young people in this State. Tourism is a critical industry. It is a positive step forward for New South Wales to have participated in the recent national tourism awards. New South Wales scooped the pool in many of the 30 categories of the Australian tourism awards, and had nine major winners. There was a diversity in the types of awards received and the regions which won the awards.

The heritage tourism award was won by New South Wales. I am sure all honourable members would join with me in congratulating Gledswood Homestead, of Camden, for winning that award. The meetings industry award was won by the Sydney Convention and Visitors Bureau. I expect even bigger things from the bureau in the next 12 months because, as was discussed yesterday with respect to the Estimates Committee, the Government has doubled funding to the bureau. The tour operators award was won by AAT Kings Tours; the inbound tourism award was won by ID Tours South Pacific. The media-print tourism award was won by the Blue Mountains
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"Wonderland" magazine. That is a wonderful publication. The judges made a wise choice. The industry education award was won by the Macleay College in Sydney.

The budget accommodation award was won by the North Star Caravan Resort near Tweed Heads. They are respected operators. I had the opportunity to talk with the owners after the awards. They were thrilled because they won the award and because the award would bring prestige to the Tweed area. With the changes in the law with respect to clubs, the Tweed area is fighting hard to maintain the tourist dollar. A lot of pressure is coming from the Gold Coast. The operators thought there would be a positive spin-off because of the prestige the award would bring to the whole North Coast and Tweed area.

The international style accommodation award was won by the Park Hyatt in Sydney. Any honourable member who has had the pleasure of attending a function at the Park Hyatt would agree that that was a sound choice. It is a wonderful hotel. The Commonwealth Minister's award went to the Sydney Olympics 2000 Bid Committee. That was a very popular and good choice. It is also worth noting that New South Wales was also awarded distinctions in the general tourism services category, awarded to Sydney in Style, and in the resorts category, awarded to Lilianfels in the Blue Mountains.

HOMOSEXUAL VILIFICATION LEGISLATION

Reverend the Hon. F. J. NILE: I ask the Attorney General and Minister for Justice a question without notice. Has the Government referred the controversial homosexual vilification legislation to the New South Wales Law Reform Commission? If so, when did the Government refer it? When has the Government asked the commission to conduct its public inquiry? When is the commission to release its report and recommendations? What is the deadline? What were the terms of reference? Was the New South Wales Law Reform Commission asked to fully investigate the impact the homosexual vilification legislation will have on free speech, especially, during the teaching at Christian schools and Christian churches, because of its heavy penalties for speaking critically about homosexuals and their unnatural acts?

The Hon. J. P. HANNAFORD: As I have indicated to the House on a number of occasions, the Law Reform Commission has a reference before it to review the operations of anti-discrimination legislation. That reference was given to the Law Reform Commission last year. I do not have the details of the terms of reference with me, but I will be happy to make them available to Reverend the Hon. F. J. Nile. The honourable member may be aware that in, I think, April of this year the Law Reform Commission issued a discussion paper on the issues that need to be addressed with respect to anti-discrimination laws and the operation of anti-discrimination boards. One of the issues identified was vilification in relation to HIV-AIDS and homosexuals. It also identified the question of vilification on a generic basis; that is, covering all of those groups that are covered by the Anti-Discrimination Act. That discussion paper is out for comment at the present time. I expect that the Law Reform Commission will be addressing the generic issue.

The Hon. J. R. Johnson: Will it be readily available?

The Hon. J. P. HANNAFORD: Yes, the report is readily available. If any member wants a report I will be happy to have them contact my office and I will get a copy to them. It is a public document. The Law Reform Commission has already received many submissions in this regard. I understand that a number of church groups have already made their submissions to the Law Reform Commission on this issue. I believe a number of them have supported the concept of a need for generic vilification legislation. I have discussed with the chairman of the Anti-Discrimination Board the development of generic vilification legislation.

One of the problems that has been identified in the development of generic vilification, based upon models of racial vilification within the Anti-Discrimination Act at the moment and the models I have put out in the vilification discussion paper and draft legislation, is that if those models were applied generically to vilification across the heads of consideration in the Anti-Discrimination Act, the Anti-Discrimination Board could eventually become a censorship board, particularly in the area of sexual discrimination and the concept of sexual vilification. I am of the view shared, I believe, by many people in the community, that some violence against women is clearly induced by vilification and that there is need for significant education programs to be pursued on the issue of sexual vilification as an inducement to violence against women and other members of the community. Significant work has to be done on the matter. This Government is prepared to lead the way in addressing hate-induced violence against all sections of the community. The Government wants to pursue this issue.

[*Interruption*]

The Hon. P. F. O'Grady has interjected to suggest that Government backbenchers would oppose me on the issue. When the issue of homosexual vilification came forward in the Government party room, members overwhelmingly supported the addressing of generic vilification that induces violence within the community. They took the view that it would be more desirable to develop legislation that addresses the issue of hate-induced violence generally than to pursue sectional change. Pursuing HIV-AIDS vilification, which is an issue that covers the whole of the community, is pursuing a community based problem rather than a sectional problem. The question raised by Reverend the Hon. F. J. Nile is important. The Government and I are committed to pursuing general legislation to overcome the

problem of hate-induced violence in the community.

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The Hon. Franca Arena: When do you expect that, Minister?

The Hon. J. P. HANNAFORD: I am hopeful that the report will be available early next year or in the middle of next year. The Law Reform Commission has a program publicly available in relation to these matters. However, the honourable member has asked for specific detail and I will seek to make that information available to him.

TOURISM PROMOTION

The Hon. B. H. VAUGHAN: I remind the Minister for Tourism that last evening in answer to my questions she stated that tourism marketing has not been as vigorous and dynamic as the industry and the Minister would prefer. Does the Minister stand by that statement? Is the statement a condemnation of her immediate predecessors and their unwillingness to take the tourism industry as seriously as does the present Minister?

The Hon. VIRGINIA CHADWICK: I can only echo the comments of my colleagues: "Good try, Mr Vaughan". All the fears and worries of the Deputy Leader of the Opposition will be allayed in approximately one hour when I will have the pleasure of launching the biggest advertising campaign for tourism that New South Wales has ever seen. At a quarter past one I will be launching a $5 million campaign that will start on Sunday night in all major cities of Australia. It will be followed by a regional blitz that will start on 7th November. We will have regional launches right across New South Wales. The campaign will run concurrently with the biggest print and radio campaign that tourism has ever seen. The campaign is linked with industry, which will provide tagged advertisements for print, radio and television advertising. I am very excited by this. I can only say to the honourable member who represents himself as the shadow minister for education: eat your heart out.

TOURISM PROMOTION

The Hon. B. H. VAUGHAN: I have a supplementary question. I ask the Minister: Where is this extravaganza taking place today?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for his continued interest and curiosity. The launch for staff took place at 7.30 this morning at the international terminal. The media launch will take place at quarter past one at the same venue and the tourism industry launch will be at the same venue this evening.

BUILDING SERVICES CORPORATION REFORMATION

The Hon. J. H. JOBLING: My question is addressed to the Minister for Planning and Minister for Housing. Has the Government made any decisions on reforming the Building Services Corporation following consideration of the report made by Dr Peter Dodd? The Minister will be aware of my interest and concern in this matter. Will the Minister inform the House what progress has been made and what direction the changes are likely to take?

The Hon. R. J. WEBSTER: The commission of inquiry undertaken by Peter Dodd into the Building Services Corporation and the regulation of the residential building industry in New South Wales has potentially far-reaching effects on the way in which industry will be regulated and the way in which future

consumers will be protected from shoddy building work. As I informed the House on 14th September in reply to a question without notice from the Hon. Elisabeth Kirkby and in reply to a further question without notice from the Hon. A. B. Manson on 16th September, the Government has responded cautiously to the recommendations of Commissioner Dodd. It is apparent that what Dodd has said about the problems in the system, and in the BSC in particular, are not in dispute. Licensing has not been a guarantee of quality. The BSC attempts to serve too many interests. The needs of consumers for effective, timely and objective advice have not been met.

The Dodd report provides a thoughtful and challenging analysis of the problems to be solved. The challenge has been taken up. The Government is determined to do whatever is necessary to create an environment in which the consumer's interests are properly protected and the industry can function efficiently and effectively. At this time the Government has not made any final decisions on the future of the BSC or about other recommendations made by Commissioner Dodd. There has been a fairly intense period of research and consultation under way during the past three months and before the end of this year I expect to be able to say something about the overall reform plan for the BSC. I say that for the information of the Hon. Elisabeth Kirkby. However, on the issue of licensing reform, it is appropriate to make a response now, before any announcement the Government might make on the overall package of reforms.

Dodd's recommendation that licensing in the regulation building industry be replaced with a registration system supported by compulsory insurance has generated considerable debate and concern in the community. Though many are prepared to concede that the gold licence concept has not been a success, they are reluctant to see licensing abandoned. Industry is concerned that this would bring about a return to the bad old days before licensing. The public still sees licensing, despite its problems, as providing a measure of protection that would not otherwise exist. I believe that there is only a limited understanding in the community about this issue and the differences between occupational licensing and business registration.

To date the two have been combined and confused in the BSC approach. I am therefore reluctant to support major change of the licensing

structure at this time in the direction that Dodd has proposed. I believe that it is far preferable to stand back a little and, during the next 12 months, carry out a very careful monitoring of the current system, with government, residential building industry and consumer groups participating in the review. Such a review should lead to early reform of some features of the current system, reform that will be beneficial to both industry and the public. It will also enable us to consider in depth how far we can push ahead with more fundamental reform of licensing. Deferment of major changes to licensing will not hold up the pursuit of other BSC reforms.

I am particularly keen to see the insurance of residential building work moved to the private sector. Consumers will get a better deal. It will achieve one of Dodd's major objectives, which is to separate decisions about insurance from actions and decisions in dispute resolution. Several important changes are already taking place in the BSC and I will touch on these briefly. Agreement has almost been completed with the major industry associations on the introduction of a new plain English residential building contract. With the support of the Housing Industry Authority, the Master Builders Association, the Institute of Architects, the Master Builders Association, Newcastle branch, and Standards Australia, the BSC will be launching the new contract and promoting its use among builders and consumers.

As honourable members know, many disputes between owners and builders concern contractual issues. It is estimated that close to half the contracts entered into comprise no more than an owner's signature on a builder's quote. With the support of industry, the BSC will be aiming to increase the proportion of building works covered by formal contracts and, in a short time, to have the plain English contract adopted as an industry standard. The BSC will shortly release a consumer strategy for 1993-94, which is based on extensive input from consumer and specialist groups. This will be a first for the BSC

and it will be a public document against which the future performance of the BSC in educating and assisting consumers can be judged. The strategy has identified five key outcomes which are aimed to be achieved in consumer education and advice.

Consumers will be aware of the range of services offered to them by the BSC. Consumers will be able to deal effectively with building contractors. Consumers will have access to accurate and timely advice to enable them to make informed judgments. Consumers will exercise due care in their dealings with building contractors and meet their obligations to contractors. Consumer satisfaction with the BSC will be substantially increased. The Government is committed to putting the BSC on a sound footing. The services it offers and the way in which these are delivered will need to be substantially upgraded in order to meet the Government's and the community's expectations for quality building work, quality service and fair trading in the residential building industry.

COMMISSIONER OF POLICE

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Attorney General and Minister for Justice, representing the Minister for Police and Minister for Emergency Services. Will the Minister confirm that the Minister for Police has said that Mr Lauer, the Commissioner of Police, knew of eight of the allegations made by the Hon. E. P. Pickering in this House before the allegations were released in this Chamber? Will the Minister inform the public when Mr Lauer became aware of these allegations and if he then reported that officer's concerns to the Independent Commission Against Corruption, as that is essential under the Police Regulations (Allegations of Misconduct) Act? If he did not, why did he not?

The Hon. J. P. HANNAFORD: I thank the honourable member for her question. I noted those comments in the press today. I am not personally aware of the extent of Mr Lauer's knowledge in relation to these matters, or of the extent of the knowledge of the Minister for Police in relation to those matters. I will take the detail of the honourable member's question to the Minister and seek a reply to it. As the member properly has indicated, the changed legislation now requires notification to the ICAC and to the Ombudsman where such complaints are known in detail. I shall seek a response also to that part of the question and obtain a reply for the honourable member and the House.

CHILD ABUSE INVESTIGATIONS

The Hon. R. D. DYER: I ask the Minister for Education, Training and Youth Affairs, representing the Minister for Community Services, a question without notice. Has the Minister's attention been drawn to the Ombudsman's criticisms to the effect that child abuse cases have been mishandled so often by the police and the Department of Community Services that a new agency to handle these cases is warranted? What is the Government's response to the deficiencies revealed by the Ombudsman in his report?

The Hon. VIRGINIA CHADWICK: I thank the Hon. R. D. Dyer for his question. I too, like the honourable member and other members, noted the comments of the Ombudsman in the report released yesterday. Therefore I think it is somewhat unreasonable to expect a detailed ministerial, governmental or even departmental response to a report that was released only yesterday. However, I will refer the matter to my colleague for his comments, which I will report to the House.

TAFE EQUIPMENT PROGRAM

The Hon. D. F. MOPPETT: My question without notice is directed to the Minister for Education, Training and Youth Affairs, Minister for

Tourism and Minister Assisting the Premier. I am most concerned about the continued focus of TAFE on vocational skills and employment training. Will the Minister inform the House of the purpose of the New South Wales Government's equipment program for TAFE? How much money has been allocated for equipment under that program?

The Hon. VIRGINIA CHADWICK: The honourable member's question is most important. In addition to providing general access, TAFE is required to work closely with industry to ensure that its courses on offer are appropriately vocationally focused and address employment needs. TAFE must ensure that the environment and equipment available for people to undertake its courses are state of the art and thus will help drive industry further as it restructures and seeks to compete in a difficult global economy. For that reason TAFE has made a concerted effort over recent years to overcome the deplorable condition of equipment that the Government inherited in 1988.

The condition of some colleges and their antiquated near-nineteenth century equipment on which some students had to train was appalling. It was an indictment of the Labor Party, the so-called party of the workers, that at that time young people were training with machinery and equipment unfit to send them forward fully equipped to take their places in the labour market. For that reason the Government has been playing catch up for five years. Though the economic environment has been exceedingly difficult, I am pleased to say that another $10 million has gone into equipment for TAFE this year. Access is an important issue. As a result, funding for those resources has been spread throughout our 11 institutes.

Funding has been allocated as follows: $6.916 million has been distributed across 11 institutes to upgrade computing facilities, including $911,000 in the Hunter, $635,00 in the Illawarra, $268,000 in New England, $364,000 on the North Coast, $950,000 in northern Sydney, $301,000 for the Riverina, $825,000 in fast-growing southwestern Sydney, $887,000 in southern Sydney, $1.4 million for the Institute of Technology, Sydney, $396,000 for the western area of the State, which is of great interest to country members, and $559,000 to western Sydney, an area much neglected under the former Labor Government.

Additionally, $2 million has been allocated to administrative computer systems; $450,000 for educational computing facilities; $400,000 to the Open Training Education Network, OTEN, to enhance facilities for distance education; and $235,000 for the Eora Centre in Sydney, an institute which caters solely for Aboriginal students. That allocation is in addition to the $143 million which has been set aside for capital works and maintenance in TAFE this financial year.

LEGALISATION OF BROTHELS

The Hon. ELAINE NILE: I address my question without notice to the Attorney General, Minister for Justice and Vice President of the Executive Council. Is it a fact that the Federal Minister for Health, Senator Graham Richardson, has said it would be immoral if State Governments did not legalise brothels and that the Federal Government will embarrass the States and force them into legalising prostitution? Is it a fact that brothels, whether legal or not as they exist in Victoria, are still HIV-AIDS infection centres? What is the Government's policy in response to Senator Richardson's immoral proposition to legalise immoral prostitution and take away the State Government's rights to govern and legislate for its own citizens under our democratic Westminster system?

The Hon. J. P. HANNAFORD: I am not aware of the statement made by Senator Richardson but I have placed on the record both as Attorney General and formerly as Minister for Health my concerns about the transmission of HIV-AIDS and sexually transmitted diseases by the prostitution industry. This House must recognise that in New South Wales, as a result of legislation which has been in place for more than a decade, acts of prostitution in themselves are not illegal. That does not question the issue of morality to which the Hon. Elaine Nile refers. The Government is very concerned about the spread of sexually transmitted diseases and HIV-AIDS within the prostitution community.

There is no doubt that the chance of such diseases being transmitted through the prostitutes who work the streets is greatly increased. Research into this topic shows clearly that the chances of disease being spread through legalised brothels are much less, if not almost eliminated, than the chances of disease being spread as a result of street prostitution. The Government is also aware that many street prostitutes are intravenous drug users and therefore by encouraging street prostitution we are encouraging the intravenous use of drugs and therefore the likely transmission of disease. New South Wales is recognised as leading the world in the control of HIV-AIDS. The programs that were commenced in New South Wales, initially by Premier Wran, have been shown to work. I remember being among those who were sceptical of the needle exchange program back in the mid 1980s. The introduction of that program by Neville Wran, against considerable opposition, has been proved to be a success.

I do not quibble with the moral stand taken by the Hon. Elaine Nile in relation to these particular issues. To some degree the moral issue would have the support of other members of this House. The Government, however, regards the issue as that of health and control of the spread of a virulent disease. The legalisation of brothels will remain on the Government's agenda. The matter will be assessed particularly in relation to disease control. The Hon. Elaine Nile and Reverend the Hon. F. J. Nile have shown very strong support for the control of

HIV-AIDS, and they are to be commended for that. I remind them, however, that the community opposed a number of the health changes in this area during the last decade and that many people took the view that some of the changes introduced into New South Wales were totally opposed to the moral stance of the community at that time and could lead to further degrading of moral standards in the State. History has shown that those concerns, which many of us had at the time, were ill founded. The Government will continue to give measured consideration to the issue of brothels and their control in relation to the control of sexually transmitted disease and HIV-AIDS in this State.

LEGALISATION OF BROTHELS

The Hon. ELAINE NILE: I ask a supplementary question. Would the Minister explain to me - and I am getting down to the nitty-gritty in a sense - whether the Government will have someone test all prostitutes after they have had sex with their clients.

[*Interruption*]

This is a serious matter. With regard to the window period, will prostitutes be taken out of brothels having regard to the fact that no manufacturer will guarantee that condoms are 100 per cent safe?

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member will confine herself to asking a question rather than comment on any issue.

The Hon. J. P. HANNAFORD: The honourable member has raised a relevant consideration. The issue is health related, and was one of the issues that I asked to be examined at the time I was Minister for Health. I was moved to my present portfolio before any considered decision had been taken. If we are to deal with the issue successfully, the issue of health must be given priority. There is no definitive answer in that regard. Until I am completely satisfied about the answers to those issues, I cannot take the matter further. The matter will receive considered attention by me before any final decision is made.

BUILDING INDUSTRY TASK FORCE PROSECUTIONS

The Hon. J. W. SHAW: I direct my question to the Attorney General. Is it a fact that a criminal trespass case brought by the Government's building industry task force against a building union official

was dismissed yesterday? Did the magistrate make critical comments about the nature and conduct of the case, and the failure to resolve that case prior to it coming to court? Is it true that the task force insisted on pursuing this misguided criminal case, despite the fact that the builder in charge of the site in question did not want the issue to proceed and that the union suggested other constructive methods to deal with the matter?

The Hon. J. P. HANNAFORD: The building industry task force has pursued a number of investigations and prosecutions. My recollection is that the majority of those prosecutions have been successful and have led to a number of penalties being imposed. The role of the task force was to examine allegations of criminal behaviour in the building industry. Union members and builders have been prosecuted, and a number of matters are before the State Crime Commission for further investigation as a result of investigative measures taken by the task force. Some prosecutions instituted by the task force have failed. One of the realities of prosecuting criminal matters is that some prosecutions result in convictions and some are dismissed because there is insufficient evidence to obtain a conviction.

At this stage the particular matter referred to by the honourable member has not been drawn to my attention. Undoubtedly it will be, and when it is I will take into account the matters he has raised. Union members, subcontractors and builders have approached the building industry task force with information and have sought assistance in relation to industry issues. The unions and the employers now realise that the industry needs to be cleaned up, and that the building industry task force has a significant role to play in working with all parties to help clean up the industry. Honourable members on both sides of the House are also aware of the need to clean up the building industry.

The Hon. Dr Meredith Burgmann: There are lots of shonky employers.

The Hon. J. P. HANNAFORD: Some of the complaints before the Building Services Commission confirm that. The Government is committed to cleaning up the building industry and has embarked upon a number of programs to achieve that objective. It would be desirable if the union movement could provide much greater support and commitment in some areas. I understand the difficulties of the union movement in that regard, because in some instances it is suffering from a siege mentality. I hope that that mentality will be broken down and that the task force will continue to pursue major investigations. I have noted that when prosecutions have been taken as a result of the task force's investigations, unfortunately some witnesses have inexplicably not appeared at the last moment. I do not know why that has occurred. Undoubtedly the building industry task force will continue to examine the reason key witnesses do not turn up to give evidence in particular prosecutions. I will investigate whether that might have occurred in the case referred to by the Hon. J. W. Shaw. However, the honourable member can rest assured that the building industry task force has the support of myself and of everyone in the Government because we know it is doing a good job.

Later,

The Hon. J. P. HANNAFORD: Earlier in question time the Hon. J. W. Shaw asked me about a failed prosecution launched by the building industry task force. I have received advice that on 23rd

February, 1993, Joseph Davis, a full-time organiser with the Building Workers Industrial Union, was charged by Redfern police with trespassing after failing to leave a building site at 34 Young Street, Redfern. The prosecution was commenced upon the request of the builder, Katie Stuartt. At the time of the arrest of Mr Davis, Ms Stuartt is alleged to have threatened the police that if they did not arrest Davis, she would sue them. The building industry task force took over the prosecution and prepared a full brief of evidence, including a comprehensive statement from Katie Stuartt. The matter was listed for hearing at the Downing Centre Local Court yesterday, and Mr David Thompson, Q.C., was to prosecute the matter on behalf of the BITF.

The complainant, Katie Stuartt, failed to appear in response to a subpoena that had been issued, and the matter was therefore dismissed by the magistrate. Detective Sergeant Ryan, the BITF investigator in charge of the matter, has been in constant contact with Ms Stuartt, even as late as the day before the hearing, to confirm the requirement for her to attend at court yesterday. At all times Ms Stuartt indicated her eagerness to give evidence against Davis. When Ms Stuartt failed to attend, Sergeant Ryan attempted to telephone her on a number of occasions without response; her office phone was in facsimile mode. Other officers attended her office at Redfern at 11 o'clock yesterday. Ms Stuartt was present and told them that she had been confused about the date she was required, that she thought it was today. Interestingly, she had been spoken to the day before.

As a consequence of that key witness not being present, the charge was dismissed. The honourable member might well ask Ms Stuartt why she did not attend. I understand she is a member of the Redfern branch of the Labor Party, and one might ask, if the key witness was an alleged member of the Redfern branch of the Labor Party, why she did not appear to give evidence in a prosecution against an organiser of the BWIU when she was the person who raised the first complaint. I will be taking the matter further as to why the subpoena was not answered before the court.

CASTLECRAG INFANTS SCHOOL SALE

The Hon. R. S. L. JONES: I ask the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier is it a fact that her department is negotiating to sell Castlecrag Infants School to Glenaeon Rudolf Steiner School? Will not the sale of this school break a promise made in this House in May 1990? Would the Minister care to explain to the House how she can justify breaking that promise?

The Hon. VIRGINIA CHADWICK: It is true that the department is negotiating with the Rudolf Steiner School for the acquisition of the old Castlecrag Infants School. The long and convoluted history of the disposal of that school is of Blue Hills proportions. Given the close association of the Hon. R. S. L. Jones with the people who have been squatting on departmental property since 1989, he knows that convoluted history almost as well as I do. The Save Castlecrag group occupied government property at the end of 1989. In no way am I suggesting that that group does not have a regard for the property, but I point out that it is the department's property, not the property of that group. Any number of attempts have been made to do any number of things. One was to try to ensure that the site was retained for educational purposes, which was certainly the assurance I gave.

Over a period of time I looked at alternative solutions to a difficult and frustrating problem. Some of the solutions that I examined - together with the Save Castlecrag group, the local council and local residents - involved various proposals. For example, it would be fair to say that at one stage a significant proportion of the local community wanted the site developed for aged housing, which is a pressing need in the area. That proposal was rejected. Another proposal involved entering into an arrangement with the council so that the site could be acquired by council and used for community purposes. Although that proposal came to nought, it involved countless meetings and negotiations over an extended period of time.

Although the matter is not yet completely finalised, I am absolutely delighted at the prospect that the longstanding issue of Castlecrag Infants School will soon be resolved; that at this stage it seems that the Government's assurance that the site will be used for educational purposes can be fulfilled; that the educational needs of the Rudolf Steiner group, which has been looking for an education facility in that part of Sydney, and my desires have been finalised; and, finally, that the Department of School Education may be regarded as the owner and disposer of its own property.

CORRECTIONAL CENTRE VISITOR FACILITIES

The Hon. Dr MARLENE GOLDSMITH: My question without notice is directed to the Attorney General, Minister for Justice and Vice President of the Executive Council. Recently there has been criticism of the facilities available to visitors at New South Wales correctional centres. Has the Minister inspected visitor facilities in the State's correctional centres? If so, will he tell the House whether the criticism is justified and, if it is, what the department is doing to rectify the problem?

The Hon. J. P. HANNAFORD: I am aware of recent criticism of visitor facilities at New South Wales correctional centres. In the past 12 weeks I have visited each of the 27 correctional facilities in New South Wales, with the exception of two, as well as all 13 of the juvenile justice facilities. I am aware that Tony Vinson has been reported as saying that New South Wales visitor facilities are some of the worst in the western world. I have little doubt that when Tony Vinson was head of the New South Wales Department of Corrective Services, that was the

position. Honourable members are aware that little was being done to improve the condition of visitor facilities during that period of the administration.

The Hon. Franca Arena: He was a very good man.

The Hon. J. P. HANNAFORD: Tony Vinson had a considerable degree of dedication to reform of the prison system. That dedication was not mirrored by members of the Government at that time. Honourable members will recall that Tony Vinson was forced out of his administration. When Commissioner Smethurst took over as the administrative head of the Department of Corrective Services, he formed the view, which was reflected in Tony Vinson's comments, that visitor facilities in New South Wales gaols were appalling. Since Commissioner Smethurst has taken over the administration, a significant amount of money has been put into improving facilities for prison visitors.

One of the policy approaches being taken by the Government, which I have enunciated in this House, is to ensure that we maximise the opportunity for prisoners when they leave prison to come back into the community with an improved opportunity to live a normal, lawful life within the community. A large number of prisoners are married with families and the period of imprisonment is likely to lead to marital break-ups. If that were to occur, the chances of those people settling back into the community would be reduced. The Government has taken the view that visitor facilities have to be improved. We have to make them more humane, and provide the opportunity for children and wives - or, in relation to Mulawa, the spouses - to come together and use those opportunities for maintaining the relationship.

At the same time the Government has to ensure that security is observed. For instance, last Sunday when I was at Mulawa I was informed that, during my visit, drugs had been exchanged between a visitor and an inmate. That is an indication of the need for vigilance during contact visits, and security has to be observed during those periods. That may mean that visitors will be put under some strain during the course of a visit, but the Government is adamant that it will continue to improve visitor facilities and ensure that there is humane contact between families, particularly families with children. Children whose parents are held in institutions must realise that periods spent by inmates in correctional centres are periods of incarceration. They must know what that means so that they are able to live with their parents when their parents are released from prison.

We need to understand the impact of incarceration on the family as a whole, and on the homekeeper during the period of such incarceration. That is why, in the past two years the Junee, Parramatta, Goulburn X wing, John Morony, Parklea, Kirconnell, Bathurst and Mulawa facilities, and the reception industrial centre at Maitland have been improved. This year upgrading work will be carried out at Bathurst and at the reception and industrial wings at Long Bay, as well as at Glen Innes, and other works will continue to be pursued. The Government believes that if the opportunities for inmates to return to the community and lead a lawful life after release from prison are to be maximised, they must be treated as individuals and members of the community. Imprisonment is a punishment. Incarceration is the

punishment, but there should not be additional punishment during the period of incarceration.

ARABIC FAMILY CARNIVAL POLICE PRESENCE

The Hon. Dr MEREDITH BURGMANN: My question without notice is to the Attorney General and Minister for Justice, representing the Minister for Police. Is it a fact that the availability of police dogs was ascertained prior to the holding of the Arabic family carnival at Gough Whitlam Park on 17th October? Is it also a fact that a regulation was issued during the time when the Hon. E. P. Pickering was police Minister that police horses were never to be used for crowd control? Has that regulation been rescinded, or was the reported use of police horses for crowd control at Gough Whitlam Park unlawful?

The Hon. J. P. HANNAFORD: I do not have the detail of the matters the honourable member has raised - and they are matters of detail. I will refer the question to the Minister for Police and obtain a response for the honourable member.

HIGHER SCHOOL CERTIFICATE HUMANITIES COURSES

The Hon. PATRICIA FORSYTHE: I direct my question without notice to the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier. Will the Minister inform the House about the accuracy of claims made on radio this morning by the Leader of the Opposition that students studying the traditional humanities subjects are disadvantaged in the higher school certificate examination? Are those claims correct?

The Hon. VIRGINIA CHADWICK: I listened with some amazement to the inaccurate claims of Mr Carr this morning. I thought his timing was somewhat tacky, given that this morning 61,000 students across New South Wales are sitting for the most classic humanities subject of all - English. Given the tense and anxious time for everyone at the Board of Studies, the parents, the teachers and, most important, the students, I should have thought that a more appropriate time would have been chosen by the Leader of the Opposition to deliver such cheap shots. The comments of the Leader of the Opposition are selective and expose his ignorance of the nature and spread of subjects in the HSC. Or is it that he has chosen - as he so often does - to be selective about the information he chooses to use? While the Leader of the Opposition clearly has a very traditional and in my opinion somewhat unreal and elitist view of the subjects that are worthy of study, the number of

subjects that the Government regards as suitable for the general humanities key learning area, or KLA, has increased significantly.

It is worth noting the number of subjects that were available for study in the so-called golden days to which the Leader of the Opposition would apparently have us return. In those days less than 30 per cent of students went on to sit for the HSC, and they were looking, almost exclusively, to a university education. The subjects on offer in 1967 amounted to 28 and the number of courses totalled 65. This year, 69 subjects are on offer with 127 courses available. It stands to reason that, with more choice, students will exercise that choice. The increasing candidature reflects increased retention rates, hence the changing and diverse nature of the school population in year 12. It would be remiss of us not to have a broader spread of subjects and courses on offer to accommodate those mixed needs, abilities and aspirations. The somewhat myopic view and educational attitude of the Leader of the Opposition, if adopted, would not provide a good service for the students of New South Wales.

The number of English subjects on offer has increased to 30, with total course entries increasing from 6,000 in 1991 to 8,000 in 1993. Mr Carr's statement about the number of students studying humanities is incorrect. In 1988, 80,963 students sat for humanities subjects and this year 90,241 students will sit for humanities subjects. Of the total candidature of 61,000 the number and spread of

subjects that they are taking in the humanities KLA has increased. The Leader of the Opposition should bring himself into 1993, in educational terms. Students now have a choice about pursuing such studies as legal studies - the candidature for which has grown enormously in popularity - and business studies. What humanities subjects would Mr Carr have our students choose? Does he suggest that everyone should be studying Chaucer and John Donne.

Research by the Board of Studies in 1992 showed that the top TER students in 1992 also topped their humanities subjects. Mr Carr would be well advised to obtain such information about HSC results. The top TER students in 1992, so far as the HSC is concerned, also topped modern history, economics and languages. I refute what Mr Carr has said. He knows as well as I that the TER matter is for the universities to determine. However, after strenuous efforts over several years, I have succeeded in ensuring that from 1994 the TER will include a unit from English and technology. We are starting to break down the perceived barriers referred to by the Leader of the Opposition. They are the product of the university and not of the Board of Studies. I am sure that the 61,000 students who sat for the English examination today did not appreciate the swipe at the nature of the HSC by the Leader of the Opposition.

The Hon. J. P. HANNAFORD: If there are any further interesting questions, I suggest that honourable members put them on the notice paper.

THE HON. E. P. PICKERING QUESTION WITHOUT NOTICE

COMMISSIONER OF POLICE ALLEGATIONS

Personal Explanations

The Hon. E. P. Pickering: I seek the leave of the House to make two personal explanations.

Leave granted.

During my absence at the beginning of question time I understand that the Leader of the Opposition asked a question to this effect: "Was the Hon. E. P. Pickering summoned by the Government Leader just before question time? Is the Government putting pressure on the Hon. E. P. Pickering not to ask his intended question today?" I was summoned before question time. I have been present for most of question time, and I did not intend to ask any questions today. The Leader of the Opposition should not judge my friends and colleagues in the same way that his friends and colleagues judge him. I draw the attention of honourable members to an article in today's *Sydney Morning Herald* entitled, "Put up or shut up on Lauer, Griffiths says", in which the following statement appeared:

> Mr Gay confirmed to Parliament that Mr Sherman had said there was no substance to Mr Pickering's in-camera evidence that Mr Lauer was under investigation.

I make it abundantly clear to the House that in my evidence before the Joint Select Committee upon Police Administration, neither in public nor in camera, did I at any time suggest to the committee that Mr Lauer was under investigation by the National Crime Authority. I also indicate that the comments made recently by you, Mr Deputy-President, with regard to this matter are substantially correct.

[*The Deputy-President (The Hon. D. J. Gay) left the chair at 1.6 p.m. The House resumed at 2.30 p.m.*]

STANDING COMMITTEE ON STATE DEVELOPMENT

Discussion Paper - Regional Business Development in New South Wales: Trends, Policies and

Issues

Debate resumed from an earlier hour.

The Hon. Dr B. P. V. PEZZUTTI [2.30]: It gives me great pleasure to continue my contribution to this debate. Prior to the luncheon adjournment I was talking about the ways in which government can assist the development of regional industry in New South Wales. In particular, I said that the Government could save a lot of money by investing in the infrastructure of regional New South Wales to the benefit of all the people of the State. The Committee spoke to a large number of people in rural centres. Those communities are very proud of what they have to offer, their way of life, the environment in which they live and what they have achieved for themselves.
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These centres are well-settled communities that are obviously safe and desirable places in which to live. Griffith was proud that it was a relatively young community, but a community with a lot of spirit.

Manufacturing is an example of the type of industry that is developing, and is continuing to develop, in regional New South Wales. The committee's report makes it clear that the community of New South Wales - and, in fact, of Australia - has to start to take note of some misconceptions. Though there has been a general decline in the number of manufacturing jobs available in Sydney, Melbourne and other large capital cities, the number of such jobs available in regional New South Wales increased from 25,000 to 35,000 over the period 1969-70 to 1987-88. That indicates that regional industry, in terms of employment in manufacturing, has been successful internationally. It also indicates that when firms have decided to relocate to regional centres management has been willing to invest capital to continue development and to continue contribution. The community generally and the workers have also been willing to get behind the industry concerned.

There has been a fairly dramatic decrease in the number of jobs in the industries involved in primary industry, particularly in the next bit of the trial, such as abattoirs and wool processing factories. At the same time there has been a strong development of small business and small industries that have carved out a niche for themselves by supplying not just their local and State markets, but also the national and international market. There are many examples of that. When the committee went to the north the members spoke to Britax Brylite Pty Limited. That is a most remarkably successful industry.

The Hon. J. R. Johnson: Where is it?

The Hon. Dr B. P. V. PEZZUTTI: At Taree. The committee went further north to Coffs Harbour and met with people from Coffs Harbour and Kempsey. I am reminded of the remarkable Australian industry of Akubra hats. That industry could be located anywhere in Australia because it has the ability to turn a feral pest, the rabbit, into a fashion statement. More importantly, the Akubra hat is an identifiable Australian fashion statement. I presume Akubra hats will protect the world from skin cancer and deliver a great deal of satisfaction to many members of the Parliament, not least of all the Hon. J. R. Johnson.

The committee asked those people why they relocated these important national industries to regional centres. The people at Akubra hats said, "Because we want to live here". Britax said that it was because of the sheer hard cash. Britax is a stable industry; it has a stable work force. Britax knows that it is worth going through the process of training and retraining employees because its work force is stable and will be with the company for a long time. It is not just because the people who work for these companies want to live in their town; it is because they can see a tangible benefit for themselves and their families for the future.

As chairman of the committee I had the opportunity to visit regional New South Wales on a number of issues. The committee also investigated coastal development. The same people turned up at both committee hearings. They were equally concerned about regional development and contracting goods

and services to the State government and local government, and about coastal development. When the committee went to regional New South Wales the same people who gave evidence about how the State should advance itself by way of a process of contracting and tendering for goods and services equally pressed their point that in the city and in government departments people should look upon regional industries as their best and most reliable providers of goods and services. They welcomed the idea that local government should get into the business of providing its goods and services through contracting and tendering processes, which are open, above board and accountable, as do industries in the city that are doing the same sort of contracting and tendering with the State Government direct.

There has been a change over time in the development of the manufacturing industry in regional New South Wales. Many industries have ebbed and flowed through regional centres. We do not know yet - although we hope to as a result of our consultations - which industries would best translocate from overseas to Australia, particularly to regional New South Wales. Some industries that are already established in the major State capitals, the Gold Coast or coastal cities could move to centres west of the Great Divide. There are many opportunities there for the grabbing. People living in Sydney, Newcastle, Wollongong and our centres on the coast who examined their position and saw what was on offer at our inland capitals of Tamworth, Wagga Wagga, Orange, Dubbo and -

The Hon. R. J. Webster: Goulburn.

The Hon. Dr B. P. V. PEZZUTTI: Goulburn, of course, and Albury - would see a better future for themselves and their families. I hope from our series of consultations and the resulting report that we will find a way to promote the best opportunities for the people of New South Wales by centring their livelihood and life on major regional centres.

The Hon. R. S. L. Jones: It is promoting most of all, really.

The Hon. Dr B. P. V. PEZZUTTI: Yes, it is the honest promotion of what is available in the major cities and in the subcentres. Life in places like Cobar and Nyngan is better.

The Hon. Ann Symonds: Night life?

The Hon. Dr B. P. V. PEZZUTTI: The Hon. Ann Symonds, who lives in the eastern suburbs of Sydney, has just joined us. She knows that Murwillumbah and Tyalgum are not the towns they were when she was young. They have now become quite cosmopolitan centres.

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The Hon. Ann Symonds: What? Tyalgum, a cosmopolitan centre?

The Hon. Dr B. P. V. PEZZUTTI: Absolutely: close to that booming centre of the Gold Coast, Murwillumbah and Tweed Heads.

The Hon. J. R. Johnson: Where our illustrious President was born.

The Hon. Dr B. P. V. PEZZUTTI: The previous illustrious President was born there too.

The Hon. J. R. Johnson: And his predecessor.

The Hon. Dr B. P. V. PEZZUTTI: And his predecessor, Sir Harry Budd. So three Presidents have come from the same centre where the Hon. Ann Symonds was born. What a terrible shame that those three worthy gentlemen had to find their employment far from their centre of birth and far from where they would have preferred to live. There is no doubt that their social and economic future, lifestyle and quality of life would have been better had the opportunities for employment and education been available in their

birthplace when they were young. The commitment by the Federal Government and the State Government to employment based education and training in country and regional centres is a remarkable turnaround from the 1970s. I refer particularly to universities and the range of educational opportunities, particularly in technical and further education, on the Tweed, where a new centre is being built on a 22-hectare site.

The Hon. Ann Symonds: Where?

The Hon. Dr B. P. V. PEZZUTTI: At Tweed Heads. A centre has been translocated from the development site of two acres to something like 16 hectares or 22 hectares at Hogben Drive. The local roads and better schools are a credit to the local member. The Hon. Don Beck has done a remarkable job. Four new primary schools and four new high schools have been provided within a period five years.

The Hon. J. R. Johnson: Mr Beck is an honourable man but he is not the Hon. Don Beck.

The Hon. Dr B. P. V. PEZZUTTI: He is the honourable member for Murwillumbah, Mr Don Beck. He has been most successful in achieving four new primary schools, four new high schools, a new sewage treatment works of the very highest environmental standards, proper road construction and good town planning.

The Hon. Ann Symonds: Who built the roads?

The Hon. Dr B. P. V. PEZZUTTI: They were built by the State Government of New South Wales. The new Chinderah bypass and the new Boyds Bay Bridge, which will be constructed -

The Hon. Ann Symonds: Laurie Brereton built that.

The Hon. Dr B. P. V. PEZZUTTI: He did not. He took all the money away from the North Coast. I was with Mr Don Beck at the opening of the new extensions of the Tweed Heads District Hospital. That hospital is a good example of the previous Government's awful neglect. I did not want to concentrate on that but, having mentioned it, I might say that the development of the Tweed Heads District Hospital was held up under the previous administration. The local community had raised, and held, half a million dollars for that development at the Twin Towns Services Club. The development did not go ahead until this Government came to office and the honourable member for Murwillumbah impressed upon the Government the urgent need not to rely upon the service across the border but to build our own.

An historic agreement was signed between the New South Wales Minister for Health and the Queensland Minister for Health - both very good men - on health service planning and provision in the far northern sector of New South Wales and the southeastern part of Queensland. This committee's report is about working together in each and every layer of our society - whether it be the private investor, the private company, the public company, the local government organisation, the non-government organisation, the State Government organisation or the Federal Government - not just to promote but to ensure that we spend our money where it is best spent to get the best benefit for all Australia.

The Hon. R. S. L. Jones: Least risk.

The Hon. Dr B. P. V. PEZZUTTI: Least risk, best benefit for Australia. The opportunities for investment and return from what I have seen in our tours through New South Wales are in regional New South Wales. The cost of investment, the certainty of that investment continuing - as is shown clearly by the figures on page 48 of the report - the commitment by both management and staff to a future and the high quality of life in the communities of our regional centres, not just our major regional centres but the subregional centres, are examples of what the Hon. I. M. Macdonald was talking about in relation to Canada and the United States.

The Hon. Jennifer Gardiner and the Hon. R. S. L. Jones are present and can confirm that in their tours through Europe they witnessed the commitment by the European Community to move capital out of major capitals into regional centres. The Europeans realised that the cheapest and best way to get returns on investment was by decentralising industries and population concentrations, thus decentralising the problems of planning for sustainable living conditions of those communities that host such industries. Members of the committee who have travelled have returned with a wealth of information, which will add to the store of knowledge of those Australians whom the committee met in regional centres who have taken the trouble to study overseas.

The committee, under the chairmanship of the Hon. Patricia Forsythe and with the co-operation of all members, is on the threshold of bringing forward
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a report that will reflect the views expressed to the committee. I hope those views will be conveyed from the Parliament to the Executive Government so that wise choices may be made in the targeting of future development in New South Wales in an industrial, economic and social sense. I commend this copy of the trends and policies issues paper circulated by the State development committee, for it is another landmark report to the Parliament. I am sure that when the committee returns to report to Parliament on future strategies the report will be received by a most appreciative audience.

The Hon. JENNIFER GARDINER [2.50]: As a member of the Standing Committee on State Development I have pleasure in contributing to this debate on the committee discussion paper on regional business development in New South Wales, trends, policies and issues. The subject of State development has become tremendously topical. Indeed, the committee's inquiry is particularly exciting for any country member. The inquiry was established just over a year ago to investigate and report upon the application of present business programs designed to encourage and facilitate the establishment and development of business in rural New South Wales and the formation and application of regional development strategies in the encouragement, facilitation and development of business in rural New South Wales. This topic has greater momentum now than since the late 1960s and early 1970s. Before commenting on the discussion paper, I place on record appreciation to the staff and secretariat of the committee: Michael Jerks, director of the committee; Paul Collits, senior project officer; and committee officers, Heather Crichton and Annie Marshall.

Apart from the industry evident in the contents of this document, I thank the staff for their organisational ability during the study tour that the Hon. R. S. L. Jones, Mr Jerks and I took to Europe, to which the Hon. Dr B. P. V. Pezzutti has referred. Mr Jerks was responsible for organising our itinerary, which made the tour extremely worthwhile, and our accommodation and transport arrangements. We particular remember our train trips through Europe. The one from Strasbourg to Brussels was especially notable. The Standing Committee on State Development has widely promulgated this discussion paper throughout regional New South Wales, among business and community leaders in all parts of the State. During the committee's subsequent visits to various regional centres over the last couple of months, the discussion paper has received spontaneous compliments at a considerable number of meeting places. So far we have visited Lismore, Coffs Harbour, Taree, Armidale, Goulburn, Nowra, Orange, Forbes, Dubbo, Cobar, Albury, Deniliquin, Griffith and Wagga Wagga. The Hon. Patricia Forsythe and I also went to Broken Hill. We perceived a great deal of recognition that the report had been well researched.

The DEPUTY-PRESIDENT: Order! The time for debate has expired.

PUBLIC HOSPITALS (CONSCIENTIOUS OBJECTION) BILL (No. 2)

Second Reading

Debate resumed from 14th October.

The Hon. ELAINE NILE [2.57]: On behalf of the Call to Australia group I am pleased to support the

Public Hospitals (Conscientious Objection) Bill 1993. As honourable members know, we have been seeking to move this bill and have its provisions passed since 1991. It is difficult to understand why there should have been such a long delay since 16th April, 1991, when we sought to incorporate these provisions first by amendment to the nurses bill in 1991. We followed that unsuccessful attempt with our two bills, which have now been combined into the current bill. The amendment to the nurses bill 1991 stated:

Participation in termination of pregnancy

5. (1) Nothing in this Act or anything done by or under this Act shall operate so as to require, except in the case of medical emergency, any person to participate in any medical procedure for the termination of any pregnancy, to which procedure that person has a conscientious objection.

From that early unsuccessful attempt members will understand that we were seeking to represent the concerns of dedicated professional nurses and doctors who, because of their Christian belief in the sanctity of life, have a sincerely held conscientious objection to abortion or other anti-life medical procedures. This proposed legislation has been drafted at the request of these doctors and nurses, particularly Catholic doctors and nurses. We acknowledge there are various ethical codes on this issue. But the doctors and nurses who have approached us have stated they are not sufficient and there should be clear legal protection for a doctor or nurse who wishes to obey strongly held conscientious beliefs. It is important that we encourage these dedicated professionals, doctors and nurses to join the medical profession and remain in the profession.

It is also clear that the bill is worded to prevent any frivolous objections - no professional doctor or nurse would say they would withhold urgent medical care. The whole purpose of the bill is to ensure that doctors and nurses uphold the highest standards of the medical profession to protect human life, to save human life, and never to withhold genuine medical or patient care. As I have already mentioned, I moved the Nurses (Conscientious Objection) Amendment Bill on 20th November, 1991, which lapsed. On 20th November, 1991, Reverend the Hon. F. J. Nile moved the Medical Practitioners (Amendment) Bill on conscientious objection for doctors, which also lapsed. After consultation it was agreed to include both doctors and nurses in the one bill and also to restrict its scope to the public hospital system.

It is not possible for us to provide for conscientious objection for staff in private hospitals. Private hospitals will have to adopt their own code, or special legislation will have to be considered at some future date. However, we have not received any complaints from doctors or nurses employed in private

hospitals. The new combined bill, known as the Public Hospitals (Conscientious Objection) Bill, was introduced in this Chamber and extensively debated on 19th November, 1992, but lapsed due to a subsequent prorogation of the Parliament and needed restoration to the list, which occurred on 14th October, 1993.

I am sure that all members of this House respect the principle of respect for conscientious beliefs sincerely held by persons, usually of a strong religious faith, although not exclusively, for non-religious persons of good will could also hold a strong conscientious belief on various matters and issues. Obviously, all members of this House respect the conscientious beliefs held in our society by various individuals, especially in matters relating to family life, parental responsibilities and environmental concerns -

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! There is too much audible conversation in the Chamber.

The Hon. ELAINE NILE: - where various individuals have risked their lives to save trees and have deliberately broken the law because of their conscientious beliefs. We simply want to provide recognition and an orderly procedure for the observance and respect for the conscientious beliefs sincerely and

strongly held by various doctors and nurses. We hear a great deal about the important issue of civil and human rights in Australia and overseas. The Liberal Party and the National Party have strongly supported civil and human rights. The Australian Labor Party has also sought to protect human and civil rights. The ALP fought especially strongly for the right of conscientious objection to conscription in World War I, the Vietnam war and compulsory national service.

The right to freedom of conscience and religious belief and practice is a feature of democratic society. The United Nations International Covenant on Civil and Political Rights, to which Australia is a signatory - and which the ALP Government strongly supports - recognises, inter alia, the fundamental human rights; the right to freedom of thought and conscience, article 18, and the right to have or adopt a religion or belief without coercion. The Federal Labor Party Australian Bill of Rights Bill 1985, which was ultimately withdrawn by the Hawke Federal Labor Government, provided in article 8:

> Freedom of Thought and Conscience. Every person has the right to freedom of thought and conscience, including the right to hold opinions without interference.

Article 9 provided:

> Freedom to Have or Adopt a Religion or Belief. Every person has the right to have or adopt a religion or belief of that person's choice without coercion of any kind, and to manifest that religion or belief in worship, observance, practice and teaching, whether individually or in community with others and whether in public or in private.

Article 19, which is also relevant in part to this debate, concerned slavery and servitude. That provided:

> No person shall be held in slavery or servitude or be required to perform forced or compulsory labour.

I emphasise the latter words " . . . or be required to perform forced or compulsory labour". To force a person to take part in a medical or surgical procedure which offends that person's conscientious or religious beliefs breaches the spirit of everyone's right not to be subjected to slavery or servitude. Conscientious objection has been recognised in legislation enacted by this and other State parliaments, the Federal Parliament and the parliaments of other countries in several important areas.

Firstly, in the area of industrial relations, under section 129B(2) of the Industrial Arbitration Act 1940 a worker was entitled to be exempted from joining a union if he satisfied the Industrial Commission he had a conscientious objection to joining any union. Section 267 of the Commonwealth Industrial Relations Act - formerly section 144A of the Conciliation and Arbitration Act 1904 - allows conscientious objection whether the grounds for that belief are religious or not, but limits the objection to membership of any association registered under the Act. The Full Court of the Federal Court of Australia, dealing with former section 144A in *Re Application of Jacques Aper* reported in (1978) 35 Federal Law Reports at page 388, held that:

> The conscientious belief . . . must be such that it does not allow (a person) to be a member of . . . an . . . employee association . . . not because of the mere existence of a liking or disliking of a union, but only if there is a genuine conscientious belief which prevents him joining an industrial organisation.

Honourable members also will be aware that section 29A of the National Service Act 1951 permitted a person who registered for national service, but who claimed a conscientious belief, to apply for exemption from all duties under the Act or from combatant duties. Records of the existence of conscientious objection to compulsory military service date back to early times of the church. Members of a number of churches including Quakers, Jehovah's Witnesses and Christadelphians, by their refusal to answer the draft, helped to entrench recognition of a right to conscientious objection to military service. Section 174(3) of the Northern Territory Criminal Code provides that:

No person is under a duty, by contract or otherwise, to procure or assist in procuring the miscarriage of a woman or girl or to dispose of or to assist in disposing of an aborted foetus if he has a conscientious objection thereto, but, in any legal proceedings, the burden of proving such a conscientious objection shall rest upon the person claiming to have it . . .

Honourable members may argue that in the medical area these conscientious objection provisions are unique to abortion. This is not the case. Section 46 of the New Zealand Contraception, Sterilisation and Abortion Act 1977 is much wider. It provides:

(1) Notwithstanding anything in any other enactment or any rule of law, or the terms of any oath or contract (whether of employment or otherwise), no registered medical practitioner, registered nurse, or other person shall be under any obligation-

(A) to perform or assist in the performance of an abortion or any operation undertaken or to be undertaken for the purpose of rendering the patient sterile,

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(B) to fit or assist in the fitting, or supply or administer or assist in the supply or administering, of any contraceptive, or to offer or to give any advice relating to contraception-

if he objects to doing so on grounds of conscience.

Honourable members will realise that this New Zealand provision allows conscientious objection to abortion, sterilisation and contraceptive procedures. I submit that the bill under discussion is wider and fairer. It protects a person with a conscientious objection to participating in any treatment procedure. As honourable members know, many members of our community are opposed to that inhumane spin-off of in vitro fertilisation: non-therapeutic experimentation on human embryos. The Government inherited a report of the Law Reform Commission when it took office in 1988, a report which contained a powerful dissent by the Solicitor General, Mr Keith Mason, Q.C., and Ms Eva Learner, in which experimentation on human embryos was opposed. In unregulated New South Wales the type of experimentation banned in other States is carried on with impunity. The Government continues to turn a blind eye to abortion on demand, thus attracting women who cannot get abortions elsewhere, and also attracting shady practices in the area of embryo experimentation in New South Wales.

Health professionals working in the area of IVF currently have no legal protection to refuse to assist in IVF or experimentation on human embryos on the grounds of conscientious objection. They should have this protection. They are currently being forced to compromise. No person should be forced to compromise on conscience. The operative provision in the bill now being debated could not be described as a compromise on conscientious objection. Contrary to the provisions in the Western Australian, South Australian, British and Northern Territory laws, the onus of proof of conscientious objection is satisfied by a statement that he or she has such a conscientious objection. This statement prevails in the absence of evidence to the contrary. This is how it should be. No person should be forced to compromise on conscience.

The Hon. Dr B. P. V. Pezzutti: No one is in New South Wales.

The Hon. ELAINE NILE: We have proved it in previous debates. The recent baby "M" case in Melbourne highlighted the plight of new-born severely handicapped babies. It appears that in various hospitals throughout Australia decisions are being made by parents and doctors not to carry out operations on handicapped babies which would be carried out routinely on so-called normal babies. Health professionals may have conscientious objections to taking part in what can be the acceleration of the death of such handicapped children by sedation and withdrawal of proper nourishment. Apart from

the criminal law considerations highlighted in the British trial of Dr Leonard Arthur in the 1980s, whereby a health professional can refuse to become an accessory to a criminal offence - obviously this would also apply to abortion - the health professional should have a conscientious right to withdraw from such treatment.

The same right should exist for those caring for the aged and infirm, where decisions are made to cease treatment. We want to ensure top health care is maintained and continues to the best ability of doctors and nurses even if the patient is aged or infirm. In our best health professionals the urge to save lives is paramount. It is inhumane to force them to assist in what they would see as procedures which lead to the shortening of life. It may be claimed that, informally, health professionals are able to avoid such procedures. As the case histories referred to in previous debates on the nurses bill and our other bills have shown, and others reported in the media, particularly the *Catholic Weekly*, discrimination is being practised against health care professionals with consciences. It is necessary to provide statutory protection and remedies for those currently being discriminated against. We need people with strong consciences practising throughout the medical and nursing professions. Otherwise we may be left with practitioners who are there just to line their own pockets, who compromise their principles and who treat patients like objects rather than giving them the dignity and respect to which each human being is entitled. I commend the bill.

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [3.13]: The bill currently before the House differs from the Public Hospitals (Conscientious Objection) Bill 1992, which was introduced in the 1992 budget session of Parliament, and from two earlier separate bills, namely, the Medical Practitioners (Conscientious Objection) Bill and the Nurses (Conscientious Objection) Bill. Honourable members will recall that the Public Hospitals (Conscientious Objection) Bill 1992 was debated at some length in the Legislative Council on 26th November, 1992. In the Public Hospitals (Conscientious Objection) Bill 1993 many of the issues raised in previous debate on the Public Hospitals (Conscientious Objection) Bill 1992 have been addressed. In the interim, consultation has taken place with relevant bodies such as the Medical Services Committee.

This bill requires that conscientious objections of doctors and nurses be registered with the chief executive officer of the relevant public hospital. It provides for the registration to take effect immediately if notification of the conscientious objection is given before the medical practitioner or nurse is appointed or enters into a contract for a position or, in other instances, 14 days after the notification. The proposed legislation will make more formal the practice presently adopted in most institutions. The present proposals require that patient care must not suffer because of the religious or moral tenets of staff. Previous concerns about the evidentiary status of the registration of conscientious objections have been addressed by clause 7 of the current bill. Registration will provide presumptive proof that a person does hold a conscientious objection as claimed. This presumption could be rebutted by sufficient evidence to prove on the balance of probabilities that the person does not hold such a conscientious objection.

This provision is more in line with the usual approach to matters of evidence. The provisions will ensure that where there is doubt as to the authenticity of the objection, an adequate mechanism to challenge the objection will exist. Formal recognition of a conscientious objection through registration will allow public health care facilities to take reasonable steps to reorganise work so as to prevent individuals from being placed in situations of ethical or moral dilemma. The bill provides that the proposed Act will not apply to a treatment or service required urgently, or when failure to provide the treatment or service will adversely affect patient care. This provision will ensure that patient care is paramount and will overcome any possible conflict with section 36 of the Medical Practice Act 1992, which relates to the treatment of persons in need of urgent attention.

The practice generally adopted in public hospitals and other public health services is, so far as possible, to respect the conscientious objections of staff to particular treatments on the grounds of an individual staff member's moral or religious principles or beliefs. Departmental policy on employment discrimination and religious conviction is detailed in circulars 83/348 and 86/176. The bill, therefore, represents a legislative acknowledgment of what is already policy and practice within the public hospital system of New South Wales. It has been accepted practice for medical practitioners who hold moral or religious views which may preclude them from participating in or undertaking certain treatments or procedures to make this known to colleagues and employers. Such views are accommodated at an administrative level in the public hospitals system. Similarly, the New South Wales Nurses Registration Board provides a code of conduct for nurses which addresses the need to inform employers of any conscientious objection which is relevant to their professional practice. This is consistent with the code of ethics of the Australian Nursing Council, which includes a statement that:

> Nurses have a moral right to refuse to participate in procedures which would violate their reasoned moral conscience (that is, they are entitled to conscientious objection).

The commencement date of the proposed legislation allows for 60 days after the date of assent, unless commenced earlier by proclamation, so as to allow time for the ramifications of the bill to be explained and administrative procedures to be put in place. The bill before the House is, therefore, consistent with professional codes of practice of both doctors and nurses. It will overcome previous concerns that conscientious objection may be used as an excuse for failure to provide medical or nursing care. Accordingly, the Government supports the bill.

The Hon. JAN BURNSWOODS [3.20]: I strongly oppose the bill and express my regret that the Hon. Virginia Chadwick is supporting it. The position adopted by the Hon. Dr B. P. V. Pezzutti is interesting, because he continually interjected during the previous speaker's contribution to the debate. No one in New South Wales is forced to carry out the procedures mentioned by the Hon. Elaine Nile. If that is so, it is difficult to understand what justification there could possibly be for this bill.

The Hon. Dr B. P. V. Pezzutti: The Minister has already explained that.

The Hon. JAN BURNSWOODS: Unfortunately, I have to say that the Minister's explanation was most unconvincing. I started thinking about what I would say on this bill after reading the speech of Reverend the Hon. F. J. Nile on 14th October, when he successfully sought leave to bring in this bill, the Public Hospitals (Conscientious Objection) Bill 1993 (No. 2). Many members were concerned that day because they knew that Reverend the Hon. F. J. Nile had approached the Leader of the Opposition and others and had assured them that the new bill - the one labelled Public Hospitals (Conscientious Objection) Bill 1993 (No. 2) - was a very different bill from the one he had attempted to introduce last year. Because of those assurances there was little opposition when he sought leave to bring in the new bill. When the bill was ordered to be printed on that morning, it became clear immediately that Reverend the Hon. F. J. Nile had - consciously or unconsciously - misled members of the Labor Party. The bill before us now differs in very few important respects from the bill that was before this House in 1992. The words used by Reverend the Hon. F. J. Nile on 14th October in my view sum up the degree of confusion that is evident. He said:

> The amended bill will be, in a sense, a new bill - the same as the original but with improvements.

I defy any honourable member to explain what that sentence means. It seems to me that the very statement suggests that all he has done is tinker around the edges of a bill that was very unsatisfactory last year. He has misled members of the Opposition, such as the shadow minister for health, by purporting to show him a bill that related quite specifically to abortion. Of course, abortion is what this bill is about. The word "abortion" is never used on the other side of the House, but honourable members know full well that this bill is about abortion. We have had relatively moderate and measured debate about the civil rights of poor people working in hospitals and the procedures that they may have to carry

out against their wishes, but honourable members know that the real reason for this bill is not that great range of proceedings -

The Hon. Dr B. P. V. Pezzutti: The civil rights of workers is a small matter, is it?

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! I ask the Hon. Dr B. P. V. Pezzutti not to interject.

The Hon. JAN BURNSWOODS: This bill is about abortion. I would make one small point in response to the Hon. B. P. V. Pezzutti. If this bill is so concerned with the range of conscientious problems that might be faced by people working in public hospitals, why is it limited to doctors and nurses?
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Why does it not apply to all the technical staff in hospitals? Why does it not apply to the pathologists or the radiographers or the bio-chemists?

Reverend the Hon. F. J. Nile: That will be the next bill.

The Hon. JAN BURNSWOODS: I note the interjection from Reverend the Hon. F. J. Nile and the Hon. Elaine Nile, "That will be next bill". This is a never ending saga designed to waste the time of this House debating what amounts to little more than pious guff. It is an attempt to move towards the real agenda of Call to Australia - abortion. This bill deals with doctors and nurses, and next we will be asked to deal with radiographers, pathologists, technicians, mortuary attendants, and so on. If the bill - the original bill or the amended bill - was genuinely designed to address the issues about which the honourable members speak, it would be a far more comprehensive bill.

I return to the comments of Reverend the Hon. F. J. Nile of 14th October. Once he had finished explaining his confusion about whether this was a new bill, an old bill, or the same bill but with improvements, he went on to say that this bill was the end result of a lengthy process of consultation with medical and legal experts. At no stage have honourable members had any evidence about this process of consultation; at no stage have we heard from the so-called medical and legal experts. We are told they are associated with the Department of Health, the Australian Medical Association and others. That is a terribly revealing response. I suppose I also am associated with the Department of Health in a sense, as everyone is. There has been a lengthy process of consultation with nameless medical and legal experts on a precise subject that is not identified! The bill is a devious bill designed to achieve ends quite different from those that appear on the face of it.

Reverend the Hon. F. J. Nile: What? The condom conspiracy?

The Hon. JAN BURNSWOODS: The remarks about that consultation have exactly the same conviction as the remarks that Reverend the Hon. F. J. Nile and the Hon. Elaine Nile keep making about the many mythical doctors and nurses out there who have views on certain issues and who keep contacting the honourable members and begging them to introduce this legislation. We have heard about these doctors and nurses but we are never told who they are.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask honourable members to please allow the Hon. Jan Burnswoods to make her contribution without interruption.

The Hon. JAN BURNSWOODS: The flimsiness of this whole operation was made so clear by the vague remarks made last year by Reverend the Hon. F. J. Nile, which he repeated today. The Hon. Elaine Nile made similar comments in her speech today. Indeed - and this was a matter of some disappointment to me - the Hon. Virginia Chadwick expressed similar views. Her speech was not delivered with her usual flair and enthusiasm. I have considerable sympathy for her and the position she finds herself in, defending the indefensible. The other interesting aspect about the stage we have

reached with this bill is that the Government is supporting it. It seems that Reverend the Hon. F. J. Nile has approached the Government to seek its support. I suppose he said this was a new bill - though it is very clear that the bill is hardly different at all from the previous bill.

The Government is supporting it basically because it is being blackmailed. Because of the Government's decision about his vilification legislation, Reverend the Hon. F. J. Nile, in his inimitable fashion, told the Government that he would never again support a single piece of Government legislation; that he had been betrayed; that the Government was not doing what it promised. "I will stand over you", he said. We heard about it for weeks. Reverend the Hon. F. J. Nile has threatened the Government, and the weakest Premier in the history of New South Wales, desperate to survive until the end of this parliamentary session, has once again caved in and said, "There is nothing wrong with this bill. We desperately need to get Fred back on side. Ted has upset him. We have upset him. Okay, despite the way you feel, we will support him".

It is obvious how many members on the Government benches really feel, yet they have been forced to support the bill. Even though, of course, in 1992, they did not support a bill that was, in effect, almost identical. I should like to spend some time to demonstrate how similar this bill is to the original bill by comparing the 1992 bill with the one labelled "1993 (No. 2)" So the first difference is in the title. One contains the words "1993 (No. 2)". The additional wording in the explanatory note seems hardly significant. The old bill referred to the provision of medical or nursing services and the new bill refers to the provision of medical or nursing treatment or services. No one would suggest that is much of a change.

Reverend the Hon. F. J. Nile: I have said minor changes.

The Hon. JAN BURNSWOODS: Minor changes is certainly right. I am pleased that the honourable member agrees that the bill contains minor changes. He said he never pretended that this was a new bill. I have read to the House the statement he made on 14th October in which he said the amended bill will, in a sense, be a new bill. It is either a new bill or it is not a new bill. The honourable member appears not to know the difference. I believe he knows that the bills are not different, but the Government needed something to let it off the hook. The explanatory note of the new bill is an expanded version of that for the 1992 bill. The second paragraph in the 1992 bill stated, "This will not apply to treatment or care which is called for in an

emergency situation". That paragraph now reads, "The Act will not apply to a treatment or service which is required urgently or when failure to provide the treatment or service would adversely affect patient care (such as when the need to find another medical practitioner to provide the treatment or service would cause an unreasonable delay)". Those words appear in two or three places in the bill, but I defy honourable members to explain what they mean, how they would be interpreted by a court, and what kind of judgment could be made about them.

Phrases like "adversely affect patient care" are not self-evident. With regard to a range of medical procedures there is considerable debate about what is in the best interests of the patient. The more obvious procedures are the treatment of the terminally ill and the treatment of exceedingly premature or extensively disabled babies. In many instances many concerned people genuinely dispute what would be the best thing to do for the patient. These words in the bill will not solve the kinds of problems that so many honourable members enumerated - including members opposite like the Hon. Dr B. P. V. Pezzutti - when speaking to the 1992 bill.

The Hon. Dr B. P. V. Pezzutti: No, it is a very good bill.

The Hon. JAN BURNSWOODS: In previous debate the honourable member said that this was a bill that would not make any difference to what already happens.

The Hon. Dr B. P. V. Pezzutti: That is why it is a very good bill.

The Hon. JAN BURNSWOODS: So legislation is being introduced which will make no difference! That puts a new complexion on the policy of the Fahey Government: instead of doing things for the betterment of the people of New South Wales, legislation is being introduced that will have no effect. It may well make the record look good but it will not relieve the consciences of honourable members opposite. Clause 2 of the new bill has a variation. Previously the Act would have commenced on assent. Now the Act will commence 60 days after the date of assent, unless commenced sooner by proclamation. The Government is having a bob each way there. The reason for the change is perhaps necessary to overcome what will be a bureaucratic nightmare in setting up the registers that are referred to in clauses 7 to 9. Clause 3 remains the same. Clause 4 is a new clause, which provides that the proposed Act does not apply to a treatment or service required urgently or when failure to provide the treatment or service would adversely affect patient care. As I said when speaking to the first paragraph of the explanatory note, despite the pious hopes expressed by those who think the problems in the earlier bill have been solved, those words are not clear and will not solve the problems that were expressed in a similar debate last year.

Clause 5 is a rewrite of the old clause 4. It contains a change that again seems to make little difference, adding the words, "treatment or". The only other change is the addition of the words "only if he or she has registered a conscientious objection" at the end of the clause. Only one aspect is different from the 1992 bill and that is a cumbersome system set up for the registration of conscientious objections. Clauses 6, 7, 8 and 9 address the way in which those registrations of objections are to be dealt with, the way in which persons may withdraw those objections, and the way in which the chief executive officer of a public hospital must keep a conscientious objections register. As I said, there are changes to clauses 4 to 10, the overwhelming majority of which deal with what is in essence a piece of bureaucracy. The objections expressed by members from both sides of the House last year had little to do with the administrative or bureaucratic way of dealing with the registration of these objections.

As the Hon. Dr B. P. V. Pezzutti pointed out today, and as many honourable members pointed out previously, including the Minister for Education, Training and Youth Affairs, the Department of Health already has a system for registering objections. As the Hon. Dr B. P. V. Pezzutti keeps telling us, we have a workable system at the moment and this bill will make no difference. He repeatedly said that - and I carefully wrote it down - "No one in New South Wales is forced to carry out this, that and the other now. The bill will make no difference". So why introduce the bill? Once again -

The Hon. Dr B. P. V. Pezzutti: On a point of order. Standing Order 85 deals with continued irrelevance or tedious repetition. The Hon. Jan Burnswoods has repeated this point for the third time. It is a simple bill and I ask that you direct her to speak with relevance and with some conviction.

The Hon. Franca Arena: On the point of order. It may be a simple bill to the Hon. Dr B. P. V. Pezzutti, who is simple-minded but -

The Hon. Dr B. P. V. Pezzutti: I ask the honourable member to withdraw that offensive remark.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! No point of order is involved.

The Hon. Dr B. P. V. Pezzutti: On a point of order. She called me simple-minded and I object to that.

The Hon. Franca Arena: I apologise to the honourable member, but the bill certainly is not simple. It is a complex bill and we want to know in detail its finer points. I find there is no point of order.

The DEPUTY-PRESIDENT: Order! I will make that decision.

The Hon. Elisabeth Kirkby: On the point of order. I was in my office listening to the proceedings when the Hon. Elaine Nile introduced the bill. It seemed to me that if it is to be said that the Hon. Jan Burnswoods is being repetitious, a great deal of what the Hon. Elaine Nile said about abortion in her speech
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had been said in this House before. It could be said also that the Hon. Elaine Nile was being repetitious, yet no point of order was taken. If the Hon. Elaine Nile has the right to put her point of view at length on abortion, tubal ligation and other matters, the Hon. Jan Burnswoods has a similar right to put her point of view.

The Hon. Dr B. P. V. Pezzutti: Further to the point of order. Had the Hon. Elisabeth Kirkby been in this Chamber, she could have taken precisely the same point of order. I point out further that the Hon. Jan Burnswoods has been repetitious as well as tedious. I object to the repetition under Standing Order 85.

The Hon. Ann Symonds: On the point of order. Mr Deputy-President, I draw your attention to the fact that although there is some assertion that this appears to be a simple bill, it is very complex indeed.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I have heard enough.

The Hon. Jan Burnswoods: Mr Deputy-President, may I speak to the point of order?

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): No, I do wish to hear you. I do not uphold the point of order. However, I ask the Hon. Jan Burnswoods to bear in mind Standing Order 85. I will be paying particular attention to ensure that no breaches of Standing Order 85 occur.

The Hon. JAN BURNSWOODS: Mr Deputy-President, I will certainly bear your words in mind. Indeed, it would distress me to think that I was boring honourable members or, even worse, that I could possibly underestimate the intelligence of those who are here. It is important that I analyse this bill in some detail. It is fundamentally different from last year's bill. I am sorry if my contribution is tedious and boring or perhaps a trifle insulting to the great minds of people such as the Hon. Dr B. P. V. Pezzutti, but I believe it is important that I inform honourable members that the differences between this bill and the previous bill are remarkably trivial. They certainly do not justify the statement of the members of the Government that they will support the bill. As I was saying when I was interrupted, the major changes in the four or five clauses deal overwhelmingly with administration. This is an important matter. The changes are bureaucratic; they are not fundamental changes. It was never suggested that the bureaucratic aspects of implementing such a bill were a reason for concern. At this stage - to everyone's relief - I will cease comparing one bill with the other; however, I may need to compare them further at a later stage.

The Hon. Virginia Chadwick: Just when I have found the dictionary definition of tedious.

The Hon. JAN BURNSWOODS: I would be delighted to read into *Hansard* the definition of tedious.

The Hon. Dr B. P. V. Pezzutti: Please do! Here it is. Read it into *Hansard*. It describes you.

The Hon. JAN BURNSWOODS: Mr Deputy-President, I have had handed to me the -

The DEPUTY-PRESIDENT: Order! There is no need for the Hon. Jan Burnswoods to read the definition of tedious into *Hansard*. It has nothing to do with the bill.

The Hon. JAN BURNSWOODS: I accept your ruling, Mr Deputy-President. I will hand back the *Australian Concise Oxford Dictionary* to the Hon. Dr B. P. V. Pezzutti. Earlier the Minister for Education, Training and Youth Affairs and the Hon. Dr B. P. V. Pezzutti referred to the current Department of Health

policy on conscientious objection. It was pointed out that this matter is dealt with in circulars dating back to 1983 and 1986. The issue has been around for a long time, and the policy is clear and accepted. The policy reads as follows:

> The Department of Health does not believe that any medical, paramedical or other staff -

One problem with this bill is that if it is to achieve anything, it has to include more than just doctors and nurses. Interestingly, the Department of Health, by using the words "medical, paramedical or other staff" is more inclusive and genuinely concerned about the conscientious objections of staff who may be working in public hospitals than are our ethical heroes in the Chamber. The Department of Health memoranda are quite inclusive, and properly so. The policy continues:

> . . . should be excluded or restricted in their appointment or employment in any health service facility on the basis of their adherence to any creed, religious, ethical, moral or other conviction.

The policy makes clear that it is not talking only about religious objection; it talks also about those who may have the good sense to be atheists but have very strong moral codes. The policy continues:

> In employment areas where conflict may arise because of religious, ethical or moral beliefs, the employing authority should advise respective staff of any services carried out in the hospital which may cause such conflict.

The intention of the policy is to ensure that applicants of various positions in the health system are aware of the duties involved, including those which may be in conflict with their beliefs. It is not the intention to remove the onus on the health facility to accommodate religious practice where possible. Reasonable steps must be taken to reorganise work so as not to place individuals in situations of moral dilemma. As has been said previously - but it is important to repeat it, despite the grave risk of boring any poor honourable members - the Department of Health has dealt with this matter over a period of about 10 years. The department has a policy on conscientious objection, which covers the ground quite effectively. It has a policy which includes provision for making sure that administrative difficulties, such as are covered in the bill, can be dealt with so that hospitals can be run efficiently. The good of the patients can be given the primacy it deserves.

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When speaking to the bill both Reverend the Hon. F. J. Nile and the Hon. Elaine Nile made very few references, if any, to the good of the patients. Their concern is allegedly with the doctors and nurses who are so concerned with their consciences, despite the fact, as the Hon. Dr B. P. V. Pezzutti has pointed out time and again, that the matter is adequately covered by existing legislation. As I have already mentioned, the real purpose of the bill is not what appears on the surface; the real purpose of the bill is to find yet another way of dealing with the obsession of Call to Australia with respect to abortion and, as I have pointed out on many occasions, sex. About 10 minutes earlier Reverend the Hon. F. J. Nile interjected and referred to the condom conspiracy. Somewhere among the reams of paper I have brought with me to the Chamber there is an amazing speech about the so-called Canberra condom conspiracy. I put together some of the -

The Hon. Dr B. P. V. Pezzutti: On a point of order. The material that the Hon. Jan Burnswoods wants to introduce has no relevance.

The Hon. Jan Burnswoods: On the point of order. How does the honourable member know? I have not introduced it yet.

The Hon. Dr B. P. V. Pezzutti: You have said that you were going to talk about the Canberra condom conspiracy.

The Hon. Jan Burnswoods: I did not say that I was going to talk about the Canberra condom conspiracy; I said I was going to continue talking about the real motivation for the bill. I am trying to establish that this bill is not designed to deal with conscientious objections in public hospitals.

The Hon. Ann Symonds: On the point of order. Mr Deputy-President, I draw your attention to the fact that by interjection the condom conspiracy was raised by Reverend the Hon. F. J. Nile. The Hon. Jan Burnswoods is merely responding to his interjection, and I believe she is entitled to.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I uphold the point of order. If the Hon. Jan Burnswoods, as she indicated, was about to talk about the condom conspiracy and not, in fact, answer the interjection made by Reverend the Hon. F. J. Nile some time ago, I direct her not to do so and to confine her contribution to debating the provisions of the bill before the House.

The Hon. JAN BURNSWOODS: Yes, I shall do so. As I said, I believe the bill is overwhelmingly motivated to deal with the issue of abortion. I should like to refer to some comments Reverend the Hon. F. J. Nile made on 12th October about pregnancies and abortion.

The Hon. Dr B. P. V. Pezzutti: On a point of order. Mr Deputy-President, again I draw your attention to Standing Order 85, which relates to tedious repetition. The definition of tedious is wearisome, irksome, tiresome and wantonly long. The Hon. Jan Burnswoods is going over and over the same material in a wearisome, tiresome, irksome and long way. I draw your attention to the matter of relevance as well.

The DEPUTY-PRESIDENT: Order! There is no point of order. In fact, I am rapidly approaching the stage of finding repeated points of order vexatious, tiresome and irksome. The honourable member may proceed.

The Hon. JAN BURNSWOODS: On 12th October Reverend the Hon. F. J. Nile dealt at length with a number of issues related to pregnancies and abortion. His speech included the immortal line, "The question could be asked tonight: if condoms are so safe, why are so many women pregnant?" I am sure many of us could explain some of the facts of life to Reverend the Hon. F. J. Nile if he needs to have them explained to him. He referred to the failure rates of contraception. I am not sure what he meant by some of his descriptions. He said that among young, unmarried, minority women - I am not sure what he thinks minority women are -

The Hon. D. F. Moppett: Women who have not reached the age of majority.

The Hon. JAN BURNSWOODS: Perhaps, but he had already said "young".

The Hon. Ann Symonds: Small women perhaps.

The Hon. JAN BURNSWOODS: Perhaps. Figures I have show that women make up a majority of our society, about 52 per cent. Perhaps I am wrong and we are indeed in a minority. However, Reverend the Hon. F. J. Nile said that among young, unmarried, minority women - whatever they might be - the rate is 36.3 per cent. This is not easy to follow. I am trying to work out what the rate referred to is. I think it might be the rate of pregnancy. It is not the rate of failure of condoms because earlier he stated that the rate of failure of condoms was 15.7 per cent. So the figure must refer to the pregnancy rate. Reverend the Hon. F. J. Nile then said that among unmarried Hispanic women it - I assume the pregnancy rate - is as high as 44.5 per cent.

Reverend the Hon. F. J. Nile: That is a minority group.

The Hon. JAN BURNSWOODS: Unmarried Hispanic women are a minority in Australia but I am

not sure that it is necessary to make that point. I have never heard anyone claim that they may be a majority, unless the immigration rate has increased considerably since the Olympic Games in Barcelona.

The Hon. Dr B. P. V. Pezzutti: You do not believe in the Olympic Games, do you?

The Hon. JAN BURNSWOODS: I think the Olympic Games are wonderful. I had a tour over the Homebush site for about three hours three weeks ago. It was terrific. It is a very impressive facility.

The Hon. D. F. Moppett: This is not a conscientious Olympic Games bill.

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The Hon. JAN BURNSWOODS: It is probably as relevant as some of the things that have been said about the bill. I am trying to keep to the point but it is very difficult. The rate is as high as 44.5 per cent among non-minority, unmarried, Hispanic women. Since 1972 the non-marital pregnancy rate of women aged from 14 to 19 years has increased by 87 per cent and among women aged 18 to 19 years it has almost doubled.

The Hon. Dr B. P. V. Pezzutti: That has nothing to do with the bill.

The Hon. JAN BURNSWOODS: If honourable members will be patient, I will come to the crucial point. According to Reverend the Hon. F. J. Nile, because 44 per cent of teenage pregnancies end in abortion, births are fewer than pregnancies. I am sure we can all understand and accept the rationality of that statement. Even if one teenage pregnancy ended in abortion, births would be fewer than pregnancies. But according to Reverend the Hon. F. J. Nile 40 per cent of teenage pregnancies end in abortion, so births are fewer than pregnancies. He links it to condoms. I refer to the numerous questions, adjournment speeches and so on. There is a wonderful set entitled "AIDS Kit for Primary School Children".

The Hon. Dr B. P. V. Pezzutti: What has this to do with the bill?

The Hon. JAN BURNSWOODS: I am trying to explain that as I see the bill, it comes from an obsession with sex and an obsession with abortion, which explains the real purpose of the bill. Therefore the actual words written on paper -

The Hon. Dr B. P. V. Pezzutti: On a point of order. Standing Order 81 reads:

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

On all three counts the honourable member has offended and is offending.

The DEPUTY-PRESIDENT: Order! I uphold the point of order. The honourable member was digressing from the bill. I ask her to return to the bill.

The Hon. JAN BURNSWOODS: I agree that I was digressing. I was not trying to be offensive to anyone. I shall move off the subject of obsession. I brought many interesting extracts from *Hansard* with me but I am not keen to talk about them at length because I find most of them disagreeable. I will put that group of documents away and deal with other points I wish to make. I have said something about the lack of change in the bill and the real reason for the bill as I see it. However, I would like to expand on what I think will be a very worrying aspect if the bill becomes an Act. As I said, since I believe that it is fundamentally to do with the issue of abortion, nevertheless let me glance for a minute -

Reverend the Hon. F. J. Nile: The bill does not mention abortion.

The Hon. JAN BURNSWOODS: I made that point several times, and I would not want to be tedious by making it again. I repeat that the word abortion is not mentioned in the bill is significant. It is not mentioned in the bill because there is an attempt to hide the fact that the bill is about abortion. I am content to grant for a moment that the bill is seriously concerned with a range of other matters. I am worried about what would happen if the bill became law and was implemented. It seems that the revised clauses that attempt to deal with the problem of what happens if someone refuses to take part in an operation and the patient dies have real problems. The wording of the new bill does not solve those problems. The words used in the explanatory note are different from the words used in clause 10. The explanatory note states:

> **Clause 10** provides that the proposed Act applies despite the terms of any agreement made before or after the commencement of the proposed Act and prevents "contracting-out" of the proposed Act.

But clause 10 provides:

> 10. (1) This Act applies despite any provision made by or under any other Act or other law and despite the terms of any agreement (whether entered into before or after the commencement of this Act).
>
> (2) A term of an agreement is void to the extent that it would operate to exclude, modify or restrict the operation of this Act.

I am concerned that clause 10 reflects an attack on industrial awards and agreements. The clause provides that the proposed legislation will override agreements and awards. That provision will attack the rights of workers, towards whom I am particularly sympathetic.

The Hon. Dr B. P. V. Pezzutti: Surely not doctors and nurses?

The Hon. JAN BURNSWOODS: I have always regarded doctors and nurses as workers, though the Hon. Dr B. P. V. Pezzutti may wish to impugn his former colleagues.

The Hon. Dr B. P. V. Pezzutti: The honourable member referred to what she described as "the civil liberties of a few doctors and nurses".

The Hon. JAN BURNSWOODS: You do not regard them as workers?

The Hon. Dr B. P. V. Pezzutti: Of course I do. The honourable member's comment was disgraceful.

The DEPUTY-PRESIDENT: Order! The Hon. Dr B. P. V. Pezzutti will have an opportunity to make his contribution following that of the Hon. Jan Burnswoods.

The Hon. JAN BURNSWOODS: I am greatly concerned that clause 10, in specifically overriding provisions of agreements and awards, will become the

base for an attack on workers' rights. However, Government members should also be concerned that clause 10 could infringe employers' rights.

The Hon. Dr B. P. V. Pezzutti: The bill concerns the State Government only in relation to public hospitals.

The Hon. JAN BURNSWOODS: Does the Hon. Dr B. P. V. Pezzutti not regard the Government as an employer? It has not privatised everything yet.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Honourable members should concentrate on the debate and address the Chair. They should not partake in private debates between themselves. The Hon. Dr B. P. V. Pezzutti is the next speaker. I ask him to exercise restraint until he has the call.

The Hon. JAN BURNSWOODS: I apologise. The Hon. Dr B. P. V. Pezzutti is most irritating, and it is easy to give in to the temptation to respond to some of his remarks. The State Government - which is running public hospitals before it privatises them all - is an employer by any ordinary definition and in anyone's mind, except that of the Hon. Dr B. P. V. Pezzutti. At present, employers have the right, under all sorts of clauses in awards, agreements and contracts, to instruct workers to carry out certain duties provided those instructions are reasonable. I am concerned that the bill, if passed, will interfere in well-established relations between employers and workers in public hospitals, by overriding not only the 10-year-old policy of the Department of Health on conscientious objection, but also well-established workers' rights. I am sure the Hon. J. R. Johnson is as concerned as I am about the rights of workers in public hospitals, and I hope that with his industrial experience he might throw light on the real meaning of clause 10.

The Hon. Dr B. P. V. Pezzutti: The meaning of life?

The Hon. JAN BURNSWOODS: We could talk about the meaning of life later. The proposed legislation will provide an opportunity for workers, or groups of workers, in hospitals to be harassed and stood over. I fear they might easily be subjected to the sorts of vehement and vicious public campaigns that Reverend the Hon. F. J. Nile is prone to run on such issues as homosexuality, abortion, condoms, AIDS, and homophobia kits. A real fear is that a register will be set up if the bill is passed. Such a register would enable some people to pressure others to refuse to carry out certain types of procedures. In public hospitals a situation could easily develop where groups of workers could be put under intense pressure to sign registers and refuse to carry out certain procedures, not because their own conscience has told them to do so, but as a result of the sorts of vicious, supposedly high moral ground and obsessive and bigoted campaigns that Reverend the Hon. F. J. Nile is so good at - that is, bigotry masquerading as morality.

Reverend the Hon. F. J. Nile: On a point of order. Under Standing Order No. 81 a member cannot impute improper motives to a member of Parliament. The honourable member has used the words bigoted and obsessive. I ask her to withdraw those words.

The Hon. JAN BURNSWOODS: I would describe myself as obsessive, but I will withdraw the words if Reverend the Hon. F. J. Nile wishes. No member of Parliament is obsessive. I fear that a campaign of hysteria could be whipped up in hospitals - especially where tensions exist between religious or ethnic groups with different traditions - to intimidate people to sign registers and refuse to carry out a range of medical procedures on some trumped up moral objection. My concern in that regard also relates to clause 10 and the rights of workers in public hospitals. The bill, which on its surface appears moderate, has been debated by Reverend the Hon. F. J. Nile and the Hon. Elaine Nile in measured tones rather than their usual hysterical rantings and ravings. They claimed they had consulted with people, who will remain nameless, and with experts who had no names. They said they had been asked to introduce the bill by nameless doctors and nurses. Their calm and seemingly rational, measured approach to the bill hid a far more sinister objective.

I return to some of the comments on the bill Reverend the Hon. F. J. Nile made on 14th October. In the calm, pseudorational, measured, everyone's-friend sort of tone that he adopted he spoke with great feeling about the problems of Muslim nurses, though he did not say what those problems were. He was making the point, I think, that it was not a Christian view - a pleasant change for once. Reverend the Hon. F. J. Nile also referred to the Catholics, the Muslims, the Hindus and the Buddhists.

Reverend the Hon. F. J. Nile: And the atheists.

The Hon. JAN BURNSWOODS: I am sorry, I cannot find any reference to atheists at all.

Reverend the Hon. F. J. Nile: In my earlier speech I referred to sincere atheists who were pro-life.

The Hon. JAN BURNSWOODS: No, it is not in this speech, but then Reverend the Hon. F. J. Nile has made a lot of speeches.

Reverend the Hon. F. J. Nile: I will give the honourable member the *Hansard*.

The Hon. JAN BURNSWOODS: I would be delighted to read about those nice atheists. Though on the surface we have this calm and, indeed, public spirited bill, underneath it seems to be far more than that.

The DEPUTY-PRESIDENT: Order! There is too much audible conversation in the Chamber. It must be impossible for Hansard to hear the
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honourable member's contribution. Members will allow the honourable member to make her contribution in silence.

The Hon. JAN BURNSWOODS: I am nearing the end of my speech and I look forward to the contribution by the Hon. Dr B. P. V. Pezzutti.

The Hon. Dr B. P. V. Pezzutti: There is no time, it is nearing 4.15 p.m.

The Hon. JAN BURNSWOODS: We will have to wait until next time to hear the contribution of the Hon. Dr B. P. V. Pezzutti. I now refer to some other areas.

The Hon. Dr B. P. V. Pezzutti: Have a go at clause 10.

The Hon. JAN BURNSWOODS: I have already dealt with clause 10. Does the honourable member want me to go over it again? He did have a problem with the definition of employer.

The Hon. Dr B. P. V. Pezzutti: It was tedious the first time.

The Hon. JAN BURNSWOODS: I am trying to make it easier for the honourable member. I believe that most honourable members are worried that this bill could include doctors, nurses, other paramedical staff and all the groups of people that Reverend the Hon. F. J. Nile has threatened will be in the next bill. I, and I am sure other honourable members, did not enjoy hearing the threat of debating this bill for yet another year. If this bill were to become an Act, medical staff would be able to object and not participate in a range of procedures. That could include a refusal to administer azidothymidine - used for people with HIV infection - and given the well-known feelings and bitter prejudice of Reverend the Hon. F. J. Nile and the Hon. Elaine Nile towards the homosexual community, it would not be surprising if that were to happen.

The Hon. Dr B. P. V. Pezzutti: That is not true. You cannot object on the basis of a person, so you have got it wrong again.

The Hon. JAN BURNSWOODS: Which person?

The Hon. Dr B. P. V. Pezzutti: Anyone with HIV-AIDS.

The DEPUTY-PRESIDENT: Order! Would members please concentrate on the bill before the

House.

The Hon. JAN BURNSWOODS: I have referred to a refusal to administer the drug AZT. There could be a refusal to participate in organ transplants. It is well known that many people - fortunately a minority - do not believe in that type of medical procedure.

The Hon. Ann Symonds: Does the honourable member know that Jim Cameron objected to it when he was in the chair in the lower House?

The Hon. JAN BURNSWOODS: Yes, he did. Jim Cameron thought it was interfering with God's will.

The Hon. Ann Symonds: He changed his mind.

The Hon. JAN BURNSWOODS: Yes, it became God's will.

The DEPUTY-PRESIDENT: Order! The honourable member will address the Chair.

The Hon. JAN BURNSWOODS: The Hon. Ann Symonds is quite correct. Jim Cameron changed his mind about God's will after he had a heart transplant. The third area I mention relates to a possible refusal to administer blood transfusions. Everyone knows that one particular religious group - the Jehovah's Witnesses - has always refused to believe in the validity of blood transfusions. One of the problems with these beliefs, which gets back to the point I was making earlier about the faulty words in the new version of the bill, is that if one believes strongly enough that blood transfusions are against the will of God, one would genuinely believe that it is against the patient's interest to have a transfusion. The flimsy castle that is built up, allegedly about looking after the patient's interest, immediately collapses because the groups of staff we are dealing with have a genuine belief - which I accept - that in this case the blood transfusion would be bad for the patient. Many medical staff may choose to refuse to treat very low birthweight neonates in intensive care. It is a controversial issue that causes a lot of suffering, not only among the parents but also among the staff.

The Hon. Dr B. P. V. Pezzutti: They cannot object on that basis. The honourable member knows that. She is wasting time.

The Hon. JAN BURNSWOODS: This is a matter of increasing debate in our society. There are those who would refuse to participate in maintaining life support systems for terminally ill patients. In the case of euthanasia and the provision of life support systems for terminally ill patients, people of good conscience are to be found on each side. This bill, with its simplistic hidden agenda, does not take account of that type of problem. Some would certainly say that it is in the interests of a patient to maintain that patient on a life support system. On the other hand, there are those who would say that that is definitely against the interests of the patient. As the Hon. Ann Symonds said earlier, this is a simplistic bill, fundamentally because it is a dishonest bill. Its real purpose is not what it appears to be on the surface. Finally, some people - and there are some in the Labor Party - do not like to immunise children against a range of childhood diseases. I find that view misguided.

The DEPUTY-PRESIDENT: Order! It being 4.15 p.m., pursuant to sessional orders debate is interrupted to permit the Minister to move the adjournment of the House should he so desire.

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SPECIAL ADJOURNMENT

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

That this House at its rising today do adjourn until Tuesday, 9th November, 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 date and/or hour of meeting.

PRISONS (AMENDMENT) BILL (No. 2)

SENTENCING (AMENDMENT) BILL (No. 2)

Bills introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice and Vice President of the Executive Council) [4.17]: I move:

That these bills be now read a second time.

This package of legislation reintroduces measures which were included in bills introduced in the Legislative Assembly by the former Minister for Justice on 19th May, 1993. Since that time, however, the Government has identified a number of other matters which need to be addressed by way of amending legislation. Accordingly, this new package also contains those additional matters. The main changes proposed are to the Prisons Act 1952, with some cognate amendments to the Sentencing Act 1989. The additional amendments to the Prisons Act cover a range of miscellaneous matters which I will address in more detail later in this speech. I will deal firstly with the proposals relating to serious offenders.

Schedule 1 to the Prisons (Amendment) Bill amends provisions for the review and oversight of serious offenders in New South Wales correctional centres. The cognate Sentencing (Amendment) Bill addresses the supervision of serious offenders who have been released from custody into the community by the former Release on Licence Board, under the previous licence provisions of section 463 of the Crimes Act. The role of the Offenders Review Board will be expanded. The Serious Offenders Review Board will be replaced with a two-tiered management structure which will be more closely linked with the department's classification process. These amendments have been developed following full and extensive consultation with both boards and have the support of Judge Torrington, the chairperson of the Serious Offenders Review Board, and Judge Ward, the chairperson of the Offenders Review Board.

The Serious Offenders Review Board was established by amendments to the Prisons Act on 12th January, 1990, replacing the Release on Licence Board. In April, 1992, the Office of Public Management reviewed the composition and functions of the Serious Offenders Review Board and determined that its role ostensibly had become the management of serious offenders in custody, rather than the release and oversight of the supervision of such persons in the community. It was apparent that, while the board's role was similar to and overlapped the function of the department's classification division in relation to offenders generally, there was no formal organisational or structural interrelationship between the two areas. This had led to duplication of certain functions and the inefficient use of resources within the correctional system.

It is proposed that the Serious Offenders Review Board be replaced with a two-tiered management structure comprising a Serious Offenders Review Council and a Serious Offenders Management Committee. The Serious Offenders Review Council is to consist of five members appointed by the Governor and two official members from the department. Senior departmental members of the classification division will be eligible, upon nomination by the Commissioner of Corrective Services, to participate on the review council. Of the members appointed by the Governor, two are to be judicial members who will serve as chairperson and deputy chairperson, and three are to represent the

community.

The review council's role will be as follows: first, to provide advice and recommendations to the Commissioner of Corrective Services regarding the classification, placement and program review of serious offenders; second, to provide reports and advice to the Offenders Review Board concerning any action being taken with respect to the release on parole of serious offenders - in view of the particular expertise of the Serious Offenders Review Council, the Offenders Review Board will be required to provide reasons where its decisions are not in accordance with the advice of the Serious Offenders Review Council; third, to provide reports to the Supreme Court concerning life sentence inmates applying for sentence redetermination; and, fourth, the review council may also be called upon to provide reports and advice to the Minister or other persons, and perform such other functions as may be prescribed by regulation.

There has been considerable public debate about the management and appropriateness of temporary leave programs, especially with regard to the participation of offenders convicted of serious offences involving violence, drugs or sexual assault. Such offenders require particularly stringent scrutiny before being released into the community. It must be emphasised, however, that the majority of serious offenders in custody will eventually be returned to the community, either by way of conditional parole or otherwise unconditionally, without any form of supervision, at the expiration of the additional term of their sentence. One of the ways that the Offenders Review Board can determine whether release to parole is appropriate at the expiration of an offender's minimum term of sentence rests with the review of the performance of inmates who have participated in a staged, controlled and closely monitored pre-release program.

It is intended that one of the additional functions of the review council to be prescribed by regulation will be to review, for the approval of the Commissioner of Corrective Services, applications for temporary leave of offenders who have been convicted of serious offences. A further function of the review council will be the review of directions for the extension of orders for the segregation of inmates. It is proposed that the review council will establish a Serious Offenders Management Committee, comprising senior departmental officers, to oversee the day-to-day classification, management and program review of the majority of serious offenders. The delegation of certain functions to the management committee will rest with the chairperson of the Serious Offenders Review Council. However, submission of reports to the Supreme Court, representation before the Offenders Review Board, and matters requiring specific judicial review of departmental decision-making will remain with the Serious Offenders Review Council.

The Sentencing (Amendment) Bill proposes implementation of an Office of Public Management recommendation that the Offenders Review Board should assume responsibility for existing life sentence offenders who have been released on licence in the community. In the past, such licences have included conditions of supervision by the probation service for up to five years and generally stipulated a requirement for good behaviour, which remains for life. The transfer of responsibility from the Serious Offenders Review Board is consistent with the present role of the Offenders Review Board of ensuring effective community based supervision of inmates released conditionally on parole. The Sentencing (Amendment) Bill also will amend the application of section 18 of the Act to make provision for the Offenders Review Board to defer making a decision concerning the release of an inmate on parole, if outstanding reports or other matters requiring consideration are not available at the time of the initial 60-day review hearing. This is designed to ensure that the board is able to consider all necessary information prior to determining the appropriateness of release to parole. A limitation of 21 days prior to the expiration of an inmate's minimum term of sentence will apply to ensure such persons are not disadvantaged by this amendment.

Schedule 2 of the Prisons (Amendment) Bill contains proposals which are designed to provide more effective and accountable use of segregation in New South Wales correctional centres. Segregation is

the detention of an inmate away from all other inmates or in association only with such inmates as are determined by the Commissioner of Corrective Services. The segregation of an inmate for any length of time, and particularly for extended periods, is a decision requiring close consideration and supervision. There are two types of segregation: administrative segregation and protective segregation. Inmates are placed on administrative segregation for the safety of another inmate or officer, or for the security or good order and discipline of the institution. Protective segregation, or protection, as it is more commonly termed, is normally provided at the request of the inmate, for reasons of personal safety.

Segregation is not intended to constitute any form of punishment or retaliation. It is an important management option to provide for the safety of officers and inmates and for good order in the correctional system. Consultation with the Office of the Ombudsman has resulted in the preparation of a number of the current proposals relating to segregation which expand upon features contained in a bill which was tabled in Parliament in 1992. The previous bill was subsequently withdrawn following the raising of certain matters by the Ombudsman. The Ombudsman has since indicated full support for the measures before the House today.

I now turn to the specific features of the amendments. The first proposes removal of the ministerial statutory obligation to approve extensions of segregation beyond six months, by effectively devolving authority to the Commissioner of Corrective Services. Under present provisions, correctional centre governors have the power to authorise segregation for up to 14 days. Authority to approve further periods of up to six months is vested in the Commissioner of Corrective Services, who has power, under the Prisons Act, to delegate those functions where appropriate. Authority to approve accumulative periods of segregation past six months rests at ministerial level, without any such power of delegation. Accordingly, at present, all orders for segregation past six months, including those at the inmate's request, must be referred for ministerial consideration and approval. In all other Australian States segregation is the responsibility of senior departmental staff. Responsibility and, more importantly, accountability for such operational matters should rest in operational hands, in all but exceptional circumstances. This is sound managerial practice. Devolution of this authority to the Commissioner of Corrective Services will bring New South Wales into line with other Australian States in this regard.

The second amendment proposes that any initial or subsequent order to extend an inmate's segregation will be limited to a maximum period of three months at a time. Both an original direction for segregation and any direction for extension must also be given in writing and must include the grounds on which it is based. This amendment will provide regular mandatory review of all extensions of segregation and introduce a statutory mechanism for accountability. Further amendments contained in schedule 2 to the bill respond to the recommendations made by the Office of the Ombudsman. The Ombudsman has noted that the present provisions imply that situations requiring the segregation of an inmate occur only after an inmate has been in custody for some unspecified period. This does not provide for those inmates requiring placement on segregation orders, particularly for reasons of protection, before they have associated with other inmates. The Serious Offenders Review Council will be utilised to review

inmate appeals against decisions to extend periods of administrative segregation past the initial 14-day period. In determining such appeals, the Serious Offenders Review Council will be required to act independently of the Commissioner of Corrective Services.

The review council will have the power to conduct the inquiry as it sees fit, with the full co-operation of the Department of Corrective Services. It will be able to confirm, vary or disallow the extension order or make any other appropriate order. Its decisions will be final and binding on both the appellant and the commissioner. Inmates will have the right to appear before the council in person and to have legal representation if desired. The review council also will have authority to issue an interim order suspending a direction for segregation at a review hearing. As a further safeguard against the inappropriate imposition of segregation for lengthy periods of time, the Commissioner of Corrective Services will be required to submit a report to the Minister on each case of extension of administrative segregation past six months. In view of the concerns which have been raised regarding the segregation

of inmates, ultimate statutory authority to review, amend or revoke an order segregating an inmate will be retained at ministerial level.

It is a fundamental feature of departmental correctional policy that inmates spend the minimum time necessary in segregation. To this end a number of special management programs are being implemented throughout the New South Wales correctional system to ensure that segregation is used only where appropriate. These programs are based on the principles of area management and case management in which officers and inmates interact closely to identify and address inmate problem areas. Departmental policy concerning segregation has already been revised to address the concerns raised by the Ombudsman. I am confident that the amendments contained within schedule 2 of the Prisons (Amendment) Bill will ensure that segregation as a management option is appropriately and responsibly utilised to enhance safety, security and good order in the State's correctional centres.

Schedule 3 of the Prisons (Amendment) Bill addresses unauthorised use of drugs by inmates. The amendments will enable expansion of the definition of "drug" for the purposes of the Prisons Act, in the context of prison offences, and of the group of persons who may authorise use of such drugs. The present definition in the Prisons Act of drug in the context of prison offences is limited to "a prohibited drug or prohibited plant within the meaning of the Drug Misuse and Trafficking Act 1985", the primary object of that Act being the prohibition and prevention of illicit drug use in the general community. Consequently, it focuses on drugs such as heroin and cocaine. However, within correctional centres numerous other drugs are also abused by inmates. Notable are drugs such as sedatives and anti-depressants, generally prescribed by medical practitioners in the treatment of anxiety and a range of other emotional and psychiatric disorders.

To give an indication of the scope of the situation, between February and May 1993, 6,125 inmate urine tests were taken, of which 1,507 returned a positive result. Four hundred and sixty of these positive results were for drugs outside the present definition including substances commonly known as Valium, Rohypnol, Mogadon, Serepax, Librium, Largactil and Tryptanol. Under the present definition, no penalties can be imposed for unauthorised use of such drugs. Used without prescription and supervision, possibly in potentially dangerous combinations, these drugs can alter behaviour and may have the potential to produce user dependency. Once a market has been established among the inmate community for a particular drug, the concomitant smuggling and trafficking and methods of payment for the drug pose serious security problems for correctional centre management. It is, therefore, proposed that such substances, which have been identified through urine tests as being used without authorisation, be included in the expanded definition by way of a specific schedule within the Prisons (General) Regulation.

Current legislation provides that inmates are guilty of a prison offence for use of a drug as defined unless it has been prescribed by a medical practitioner. In line with the proposed expanded definition of drug, it is further proposed that registered nurses and dentists, who currently may issue or prescribe certain drugs to inmates for appropriate purposes, be included with medical practitioners in this provision. Schedule 4 to the bill covers a number of unrelated matters which have been identified by the Department of Corrective Services as needing legislative attention. They are all relatively straightforward issues and, therefore, I propose to deal with them fairly briefly.

In response to a suggestion earlier this year by the Chief Magistrate, Mr Pike, the Government proposes that official visitors to correctional centres should take over the prison inspection role from visiting justices who themselves are magistrates. This would be subject to the magistrates continuing to attend correctional centres to hear disciplinary charges against inmates or to conduct any inquiry directed by the Minister or the commissioner. Mr Pike estimates that this proposal will provide a magistrate for an extra four days per month in the metropolitan area. The proposal is supported by official visitors. It is proposed to empower the commissioner to direct that an inmate who has been admitted to hospital from a correctional centre can be returned to a different centre upon release from hospital.

The present provisions require that all inmates be returned to their original admitting centre. This can create difficulties if circumstances, including the inmate's relationships with staff and other inmates, indicate that placement of the inmate at a different centre following release from hospital would be more appropriate. Consistent with the Government's determination to ensure that strict eligibility criteria apply to pre-release leave and work release, it is proposed to authorise the commissioner to prescribe,

by regulatory amendment, the conditions applying to orders granting such forms of temporary leave. It is also proposed to allow the commissioner to vary or omit conditions or revoke orders altogether. Such provisions would be consistent with the commissioner's existing powers under sections 29(2) and (3) relating to the issuing of permits for other types of leave. In addition, it is proposed to include a regulation-making power in section 50(1) of the Act with respect to the various forms of temporary leave, such as pre-release leave and work release, specified in section 29(1).

Part 6A of the Act, dealing with the engagement of contractors, will be amended to enable the management company of a correctional centre to enter into a submanagement agreement to subcontract its functions - including those relating to the employment of the governor and staff of the centre - to a submanagement company approved by the commissioner. In the light of a recent advising by the Crown Solicitor to the department, it has also become necessary to confirm the validity, with effect from 7th August, 1991, of the employment of the governor and staff of Junee Correctional Centre by Australasian Correctional Management Pty Limited, under a submanagement agreement with Australasian Correctional Services Pty Limited.

A new offence of impersonating a prison officer will be inserted in the Act similar to that section of the Police Service Act which makes it an offence to impersonate a police officer. It is a requirement that the commissioner provide a quarterly written return to the Supreme Court of all persons held in custody awaiting committal, trial or sentence. A suggestion by Mr Justice Hunt, Chief Judge at Common Law, has been adopted by the prescription of an upper limit, not exceeding three months, within which persons detained in each correctional centre, otherwise than in pursuance of a prison sentence, need not be included in the return. The proposed period of up to three months will realistically take into account the normal delays but will ensure that the purpose of gaol delivery, which is to ensure that no unconvicted inmate is lost in the system, is still achieved.

It is proposed to provide correctional centre governors with the authority to delegate their functions, subject to the approval of the commissioner, by inclusion of provisions similar to those of section 48D of the Prisons Act, under which the commissioner may now delegate his duties. This will relieve governors from having to personally undertake a number of mundane functions presently imposed on them, such as the requirement under section 18 of the Act that governors must take receipt of inmates' property upon the reception of inmates into correctional centres. It is proposed to make some changes to the provisions covering discharge of inmates at the conclusion of their term, to suit the administrative convenience of correctional centres. The present practice which allows inmates to insist on release at 12.1 a.m. on the day following the expiration of their term, will be overcome.

Clerks of the Local Courts, registrars and deputy registrars of the District Court, and the registrar of the Supreme Court will be empowered to make and sign orders for the production of inmates at court. Under the current provisions, difficulties and delays have sometimes arisen in obtaining orders for the production of inmates at court because section 44 of the Act now only allows a judge or magistrate to make such an order. A further minor amendment will remove any doubt that an order under section 44 may be issued for the specific purpose of having a first instance warrant executed upon an inmate at court.

A further minor change will ensure that non-uniformed officers of the Department of Corrective Services are eligible to receive the same kind of bravery and long service awards as uniformed officers. Before concluding, I return briefly to the cognate Sentencing (Amendment) Bill. The main purpose of this bill, as I mentioned earlier, is to transfer to the Offenders Review Board the functions of the Serious

Offenders Review Board in relation to the variation and revocation of existing licences to be at large.

The opportunity has also been taken to validate licences which were granted, varied or revoked by the Governor on the advice of a Minister alone, before the repeal of section 463 of the Crimes Act. The need for this validation provision arose from an unreported decision of Mr Justice Grove in the Supreme Court in Roberts' case on 30th July, 1992, that the Governor, acting under section 463, could act only on the advice of the Executive Council and not on the advice of a Minister alone. This had occurred in Roberts' case in 1980 when the Governor had acted on the recommendation of a Minister alone - the then Minister for Corrective Services, a certain Mr Jackson. As a package, the amendments before the House today are designed to enhance sound management, accountability and security within the correctional system. I commend the bills.

Debate adjourned on motion by the Hon. R. D. Dyer.

JUSTICES (COURTESY LETTERS) AMENDMENT BILL

Bill introduced and read a first time.

Second reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [4.40]: I move:

That this bill be now read a second time.

The purpose of this bill is to remedy a problem which has been identified recently by the Crown Solicitor in the form of a courtesy letter then being used by the infringement processing bureau of the Police Service when enforcing unpaid penalty notices. The issue of courtesy letters under section 100J of the Justices Act forms one step in the penalty notice enforcement scheme. Penalty notices are issued for a number of minor offences created under various Acts, including the Traffic Act, the National Parks and Wildlife Act

and the Local Government Act. The person to whom the penalty notice is directed, whom I will call the defendant, has the option of paying the amount shown on the notice, electing to have the matter dealt with by a court or, in some cases, nominating the person who is actually liable for the alleged offence.

If the defendant fails to take any of the options, a courtesy letter is issued. This action is a reminder to the defendant that the penalty is still outstanding. The defendant again has the opportunity to pay the amount, elect to attend court or nominate the actual offender. If the defendant does not take any action upon receiving the courtesy letter, the prosecuting authority can enforce the penalty notice. Depending on the particular offence alleged, enforcement action may be by referral of the matter to the Roads and Traffic Authority for licence or registration cancellation or by referral to an authorised justice for issue of an enforcement order. The issue of the courtesy letter is a prerequisite to such enforcement action being taken.

Under section 18C(1)(c) of the Traffic Act, it must appear to the Commissioner of Motor Transport that, among other things, the defendant has not elected to have the matter dealt with by a court in accordance with section 100J of the Justices Act, that is to say, that a courtesy letter issued under section 100J has been served on the defendant and the defendant has not completed the court election notice which appears on that courtesy letter. Under section 100L(1)(b) of the Justices Act, an authorised justice must be satisfied that a courtesy letter has been served on the defendant before an enforcement order can be issued. The form of the courtesy letter was prescribed under the Justices (Penalty Notice) Regulation 1984, which now has been included in the Justices (General) Regulation 1993. However, the

form being used by the infringement processing bureau was not identical with the prescribed form. It is not clear where the bureau's form came from or why the decision was taken not to use the prescribed form. It appears that the courtesy letter being used was drafted within the bureau itself and brought into use some time before 1987. After questions were raised about the validity of the courtesy letter then being used, an advising on the form was sought from the Crown Solicitor

The advising identified three shortcomings in the form of a courtesy letter then in use. First, the letter did not contain a warning that, if the person failed to pay the outstanding amount or elect to take the matter to court, further action may be taken to enforce the penalty notice. Second, the form did not contain the name and address of the person to whom the court election notice should be sent, as required by section 100J(4) of the Justices Act. Third, the letter did not state that the person receiving the letter had 21 days from the date of service of the letter in which to pay the amount or lodge a court election notice. The Crown Solicitor advised that these defects meant that the courtesy letter then being used by the IPB was not a valid courtesy letter within the meaning of section 100J of the Justices Act. The view was taken that the invalidity could give rise to actions for negligence or breach of statutory duty and that the Crown could be liable for damages as a result.

A new courtesy letter which complies with the legislative requirements has been drafted and will be brought into use as soon as a fresh supply of copies can be printed. The existing prescribed form has been repealed to avoid potential conflict between the new form and the prescribed form. Pending the introduction of the new form, the issue of courtesy letters and enforcement orders and the referral of matters for licence and vehicle registration have been suspended. This has meant a delay in the collection of revenue as a result of matters not being pursued and also a loss in revenue as a consequence of matters falling outside the statutory period for commencing enforcement action and so not being proceeded with.

Although introduction of a new form will avoid possible actions for damages in respect to all matters, it will not resolve the problem of challenges to all the enforcement orders and referrals for licence and vehicle registration which have issued following service of the invalid courtesy letter. The only solution to that is to retrospectively deem the courtesy letters served in all such cases to have been valid and any action taken in reliance on those letters to be valid. If such action is not taken, theoretically it would be possible for the defendants in all matters where an enforcement order has issued or where licence or registration cancellation action has been taken to challenge the validity of such proceedings and to seek damages.

If such challenges were to succeed, the court may find that all such matters were invalid and declare them null and void. This would mean that the Government would be obliged to refund all moneys collected under the enforcement orders, or cancellations, and also pay any damages awarded. The potential cost could run into hundreds of millions of dollars. Even if only a few cases were to succeed, the cost could still be considerable. The Government and the people of New South Wales cannot afford to have to pay out such sums. It is, therefore, crucial that steps be taken to validate the courtesy letters before the sort of proceedings described are commenced. That is the first purpose of the bill.

The second purpose of the bill is to redraft section 100J of the Justices Act in respect to what must appear in a courtesy letter. Great care has been taken in the drafting of the new form to ensure that it complies with the requirements of the Justices Act as to what must appear in a valid courtesy letter. However, there are understandable concerns that the new form of courtesy letter may be the subject of intense scrutiny and possible challenges, however baseless they may be, because of the passing of this bill to validate earlier forms of courtesy letters. In order to avoid this potential problem, the bill contains a provision to amend section 100J to remove the provisions which may give rise to possible challenges to the courtesy letter, even if prescribed.

The particular provisions targeted were those which provide for a period of 21 days from the date of service of the letter for the defendant to take one of the options available under section 100J. The

difficulty caused by this time period is that the Police Service has no way of knowing when the courtesy letter has actually been served on the defendant. They, therefore, cannot be certain when it is lawful to proceed to the next step. The courtesy letter which has been issued in the past contains references to a due date, such date being 28 days from the date of posting. That allows seven days for the letter to be received by the defendant plus the further 21 days required by the Justices Act.

In practice, as the Police Service does not take further enforcement action until a minimum of 35 days from the date of posting, the due date assumed by the Police Service would allow the defendant the required 21 days and more in the vast majority of cases. However, it does not guarantee compliance with the Act in every case. It is therefore proposed that the time period allowed for the defendant to select one of the options available under section 100J will be up to the due date. The due date may be a date not less than 28 days after the courtesy letter is posted. That date is calculated to allow seven days for postal service of the courtesy letter and then 21 days to select one of the options. This will not represent any reduction in existing rights for most defendants in the penalty notice system.

Defendants who, for whatever reason, do not receive the courtesy letter within seven days of posting will be able to delay or prevent any enforcement action being taken by approaching the infringement processing bureau to seek more time or by making an application under section 100J or 100Y of the Justices Act. There are also cognate amendments to sections 100L and 100O, to take account of the change in the way the date of service of a courtesy letter is calculated. In considering the bill I ask honourable members to take into account the following matters. The invalidities in the courtesy letter identified by the Crown Solicitor did not have any bearing on whether the defendant actually committed the offence alleged or not. They were very technical in nature and the courtesy letter being used served most of the functions of a courtesy letter. It gave the defendant a further opportunity to pay or elect to go to court, and provided information on the options available and the possible consequences of taking no action.

Any enforcement action that was taken to enforce the penalty notice was as a consequence of the defendant's inactivity - that is, failure to pay the penalty or elect to take the matter to court - not as a result of the issue of an invalid courtesy letter. Where enforcement action is taken, there are steps which the defendant can take under the Justices Act to try to overturn the matter, such as an application under section 100Q, for enforcement orders, or section 100Y, for cancellation matters. These applications, if granted, bring the matter back before a local court where the defendant can have the original offence heard before a magistrate or can admit the offence and have an appropriate penalty imposed. Therefore, I am confident that defendants' rights have not been significantly infringed by the validity and that no person will be denied justice and access to remedies through the courts by the passing of this bill. I commend the bill.

Debate adjourned on motion by the Hon. R. D. Dyer.

LEGAL PROFESSION REFORM BILL (No. 2)

MAINTENANCE AND CHAMPERTY ABOLITION BILL (No. 2)

Second Reading

Debate resumed from 27th October.

The Hon. ELISABETH KIRKBY [4.52]: I welcome the Legal Profession Reform Bill (No. 2) and the Maintenance and Champerty Abolition Bill (No. 2). I applaud the major changes to the general structure and regulation of the legal profession, to the handling of complaints against the legal profession and to payments for legal services. For some time now there has been a perception that the structure and

regulation of the legal profession had been too rigid and that neither the public interest nor the professional interest of lawyers were being served. For the public it is important that legal services be affordable and fair. For the profession it is important that lawyers be able to practice in the style which best suits them, with efficiency and with public confidence. As far back as 1982, the New South Wales Law Reform Commission, in its report entitled "The Legal Profession: General Regulation and Structure", stated on page 66:

> It is important, both for lawyers and for their clients . . . that the structure of the profession should give lawyers substantial freedom of choice concerning the manner in which they organise their practices. Freedom of choice encourages flexibility, diversity, competition and innovation . . . If the structure of the profession unduly restricts this freedom, it may adversely affect the quality, accessibility, speed or cost of legal services . . . freedom should not be restricted to a greater degree than is clearly required in the public interest.

I wholeheartedly support the aims of this legislation in so far as they encourage freedom of choice in practice, introduce competition in the provision of legal services, open up the profession to external scrutiny and give consumers greater powers when dealing with lawyers. The bill draws on recommendations which have been made in the many inquiries into the legal profession over the last 15 years. It still has a number of flaws where the Government has not followed through reforms which would enhance external scrutiny and consumer power.

I will deal first with the general structure and regulations. The bill introduces common admission for the very first time in New South Wales. All practitioners will be admitted under the common title of legal practitioner by the merged Barristers Admissions Board and Solicitors Admission Board. In 1982 the Law Reform Commission stated that separate admission "contributes to exaggerated notions of the extent and significance of the difference between those who practice in the style of barristers

and the remainder of the profession". I support common admission as a step forward, but I believe that the Government should seriously have considered the fusion of the profession, which has been recommended by both the New South Wales Law Reform Commission and the Trade Practices Commission.

Outside of New South Wales, 77 per cent of the lawyers of Australia practice in jurisdictions with the unrestricted opportunity to work as both a barrister and a solicitor. Apart from New South Wales, only Queensland maintains a barrier to lawyers practising as both a barrister and a solicitor. One of the prime recommendations of the recently released Trade Practices Commission report on the legal profession was the creation of a fused profession. In 1982 the Law Reform Commission pointed out that a divided profession leads to such disadvantages as two lawyers being used where one would be sufficient; and where a barrister and solicitor are used, the division of labour between them is often determined by rules or practices which are not appropriate to the particular circumstances, with the result that duplication, omission or confusion may occur.

Also, firms of solicitors are deterred from providing a complete service to their clients where it may be more efficient to do so than involve a barrister. The Lawyers Reform Association has suggested that a legal practitioner should be able to practice in any field with a practising certificate, a trust account and professional indemnity insurance. As the bill stands, legal practitioners will have to apply to either the Bar Association or the Law Society for a practising certificate. Nevertheless, the bill contains a number of provisions that will go some way towards eliminating inappropriate distinctions between barristers and solicitors.

The bill goes a considerable way to freeing up access. Barristers and solicitors may now accept any clients, subject to the rules of the Bar Council and the Law Society Council respectively. Direct access to a barrister is important in terms of cost considerations. Under the current system the client must pay both the instructing solicitor and the barrister, even if the matter is relatively simple. Legal firms

may have the resources to carry out the work usually done by a barrister. All practitioners will be allowed to enter into a contract for the provision of professional services and to sue or be sued on that contract. Immunity in relation to advocacy will remain. This should address the previous problem of barristers not being allowed to sue for fees.

All lawyers will be able to advertise, subject only to fair trading restrictions. This should lead to improved access to legal services, innovation, efficiency, lower prices and new and smaller practices. Disadvantages such as false and misleading claims should be able to be controlled by fair trading restrictions. Overheads may be tempered to some extent by market competition. Further, the bill will permit lawyers to advertise specialist services. The Bar Council and the Law Society Council may introduce specialist accreditation schemes, thereby improving quality of service, making it easier for consumer identification of appropriate practitioners, and improving the speed and cost of legal services.

Currently, the Law Society has a specialist accreditation program which does not prevent self-designation as long as it is true. The situation needs to be monitored to prevent the profession from becoming too fragmented and to prevent a deterioration in the quality and cost of services. Specific provision is made to allow co-advocacy, thereby increasing flexibility and, potentially, lowering costs to consumers. This will be regulated by joint rules made by the Bar Association and the Law Society. It is my understanding that the legislation is worded so that there can be no co-advocacy unless and until these joint rules are made.

I would ask the Minister to confirm this. I would ask him also to monitor the situation so that this provision does not lead to the unnecessary engaging of a second advocate. He might explain in his reply how he hopes to achieve this. Abolition of the current restriction will assist in giving advocates necessary experience. The provision would be cost-effective if the instructing solicitor can also act as junior to keep notes of evidence, act as a sounding board and examine and cross-examine witnesses, rather than a third practitioner being hired to act as a junior barrister. The bill makes it clear that all lawyers shall have the right to attend upon another lawyer. Current Bar Association rules 33 and 34, which deal with attendance, are very restrictive. Rule 33 states that a barrister shall require the presence of the instructing solicitor at any conference or interview unless satisfied that no prejudice would result from the solicitor's absence or unless compelling circumstances exist or the Bar Council gives permission.

At the moment the situation is totally inflexible. The barrister and solicitor should be trusted to decide whether the solicitor's attendance can be dispensed with. The abolition of this rule should lead to cost savings. Existing rule 34 states that a barrister may not attend a conference in a solicitor's office unless it is required by circumstances such as the location of the conference, access to documents, age or infirmity of the solicitor or the witness and the number of persons in attendance. It is obvious that this rule may cause inconvenience. It is often not justified by infirmity, the impracticality of removing documents or travelling distances. Cost savings will certainly result from its abolition. It is appropriate that professional associations be involved in the day-to-day regulation of the profession. This is a practical necessity in order to maintain the legitimacy of the system. Substantial cost will also be involved if new regulatory bodies are created.

The rules of the Law Society Council and the Bar Council will be reviewed to ensure that the rules operate in the public interest and do not impose restrictive or anti-competitive practices. The professional councils must undertake a review of all

rules to be completed within 12 months of the commencement of this legislation. In order to facilitate that, the Minister has agreed to proclaim the bill in parts. I request that he address that matter in reply. However, all honourable members should be aware of the possible conflict of interest involved in any form of self-regulation. Therefore it is essential that there be external oversight of the profession. While bearing in mind the need to have a body of lawyers free to represent clients against the Government and other powerful interests, I believe it is appropriate that the Government have some role in regulating the profession.

The Government is accountable to the community at regular intervals. It is also responsible for a wide range of public policies. As the Law Reform Commission argued, the Government "may be more in touch than a professional body with changing public needs and attitudes, and with the impact on the profession of policy considerations arising in other areas". That comment can be found on page 62 of a Law Reform Commission report brought down more than 10 years ago, in 1982. I believe an appropriate balance is struck by reinvigorating the Legal Profession Advisory Council to advise the Attorney General on the regulation of the profession. Provision currently exists for the Legal Profession Advisory Council under the Legal Profession Act of 1987. However, the council is constituted in favour of the legal profession: there are five lawyers to four lay persons. It should be taken on board by all honourable members that the council has never met.

The bill provides that the Legal Profession Advisory Council - the LPAC - will be reconstituted with an independent chairperson, two practising barristers, one appointed by the Attorney General from a panel nominated by the Bar Council - I believe this is a compromise - three practising solicitors, two appointed by the Attorney General from a panel nominated by the Law Society, and five community representatives. The LPAC will make recommendations and report to the Attorney General on any matter relating to the legal profession. It will review regulation of the legal profession and offer advice on future reform. Most importantly, a regulatory rule made by a professional council may be disallowed by the Attorney General if it is found by the LPAC to be anti-competitive or otherwise not in the public interest. Given the composition of the LPAC, the proposal will do much to ensure that the rules regulating the profession will be in the public interest and will have public confidence.

Another major provision of the bill is the abolition of the ability of the Crown to appoint Queen's Counsel. The requirement for Q.C.s in certain statutory positions will be amended to refer to a legal practitioner of seven years' standing. No executive or judicial officers of the State may conduct a scheme for the recognition or assignment of seniority or status among legal practitioners. The problem with the Q.C. system, which was inherited from the United Kingdom, is that it confers status within the profession and beyond. It provides information to clients, better pay, and it is not really appropriate for the Government to be involved in conferring upon barristers status which will have an impact upon the level of the fees that they charge. According to the Law Society on page 16 of its report "Access to the Civil Courts" brought down in 1992:

> Only historical precedent justifies this archaic practice of government endorsement of eminent barristers, which artificially increases the cost of litigation. The fees of such barristers are high not because of their eminence in the field but also because of government endorsement of their status and the cost to the community of this outmoded practice is high.

I concur with those remarks. Members of the Bar Association said that it was necessary for the continued appointment of Q.C.s, otherwise eminent members of the profession would not be allowed to practise in Hong Kong, Singapore, Sri Lanka or other Commonwealth countries where there are still Q.C.s. I pointed out that the bill is intended for the benefit of the citizens of New South Wales and is not intended to allow Q.C.s to practise overseas. The Law Society does not believe in the necessity for Q.C.s. It stated that if senior counsel were called kangaroos and junior counsel were called wombats, overseas legal firms would ask for kangaroos and would not ask for wombats. The seniority of the barrister concerned would be well known within the profession. The bill also abolishes distinctions between barristers and solicitors in many consequential amendments to various pieces of legislation.

I turn now to scrutiny of the legal profession. As a member of the lay public and a one-time member of the Law Society Complaints Council I believe this is what the general public will be most concerned with. The Law Reform Commission, in its report "Scrutiny of the Legal Profession", found that the existing system of handling complaints was not serving the needs of complainants, the practising profession or the community. The processing of complaints takes too long. Having sat in over two years on many meetings at which nothing was resolved, I concur with that statement. Investigations are

inadequate and complainants feel left out of the process.

The Law Reform Commission contends that there is still a profound gap between what angers clients and others sufficiently for them to go to the trouble of complaining and what lawyers and their professional association see as important enough to merit serious attention, disciplinary action or compensation. Therefore, I welcome the establishment of the position of Legal Services Commissioner, who will have broad power to review the operation of a complaints system and make reports in relation to particular cases or in relation to the operation of the system generally. However, I am disappointed that there has been a considerable backdown with regard to the powers of the LSC from the exposure draft to the one now before the House.

The original proposal from the Law Reform Commission was to allow complaints to be made to the Legal Services Commissioner, who would then

pass the majority of these complaints to the Law Society or Bar Association. In the exposure draft of the bill, the Legal Services Commissioner was to have the power to retain and handle particular complaints if the commissioner believed that it was in the interests of justice or in the public interest to do so. The LSC was also to have the power to take over complaints under investigation and have the right of access to complaints, files and related documents held by professional councils.

However, under the current bill, complaints will be made to either the LSC, Law Society or Bar Association. While the Law Society and Bar Association will have to inform the commissioner of any complaints received, the Law Society or Bar Association will handle all initial investigations of complaints. Independent investigation will be arranged by the LSC if requested to do so by the appropriate council, but only if the council is satisfied that it is in the interests of justice or in the public interest to do so. Complainants may appeal to the commissioner to review investigations by the professional councils but only after the initial investigation by the professional councils, and six months after the complainant was referred to the councils. That is totally unacceptable. I do not think the general public will be satisfied with it. Those who complain to the Law Society say that the process takes too long, a fact which many constituents have brought to my attention.

The LSC will have the power to reinvestigate complaints and will have all the functions of the council to investigate and deal with complaints. Under clause 160(4) a council is required to comply with a direction of a commissioner under the section. The commissioner may take further action under that section if the council fails to comply with the direction. I do not cavil with that. However, those who are severely distressed and believe their lawyers have not treated them properly or attended to their complaints properly will not be happy with six months' delay. The problem with the bill as it stands is the delay involved in not allowing the commissioner to conduct an initial independent investigation where it is in the public interest to do so. The Law Society has argued that allowing the commissioner to receive and assess complaints in the first instance would introduce a carbon-copy bureaucracy.

I do not accept these arguments, since it is important that the commissioner is able to oversight the handling of complaints by the Law Society and the Bar Association in exactly the same way as the Ombudsman has power to oversight complaints undertaken by the internal investigation unit of the Police Service of New South Wales. Professional councils may have to inform the commissioner of the receipt of a complaint and provide details of a complaint to the commissioner if requested, and also to provide access to or a copy of all documents held by the councils that relate to the complaint or are required for the purpose of monitoring the investigation. However, there has already been difficulty in gaining access to complaints information held by the professional associations. In its submission to the Attorney General on the bill the Law Reform Commission stated:

> In its review of the Law Society's 1991 complaint files, the commission came across a significant number of files where there was little or no progress for some months for no apparent reason.

When I was on the complaints committee that was the case. The Law Reform Commission continued in its submission:

> The commission sought directly to ensure, by its recommendations, that the Legal Services Ombudsman would be able to review and monitor the council's dealings in relation to such complaints and be empowered to call for specific action to be taken. For this to happen, the commission intended that the Legal Services Ombudsman's access would be `unfettered access'; that is, permission of the relevant council would not be necessary in each case, but rather that the Ombudsman would simply be able to walk into the council's offices and ask to see either a particular file or the files generally.
>
> As detailed in our report, the commission found the experience of obtaining information from the Law Society extremely difficult at times. The commission was at pains therefore to prevent the Legal Services Ombudsman from being placed in an equally powerless or frustrating position.

Those remarks are to be found at page 8 of the submission to the Attorney General. I believe that the independent oversight of the complaints system has been seriously compromised. I will therefore be moving an amendment to restore the provision relating to the ability of the LSC to undertake the initial investigation and to take over an investigation if it is in the public interest. Adverse findings by a professional council or the LSC may lead to a complaint being referred to the Legal Services Tribunal for disciplinary action. The new Legal Services Tribunal is a streamlined version of the little-used Legal Services Standards Board and the Legal Profession Disciplinary Tribunal. Fines will be increased to $5,000 for unsatisfactory professional conduct and $50,000 for professional misconduct.

There will be some flexibility to procedures before the tribunal depending on the hearing of a complaint of unsatisfactory professional conduct or professional misconduct. However, clause 170(5) makes it clear that even in closed hearings complainants may be present. That is a most important provision. Complainants will be significantly empowered by the legislation. The LSC will perform educative and advisory functions for consumers. Furthermore, complainants are to be kept fully informed of the progress of investigations. Reasons will be given for decisions for dismissal of a complaint. Complainants will also have the opportunity to rebut statements of respondents before a complaint is dismissed. There will be opportunities for mediation of consumer disputes. The availability of compensation and related orders including fee relief and the waiver of a solicitor's lien over documents will be enhanced. The tribunal will have the power to award compensation of up to $10,000 without the consent of the respondent. An unlimited amount of compensation may be awarded by agreement of the parties.

I turn to reforms relating to legal fees and other costs. The bill introduces a number of significant reforms to legal fees and other costs. Above all the approach has been to move from a regulated system to one where market forces play a much larger role. I support the general direction of the reforms but believe they would have to be closely monitored so that costs do not get out of hand. The reforms are advantageous in so far as they provide greater information to clients about the costs of legal services and establish a system for reviewing accounts. Lawyers will be required to provide information about costs to be charged or the basis of fee setting, including where practicable an estimate of the likely total cost of the matter; disbursements; potential for additional costs to arise from the matter; arrangements for presenting bills for the amounts charged; progress of proceedings and developments that might lead to additional costs and methods of reviewing amounts charged for legal services; and for resolving disputes over fees and services. The Bar Council and Law Society Council may issue guidelines.

These amendments should rectify one of the major complaints of consumers about not knowing exactly what they have to pay for and why. The provision of legal fee information sufficient to constitute a retainer or cost agreement will be the keystone of transactions between clients and their legal advisers. The practitioner may confirm the retainer by a letter containing information required under the disclosure

provisions. This must be provided as soon as reasonably practicable after being retained. There may be cost agreement with the client at any time, but it must be in writing and must contain information required in the disclosure provisions. If the practitioner proposes charging on a conditional basis, the arrangement must be by way of a written cost agreement. A fee agreement must have been fairly made; if not, it may be disregarded in the event of a review of costs.

Under a conditional fee agreement there may be a premium on the agreed fee to take account of the risk involved, but the fee must not vary according to the benefit received by the client. In fact, there would be no profit sharing. The premium allowable may be up to 25 per cent of the agreed fee as disclosed in the cost agreement or any such other premium as may be permitted by regulation. These conditional fee agreements will help to align lawyer-client interests. Only cases with a likelihood of success will go ahead. They will allow plaintiffs with limited financial resources to have their cases dealt with. Restrictions on profit-sharing will curb the disadvantages of contingency fees, such as the temptation to deceive the courts and pervert the legal system, the incentive to increase spurious litigation, and potential conflicts between lawyer and client where the financial interests of the lawyer become paramount.

Practitioners will issue a bill of costs or memorandum of fees. If costs are disputed, they should first be discussed by the parties concerned. Mediators will be available to offer help during these negotiations. The bill introduces a new system of assessment to replace taxation of costs. Of course, the problems with the existing system have long been acknowledged. The Law Reform Commission in its discussion paper on complaints against lawyers noted:

> It is widely accepted that taxation is a cumbersome, little understood, and generally unsatisfactory method of resolving disputes about fees and costs. It is well beyond the reach of most clients to initiate an action in the Supreme Court simply to require a solicitor to render a proper bill of costs, or to have a lien lifted, or to have the fairness or otherwise of a bill of costs assessed.

I note that the suggestion of the Legal Fees and Costs Board that the system of taxation be replaced by a system of assessment of costs by practitioners, which has been included in this bill, has been supported by the Chief Justice subject to the appropriate rights of appeal. Where amounts are still in dispute, an application may be made to the Registrar of the Supreme Court to appoint an assessor to consider the matter. The registrar may require that parties provide further information for the assessor. Indeed, in the absence of proper disclosure, there is no obligation to pay the bill until it has been assessed. The practitioner must meet the full cost of the assessment. This assessment will be based on whether the costs are fair and reasonable, as set out in sections 208A and 208B.

The assessor will deal mainly with documents, determining whether they show that the amounts charged are commensurate with the services received. The assessor may require the parties to lodge additional information or appear in person to explain any matters which are not readily available or are not clear from the documents. Decisions of assessors may be registered and enforced as judgments of the court. Assessment will be available to parties to a cost agreement, the person who gave the instruction for the retainer against the practitioner retained, or the practitioner against the person who gave the instruction. Where a retainer or cost agreement is made with full disclosure, assessment will only be available on a ground of review similar to that in the Contracts Review Act - for example, unequal bargaining power, undue influence or misrepresentation. The bill of costs may be subject to assessment to determine the fair and reasonable fee.

If an assessor believes that a lawyer is grossly or deliberately overcharging a client or has misrepresented a fee, the assessor shall refer the matter to the relevant professional body or to the proposed legal services commissioner so that it may be investigated as a complaint, or professional misconduct, or unsatisfactory professional conduct. The bill also amends the basis of party-party assessment to provide that party-party costs will be awarded on the basis of costs reasonably incurred. Under the current system, when courts order the taxation of party-party costs the review is conducted by

taxing officers in the court. Party-party costs are taken to be those that are necessary and proper. Problems arise because the scale of fees prescribed by the Legal Fees and Costs Board may be significantly less than the market rates for the services involved.

There is also an anomaly in reviewing different categories of costs in that party-party taxation has regard only to necessary and proper costs while solicitor-client costs may cover all but unreasonable amounts after taking account of the prescribed fees. Party-party taxation may result in the awarding of costs that fall short of the total amount that must be paid out by the successful litigant. Under the bill, however, party-party costs will be determined under the assessment system set out above. The Government is arguing that assessors - legal practitioners - may be better able to review accounts and determine reasonable fees payable than court officials. It also argues that a successful litigant can recover all fees incurred in the conduct of litigation so long as these have been reasonably incurred.

However, I have to put on the public record concerns expressed to me that the assessment will be a substantially higher amount than would have been allowed under the court scales by a taxing officer. It has been put to me that this will impact particularly on party-party costs and be a hazard to people of limited resources in difficult cases. It must also be pointed out that in 1992 a total of 1,851 party-party bills of costs were filed for taxation in the Supreme Court, while only 46 solicitor-client bills were filed in the same period. It has been suggested that the main beneficiaries of the proposal will be not those who are presently squeezed out of the civil justice system but the public liability insurer who successfully fights off an accident victim and the newspaper proprietor who successfully defends a defamation action.

I would like the Attorney, in reply, to take these concerns into account. I hope that the fears that have been put to me can be laid to rest by him in reply so that this concern will be clarified for the benefit of many members of the public who have made representations to me. With those remarks I support the bill. The amendment I intend to move has been circulated, and I trust it will receive the support of all honourable members.

The Hon. J. W. SHAW [5.29]: Much in this bill is good and constructive, but it requires careful scrutiny by this House and, indeed, by the Parliament generally. The legal process is an important part of our political system; it is an important guarantee of the freedom and equality of our citizens. Hence the reform of the legal profession is a topic that requires careful and constructive consideration. It is a task that cannot be tackled too frequently because that would destabilise the legal process. The bill gives Parliament an historic opportunity to make some changes in the practice of law in New South Wales. It is important that Parliament provide the proper legislative framework for law reform. As a great American educator said, "If war is too important to be left to the generals, surely justice is too important to be left to the lawyers". I am a member of the legal profession, but I am not a defender of every aspect of the current practice of the bar or of solicitors. However, I believe that real and substantial reform is not only desirable but necessary.

In a number of respects my views would be somewhat more adventurous and more reformist than those of the leadership of the profession. For example, I believe it is difficult to justify the immunity of barristers from civil actions in negligence for what they do in court. It is true that they exercise a professional responsibility and duty as officers of the court, and it is true that they cannot give untrammelled scope to representation of the client. But these are matters that should be considered by a court hearing an allegation of negligence. Other skilled professionals can be sued, and I do not believe there are sufficient factors differentiating advocates from those other professionals to justify putting advocates in a privileged position. I believe - and this is another heresy - that wigs and gowns should be abolished in relation to all but ceremonial occasions. I believe that judicial appointments ought to be opened up to a wider class of legally qualified and experienced people, without sacrificing merit or integrity.

Despite my reformist instincts, I believe that many things in the current practice of law ought to be defended, and defended strongly, as being integral elements of our democratic society. One important reason why the legal profession must accept change is that our community as a whole is undergoing great structural change. To use the rather ugly jargon of contemporary debate, microeconomic reform is going on in industry after industry. Blue collar workers have had restructuring imposed upon them by award changes, governmental decisions and employer pressure. The legal profession must change with the times and must be reformed, but such reform must be undertaken with proper knowledge, consultation and sensitivity to the significant role played by the law in society. Reform that is undertaken out of prejudice, ignorance or envy will be entirely counterproductive and incompetent.

One matter of acute concern to me is the lack of accessibility of our courts to ordinary citizens. Until recently, one might have said that the poor in our society had reasonable access through civil legal aid. In modern times that access has been called into question because of the lack of resources of the Legal Aid Commission. Major corporations and the wealthy continue to have, as they historically have had, access to legal processes because of their possession of the necessary resources. In the longstanding and admirable scheme of speculative actions, workers injured at work and motorists injured on the roads enjoy, as they long have enjoyed, competent and dedicated legal representation, because of the willingness of lawyers to undertake cases for which they will not be paid if the case is not successful.

But a vast group of people in the middle of our society find that the law is simply too expensive. When leading barristers or politicians start to reflect upon their own capacity to sustain a defence or to undertake a proceeding in a court, particularly when senior counsel is engaged, they realise what a drain litigation would be on their own financial resources. That illustrates the lack of access to the legal system

of ordinary citizens of New South Wales. The bill attempts to tackle this problem, but I am not entirely convinced that it provides a comprehensive answer to the lack of access to our courts by a considerable group in society. It certainly provides some consumer safeguards, but I question whether the abolition of both the scale of fees and the fixing of that scale by an independent tribunal is appropriate.

I am aware of the argument that that scale in a sense sustains existing levels of fees, but it is also evidence of what independent observers believe is a reasonable scale of fees. I have some apprehension that if that constraint is not present, fees might at some stage get out of hand. The problem is that the legal profession, in its dealings with clients, is not dealing with anything like a perfect market. It is not dealing with consumers in possession of full information or with equality of bargaining power. I have the feeling that this Parliament, assuming the parts of the bill dealing with legal fees are passed, will have to consider, in the not too distant future, the whole question of the cost of access to the legal system in perhaps a more fundamental way.

I should like to outline a number of concerns about this bill that have been expressed by barristers and other practising lawyers in New South Wales. I indicate my support for those concerns and urge the Government to consider a number of amendments to the bill. The first matter I want to deal with concerns the proposal for multidisciplinary partnerships. That is the idea, which is embodied in proposed section 48G of the Act, that a barrister or solicitor may be in partnership with a person who is not a barrister or a solicitor, except to the extent, if any, that the regulations, barristers rules, solicitors rules or joint rules otherwise provide. It is true that that is qualified by the possibility of prohibitio, but it is also true that the proposed section seems to open up the prospect of professional partnerships and profit-sharing between lawyers and a miscellany of other trades or occupations.

Objection to that proposal might be portrayed as elitist or even old-fashioned, but in fact the independence of solicitors advising their clients and acting for them, and the independence of barristers, is too important to be blurred by any prospect of barristers and solicitors joining partnerships with a wide range of other income earners. The provision is too wide, it is ill-considered, and it ought to be reconsidered. The second matter I want to deal with is the proposed abolition of the right of the Crown to appoint Queen's Counsel. That provision is contained in proposed section 38O of the Act. I understand

why the Government, in a populist way, might wish to say, "We will not have any more Queen's Counsel in New South Wales", but this legislation goes well beyond that. It will abolish the power of future governments to appoint persons to that particular office.

The change is somewhat ill-considered because, first, it will preserve the monopoly of those who already hold that office and protect them from competition from newcomers or new appointees. Second, the change overlooks the obvious reality that New South Wales barristers will be able to apply in Victoria or the other States to be appointed as Queen's Counsel and, therefore, it overlooks the obvious point that reforms of this nature need to be conducted on a national level and not State by State. I should like to refer next to proposed section 57I, which will give the Attorney General the power to declare the rules governing the practice of barristers or solicitors, or joint rules, to be inoperative. If that power is to be vested in the Attorney General, my view is that there ought to be a general right of appeal to the Supreme Court against any such declaration. That will avoid capricious, rash or unjust determinations by the Attorney General and will assure independent judicial reviews of such important decisions.

I believe it is inappropriate that the Attorney General should have an untrammelled right, not subject to any review in the court, to declare rules to be inoperative. There ought to be some checks and balances on that. The way forward is to have a general right of review of the decision or appeal against the decision vested in the Supreme Court. The next point I want to mention is the constitution of the advisory council. That is provided for by proposed section 58. The advisory council would be very much the creation of the relevant Minister and, in my view, insufficiently representative of the independent profession. It is to be given very wide powers and will play a critical role in relation to possible actions by the Attorney General to declare rules governing the profession inoperative.

The preponderance of members of the advisory council will be appointees of the Government. One needs to look ahead and see the possibility of attorneys general appointing people who do not represent a disinterested view of the operation of the law. In other words, the advisory council has the potential to become the mere instrument of government if appointments are effected in an ill-advised way. We ought to consider whether the Chief Justice should be the chairperson of that advisory council and whether more representatives - perhaps all the representatives of the barristers and solicitors - ought to be nominated by the barristers and solicitors, not selected by the Attorney General.

Finally, may I mention the Legal Practitioners Admission Board and its constitution. My colleague the Hon. R. D. Dyer has already made the point that judges should have a greater representation on the admission board. It would be desirable if the judges of the Supreme Court had a majority of members on the admission board. After all, the idea of determining whether a person is a fit or proper person to practise before the court has traditionally been a function of the court, and it seems appropriate that judges should play a very large role in that - but, I emphasise, not an exclusive role.

I have received representations from the deans of the faculties of law - deans of the law schools - arguing that they ought to have representation on the Legal Practitioners Admission Board. I understand

that they have made that representation to the Attorney General. Prima facie, it seems a reasonable proposition that they should have some representation. As I understand it, they are not suggesting that all the deans should be on the board - with the proliferation of law schools, there would be too many - and I believe they would also be content for the Attorney General to determine which of them ought to be on the board at any particular time. But, since that board has responsibility for educational qualifications or admission standards, I think the academic world - those responsible for the training of law students - would have a valuable contribution to make to the board.

There is one other relatively short point I want to make and, as I understand it, this also has been the subject of a submission to the Attorney General. It concerns an apparent change to the qualifications of commissioners of the Compensation Court of New South Wales who may be appointed as judges of that court. It is not entirely clear whether that is an intended change but it is at least possible that, because of

the changes effected by the bill, certain people who are currently commissioners of the Compensation Court of New South Wales and who are legally qualified might not be qualified to be appointed judges in due course, if the bill were passed. There is no assumption that such people will be appointed judges, but there is a powerful argument that they ought to be eligible for consideration.

May I briefly sketch out that problem. The Compensation Court Act 1984 now provides that to qualify for appointment as a judge of the Compensation Court, a person must be either a judge of the District Court, a barrister of not less than five years' standing, a solicitor of not less than seven years' standing, or a barrister or solicitor of less than five years' standing or seven years' standing respectively, where at all times during a continuous period of not less than seven years the person was on the roll of solicitors when not on the roll of barristers, or on the roll of barristers when not on the roll of solicitors. Barrister is defined as a person enrolled in the Supreme Court as a barrister; and solicitor is defined as a person enrolled in the Supreme Court as a solicitor. I am referring to the definitions in the Legal Profession Act 1987.

If this bill were passed, it would seem to mean that the provisions in the Legal Profession Reform Bill will alter the qualifications for appointment as a judge of the court. That arises because schedule 5 to the draft bill proposes to amend section 8 of the Compensation Court Act by inserting a provision that a person is qualified for appointment as a judge if the person is under 70 years of age and is a judge of the District Court or is a legal practitioner of at least seven years' standing. The definition of legal practitioner in the bill provides that legal practitioner means the holder of a current practising certificate issued under part 3 by the Bar Council or by the Law Society Council.

It appears that people who hold the office of commissioner of the court would have difficulty, in time, holding a practising certificate at the same time. That is something that ought to be reconsidered. If the view of the current law is that such commissioners could be appointed as judges, I think that practice ought to be preserved. Certainly, in other jurisdictions it is quite common for persons at a non-judicial level of the tribunal to be, as it were, promoted to judicial status. Let me take the example of the Industrial Commission of New South Wales, where a number of conciliation commissioners with legal qualifications have, from time to time, been appointed as judges of the Industrial Commission. That has happened over many years. Similarly, in the Land and Environment Court people who have been assessors with legal qualifications have been appointed as judges of the court.

I would ask the Attorney General to reconsider that matter, to preserve the flexibility of the Government to select appointees of the court not only from members of the practising profession but from people who are, in effect, part of the court already who are performing a judicial function very much akin to the functions of the judges of the court, albeit with some limitations on their powers. I have highlighted the areas that, it seems to me, require some reconsideration. I do not want to give the impression that I am too negative about the package. As I said at the beginning, it has some admirable features, and, obviously, much work has gone into it. We need a positive approach to reform of the legal profession to make it more flexible, more efficient and more accountable, and to enable it to deliver services to the wider community, thus rendering justice more accessible.

The Hon. JENNIFER GARDINER [5.47]: I have pleasure in supporting the Legal Profession Reform Bill. The legal profession may feel a bit like the people in the Sydney Water Board, in that there always seems to be some type of inquiry into the profession. The previous New South Wales Government appointed the New South Wales Law Reform Commission to inquire into and review the profession, commencing in 1978, and some of the commission's recommendations were acted upon by that Government almost a decade later. There have been various legal profession reviews overseas and interstate, but perhaps the ones that have attracted the most notice were the inquiry of the Australian Senate Standing Committee on Legal and Constitutional Affairs into the cost of justice, and the inquiry of the Trade Practices Commission into the legal profession, which released its report just a week or so ago.

Many of the recommendations contained in the Trade Practices Commission Report have been

pre-empted by this bill. Inquiries into the profession, particularly relating to the cost of justice, arise out of community concern and or perceptions that the cost of accessing the law is out of the reach of citizens who are either not very rich or not very poor. Late last year the Government published its green paper on the

structure and regulation of the legal profession. In May last year the Law Reform Commission issued its discussion paper on complaints against lawyers, and parts of this bill flow from that report, which was issued in February last. Then there was the study of legal fees issues by working parties set up to analyse that aspect of reform in particular, and in April this year the Government issued its policy on this matter.

The policies on structure, regulation and complaints against lawyers and legal fees structuring led to the promulgation of a draft of the Legal Profession Reform Bill in June. From May until September last, when the Attorney General detailed the contents of the Legal Profession Reform Bill to the Parliament, there was further consultation with members of the profession, groups acting on their behalf, and with others in the community who were interested in the subject of legal profession reform. Some of the important provisions of the bill are as follows. There will be common admission to the Supreme Court as legal practitioners, rather than as barristers or solicitors. A new Legal Practitioners Board, which is in effect the amalgamation of the Solicitors Admission Board and the Barristers Admission Board, will process admissions to the court. After his or her admission to the court, a legal practitioner will have to elect which type of practice he or she is to follow, and then apply for a practising certificate. The rules to be followed by the respective practitioners will be regulated by the relevant council. Barristers and solicitors will be able to accept instructions directly from clients. Such direct access will be subject to the rules of the relevant council.

The Bar Council will be able to make rules in relation to access by solicitors, other nominated professionals and members of the public. The bill will provide for the possibility of contractual relationships between clients and their lawyers, including lawyers who elect to practise as barristers. The bill opens up opportunities for barristers, similarly to solicitors, to advertise their services, which will help to make the profession seem more accessible to the public. Practitioners will be able to advertise specialist services; and to help practitioners substantiate their sales pitch, the Bar Council and the Law Society Council will be able to introduce appropriate accreditation schemes. There is an important departure from current practice with respect to rights of appearance and advocacy. Until now, barristers have been unable to accept a brief to appear in court with another person who is not a barrister. Co-advocacy will now be a feature of court hearings where there is a need for more than one practitioner to represent the interests of the client, so that sometimes a barrister will appear with a solicitor.

The bill will eliminate restrictions on the rights of one lawyer to attend upon another lawyer. The circumstance of attendance is a matter to be determined between individual practitioners. The bill will enact an initiative of the Government announced some time ago to abolish the Crown's prerogative to appoint Queen's Counsel. This provision will not prohibit the legal profession from establishing its own schemes for recognition of status or expertise. The bill also will provide for multidisciplinary partnerships for both solicitors and barristers, subject to the rules of their professional councils and subject to the usual obligations and requirements of legal partnerships, including the need to hold insurance.

Moving to a completely different area of operation, the bill will give formal recognition to community legal centres as providers of legal services by the Legal Profession Act. It has been suggested that until now centres have been operating in breach of the Act. The bill will vest regulatory responsibility in the profession's own councils. The rules of the councils can also be made jointly by the Bar Council and the Law Society Council. The bill will give life to the Legal Profession Advisory Council, and create the important position of Legal Services Commissioner, as recommended by the New South Wales Law Reform Commission. The commission pointed to the desirability of having professional councils involved in the investigation and processing of complaints against members of the profession, and said that there was also a need to promote public confidence in the independence of the legal process as a whole, so

there should be an effective mechanism for external review of the performance of the councils.

The grounds for taking disciplinary action against practitioners are unchanged and the definitions of professional misconduct and unsatisfactory professional conduct are also current definitions. The Legal Services Tribunal will have broad power to review the operations of the complaints system and to make reports in relation to particular cases or in relation to the operation of the system generally. In future, complaints will be made direct to the commission. The commissioner may summarily dismiss a complaint if further particulars are not provided, or if the commissioner considers the complaint to be frivolous or vexatious. Complaints will have to be brought within three years, but there is a provision to allow the commissioner to waive the time deadline where it is just and fair to do so having regard to the delay, or where the matter concerns professional misconduct and the commissioner believes it to be in the public interest to investigate the complaint. The commission will be responsible for promulgating to consumers knowledge of and access to the complaints system.

Councils will be primarily responsible for investigating complaints, although there is provision for certain complaints to be handed back to the commissioner where that is appropriate. There will be full rights of appeal to the commissioner. Importantly, councils are required to provide assistance to the commission in monitoring investigations. If a council decides not to refer a complaint to the Legal Services Tribunal, the commissioner may review such decision. A more streamlined process for disciplinary proceedings is formed with the creation of the new Legal Services Tribunal. This new body, which incorporates some of the roles of its antecedents, will have available to it the full scope of orders that can be made currently

by either of the previous bodies. The bill ushers in a new era of setting and reviewing legal fees. The reforms move away from regulated fees to a system where the market sets fees, but with a safety net to protect consumers.

An important provision in the bill introduces fee disclosure, which will allow consumers to better compare legal fees and to make more informed decisions about legal proceedings. Practitioners will be required to provide their clients with information about the amount of costs, if known, or the basis of calculating the costs. Clients also have to be advised about the billing arrangements. It is appropriate, therefore, that fee disclosure be introduced, as the reputation of the whole profession will be enhanced as a result. All institutions - and the legal profession is in some way an institution - have had to become used to more searching and constant scrutiny by consumers, by the media, and by the general community. All professions are so affected. Old institutions such as universities have undergone radical change in a short space of time. All sorts of institutions, from the Water Board to political parties, are subject to greater scrutiny by the public. I believe that the legal profession is to be congratulated on coming to grips with changing community expectations and working with the Government to bring this important reform of the legal profession to fruition. I support the bill.

The Hon. Dr B. P. V. PEZZUTTI: [5.57]: I support the Legal Profession Reform Bill. I value my long and deep association with the legal profession. My close association with lawyers dates back to when I was a student at St John's College, where most of my friends were law students and are now prominent and successful barristers and solicitors. I take pride in that association, in their achievements and in the contribution that many of them have made, including my friend and colleague the Hon. Peter Collins, the Treasurer and Minister for the Arts. I was honoured and proud to be offered a job on the complaints unit of the Law Society. I took my role as a member of that unit most seriously, and was pleased to receive a note from the Law Society about my positive contribution. Since I have been in politics I have become aware of the intense animosity exhibited by members of Parliament and by the public sector towards members of the legal profession. At first I thought this emanated from a lack of understanding or envy, but I came to realise that the profession's role and its aims run counter to many political agendas. I became aware that, in the pursuit of a better tomorrow as envisaged by some, the profession, with its ethical standards and strong public advocacy, was in many instances a stumbling block. The strong campaigns, helped by the media, in pursuit of a better economy, a more equitable

position for some group or other, or changes in behaviour, were beginning to seriously impact on our free society. The Premier, the Hon. John Fahey, in a recent speech said:

> The cornerstone of a free democratic society is the rule of law. You only have to look at contemporary examples around the world to understand that if you have the "rule of men" rather than the "rule of law" there are dire consequences for personal freedom, peace and economic prosperity.

In 1944 Congressman Pettingill stated that a socialist plan to destroy a free culture must include the following main points:

1. Constitutional guarantees must be swept aside. This is accomplished in part by ridiculing them as outmoded and an obstruction to progress.

2. Public faith in the legal profession and respect for the courts must be undermined. The law-making body must be intimidated and from time to time rebuked, so as to prevent the development of public confidence in it.

3. A great public debt must be built up so that citizens can never escape its burden, making government the virtual receiver for the entire nation.

4. A general distrust of private business and industry must be kept alive so the public may not begin to rely on its own resources.

5. Government bureaux are set up to control practically every phase of the citizen's life.

6. To supplement and fortify all the foregoing, there is kept a steady stream of government propaganda to extol all that bow the knee and to vilify those who dare to raise a voice of dissent.

7. The principle of local self-government must be wiped out.

I believe that the last principle applies to the importance of self-regulation of the professions. Lord Hailsham, the longtime Lord Chancellor of Great Britain, wrote in his autobiographical book *A Sparrow's Flight*:

> In some degree the professional classes are the Cinderellas of the modern economic scene, Cinderellas without a Prince Charming to protect them. They are not part of the workforce and do not belong to affiliates to the TUC.

For the TUC, members can read the Australian Council of Trade Unions. He continued:

> They are not part of management. Whether they are dentists, accountants, solicitors, surgeons or barristers, their activities are hedged about by somewhat arcane ethical rules, which can easily be misrepresented as restrictive practices, but which, for the most part, are really imposed in the interest of professional integrity and consumer protection. The housewife can readily discern the relative value of the services of a butcher, a baker or a candlestick-maker, and her husband and she can readily exercise consumer choice between different makes of motor-car or television set. But what standards should be set before a doctor, a dentist, a chartered engineer, a solicitor, a barrister or an accountant in order to qualify as such? The same difficulty pertains to the respective ethical codes to be observed towards one another by the individual members of what are essentially competitive and, in the case of lawyers, reciprocally adversarial professions.

He went on to say:

> The marks of a profession are the imposition of a high and uniform qualification of entry, a system

of special ethics enforced by a just form of self government, opened to criticism, and a determination never to deprive the public of access to our services in order to secure personal or corporate gain.

Sir John Carrick, an important member of the Liberal Party and an important person in politics in this country, in a recent editorial asked:

Can government regulatory bodies replace the responsibilities of each and every profession to establish and maintain high ethical standards and a meaningful sense of duty in the community?

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Bernard Levin in "Quadrant" in 1987 wrote:

Those who live by a set of rules designed to protect not only themselves but the public; who accept an obligation towards their clients and a duty to maintain the highest standards in dealing with them; whose initial qualifications to engage in their work have been established by rigorous examination, and whose subsequent progress depends upon manifest ability; who accept that the privileges which rightful conduct gives them are inseparable from the penalties visited upon the wrongful; who know, and act upon the knowledge, that a black sheep among their members will colour the public's perception of them all; bind themselves to avoid conduct, even outside their working hours, that might bring discredit upon their fellows as well as themselves.

He went on to say:

No doubt your professional body -

He was speaking here about engineers -

. . . lays down standards of conduct that all its members are obliged to maintain; but every member, separately and solitarily, must lay that burden of responsibility on his own back. It is almost truism to say that the rules imposed by professional organisations are those that would in any case be followed instinctively by their members; and yet the workings of a strange and sinister phenomenon, unknown before this century, suggests ever the more strongly that this attitude, which I imagine most of the people in this hall would accept without demur -

The Hon. J. R. Johnson: On a point of order. Although this is interesting, the contribution of the Hon. Dr B. P. V. Pezzutti has nothing to do with the bill before the House. Mr Deputy-President, I implore you to bring him back to the bill.

The Hon. Dr B. P. V. Pezzutti: On the point of order. The Hon. J. R. Johnson in his point of order displays precisely the ignorance about the importance of this bill that I have been identifying. I am trying to educate him about it, and why this matter is so important.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the Hon. Dr B. P. V. Pezzutti not to use terms like that when referring to other honourable members in this Chamber.

The Hon. Dr B. P. V. Pezzutti: It is perfectly clear that what I am doing is setting the stage for a realisation of what is important about a profession, before I go on to deal with this most important bill, which is the reform of the legal profession in this State. I am trying to make it perfectly clear why I support the bill.

The DEPUTY-PRESIDENT: Order! I find no point of order. However, I ask the Hon. Dr B. P. V. Pezzutti, if he is tempted to stray from the bill, to resist the temptation and remain fixed to the bill.

The Hon. Dr B. P. V. PEZZUTTI: The quote of Bernard Levin continues:

- is not only rejected by many, but widely denounced as wholly unnecessary and indeed pernicious.

Sociologist Peter Berger identifies and describes in his recent book a new class within the middle-class. It is dependent upon government subsidisation and has a strong vested interest in the expansion of government services. He talks about many in this new class being employed in the educational system, the communications media, the vast guidance and counselling networks and the bureaucratic agencies planning for the putative non-material needs of society.

This new class is in deep struggle with the old middle-class, mostly occupied in the production of goods and services. He declares that the new knowledge class is ideologically to the left-wing of the middle-class. They are more about power than profits, not understanding why they do not yet totally run the country. They prey on any group with a grievance, so that by using such grievance they seek more power. This new group is determined to destroy the professions, or at least control them in the name of consumerism and political correctitude. They hide behind the guise of the caring society whilst delivering, feeding on misery and subjection. They attack science and technology whilst insisting on the good that flows from the achievement of science.

The new class is the problem solving class - so they say. The threats to the professions are sometimes subtle. The recent decision by the Commonwealth Department of Immigration to set up a registry of advocates is an example. A cause of expulsion from the registry is the advocate taking on and pursuing a matter which does not have a good chance of success. Another example is the decision by the head of the National Crime Authority to extend to lawyers the requirement to report all transactions over $10,000. We regularly imprison people on the premise that ignorance of the law is no excuse, the basis for that being access to legal advice is readily available, then frighten them off with the threat that disclosure of private matters will cause them trouble.

The Hon. I. M. Macdonald: Have you a problem with that?

The Hon. Dr B. P. V. PEZZUTTI: I certainly do. We see comments in the press from Professor Fels claiming that there is a cartel, a conspiracy to operate. He wants action under the Trade Practices Act to fix the problem. Opposition members think it is fair to apply such action to the legal profession yet they do not want trade union members to be subjected to such action. I totally support the aims of the bill. It will allow for continuation of self-government of the profession. In a democracy such as Australia the professions should be allowed to self-regulate. With bills covering medical practitioners, nurses, psychologists, podiatrists, physiotherapists, chiropractors - the optometrists' bill is yet to come - the same philosophy has been adopted. Although the Minister may appoint members of the regulating bodies, most of the members who control the standards in the professions come from the professions concerned. The dead hand of government does not control the ethical standards and performance standards of the professions.

This bill will set up a framework in which the people exercising the power and responsibility have protection of the law in pursuing excellence and

ethical standards in the professions of this country for which Australia is renowned. The Government is setting up a proper regulatory body controlled by the profession and protected by law. Members opposite, the left-wing of the Labor Party, will not be able to control the way in which professional services are delivered to the clients and the patients of the professions. I quoted at length from the great scholar and writer Lord Hailsham on accountability of the professions. There should be transparency and a relationship with the community so that the community knows that if there is a failing it will be picked up by a proper mechanism, investigated and judged - and, if there is a need, punished.

This bill contains the same important features that are found in other bills governing the professions,

seeking to ensure that the clients of the State receive good service and that the profession is self-regulating. If there is a failing in the system the community can trust the mechanism to deal with that failing. I prepared a private member's bill on this issue. I discussed the matter with many lawyers. I proposed to have a slightly different form of complaints investigation and prosecution. However, I do not believe that the profession is yet ready for what I proposed, although it will be eventually. The Attorney General has openly consulted with all the parties. Even after he had prepared his first bill he was open to negotiation to ensure that the best possible bill was developed to maintain professional standards and protect the community. This bill, in 1993, is the very best bill that can come forward. There is no static basis for any legislation to deal with the professions.

The community, the profession, laws, technology, and education continue to change. This bill recognises the need for specialisation, as the bill governing the medical profession does also. The bill introduces an accreditation process for professional excellence and the ability to advertise. Accountants, engineers, and economists will be able to provide advice to the legal profession. This bill will update the legislation and allow for the continuing supervision of standards by the profession and a totally transparent process of public examination - and public punishment if there is a transgression. I could not be more delighted to support such a bill. The bill is just what I would wish a Liberal Party-National Party Government to bring forward and I strongly support it.

The Hon. S. B. MUTCH [6.18]: It gives me great pleasure to support the Legal Profession Reform Bill and the Maintenance and Champerty Abolition Bill. This legislative package is another example of the zeal with which the Attorney General has pursued his appointment. It has been needed for many a long year. Having practised in the exalted profession, I can say that change comes hard to the profession, for good reason. The professions have traditional expertise, professionalism, codes of ethics and so forth which take a long time to develop. We should bear in mind the repository of knowledge, expertise and ethics that has been built up in the great professions and should not be too quick to denigrate them.

The legislation is timely because a report by the Trade Practices Commission on the legal profession has been released recently in the hope of encouraging cheaper and more competitive legal services. New South Wales, under our reforming Attorney General, anticipated many of the recommendations of the report. The legislation moves towards greater competition within the profession while at all times maintaining the integrity of the profession. We must remember that there are many lawyers. Many people study law because it leads to other things. The number of people studying law has been increasing. There is a lot of competition within the profession. The Attorney and the Government have been willing to bite the bullet - and it needed to be bitten.

The Attorney has done that through an exhausting round of consultations and discussions. He had to bring the profession with him on these reforms. I participated in one of the Attorney's meetings where I was asked to bring along a number of my colleagues and acquaintances within the profession. The Attorney General has toured the length and breadth of New South Wales consulting with regional law societies to ensure that he carries the majority of the profession with him on changes to the profession to make it more competitive and more effective for consumers. The reform bill follows a number of commission reports on the law and practice of the legal profession. The New South Wales Law Reform Commission provided four reports. One related to general regulation and structure; another to complaints, discipline and professional standards; a further report on advertising and specialisation; and a fourth report on solicitors' trust accounts. Some of the recommendations were adopted in the Legal Profession Act 1987. However, the majority of those much-needed reforms were sidelined or avoided, and the Act reviewed in part.

In 1984 the Law Reform Commission recommended that the Attorney General should conduct a review of the profession every five years - a worthwhile recommendation that should be borne in mind five years hence. A number of other inquiries into the legal profession have been conducted. The Victorian Law Reform Commission reported on access to the law. The Senate Standing Committee on Legal and

Constitutional Affairs conducted an inquiry into the costs of justice. A famous report on the Lord Chancellor's review of legal services in the United Kingdom put the fox into the fowl yard. All that work having been done, the Attorney decided that there was no need to conduct a further review in New South Wales. Rather, he decided to review the results of various inquiries to ascertain those amendments that could be put together in this landmark legislation.

Last November he issued a green paper on the structure and regulation of the legal profession. After reviewing responses to that paper, the Government adopted a position, and in May 1993 issued a statement of policy on the structure and regulation of the profession. The Government generally supported the findings of the final report by the New South Wales Law Reform Commission on scrutiny of the

legal profession and complaints against lawyers. In May the Government published its own policy statement. A working party on legal fees resulted in a statement of government policy in that area in April this year. There has been an exhaustive series of statements and reviews of recommendations of previous reports.

Following those three statements the bill was drafted and released in June. I have not heard much complaint from the Opposition about lack of consultation on the bill. However, nothing should be taken for granted with the Opposition. The Attorney General was thorough in his preparations. About 15,000 copies of the bill have been circulated. The first area of reform concerns the structure and regulation of the profession. I am amazed that the profession's dual entry system has lasted so long. The new system for making rules regulating barristers and solicitors provides a common entry procedure. I remember many years ago going to the old building at the end of Phillip Street and there trying to find the little cubbyhole where I had to get my papers so I could register as a student-at-law solicitor or student-at-law barrister. Admission criteria for both were exactly the same. By the time I had graduated from university, by sitting for the ethics examination a person could become a barrister before becoming a solicitor.

The Hon. J. R. Johnson: Most did that examination?

The Hon. S. B. MUTCH: Of course they did: it was one of the advantages of professionalism. To become a solicitor a person had to spend six months at the College of Law. It was easier to gain admission as a barrister than as a solicitor - not too many people realised that. The great traditions of a separate bar and the distinction between practising barristers and solicitors have been continued, and I support that. Existing professional bodies have been allowed to continue, and their historical expertise will not be lost. The profession in New South Wales has developed admirably. Rules are to be made by a professional body. The profession has been given a fair amount of autonomy. The rules to be made are reviewable and can be disallowed if found to be not in the public interest. That is the crux of the reform bill. That mechanism has been put into place. The Legal Profession Advisory Council has been established.

The Hon. J. R. Johnson: Did you get a guernsey.

The Hon. S. B. MUTCH: One can never rule out potential appointments in the future, I suppose. To paraphrase Neville Wran, I do not think that membership of the Liberal Party should ever bar a person from potential appointments. The Legal Profession Advisory Council - to be composed of 11 members, with an independent chairperson - will play a role in the profession. The role of the council will be to review regulation of the profession and offer advice on future reforms. I congratulate the Attorney General on his exhaustive review and consultations which have led to the reform bill. I thank Opposition members for their support of these reforms.

[*The Deputy-President (The Hon. D. J. Gay) left the chair at 6.30 p.m. The House resumed at 8.15 p.m.*]

Reverend the Hon. F. J. NILE [8.15]: On behalf of Call to Australia I am pleased to support the Legal Profession Reform Bill (No. 2) and its cognate bill, which deals with the issues of maintenance and champerty. The aims of the principal bill are: to reform the structure and regulation of the legal profession so as to facilitate its regulation in the public interest, including the removal of restrictive practices; to reform the complaints and disciplinary system relating to the legal profession, including the establishment of an independent statutory officer to receive complaints and supervise the handling of complaints by the professional councils; and to reform the system of setting and reviewing legal fees and other costs so as to promote competition, better inform users of legal services and improve the system of review.

The bill has six schedules. Schedule 1 deals with reforms relating to the structure and regulation of the legal profession. Schedule 2 deals with reforms relating to complaints and discipline. Schedule 3 deals with reforms relating to legal fees and other costs. Schedule 4 deals with miscellaneous and consequential amendments. Schedule 5 deals with amendments of other Acts relating to judicial and other appointments. Schedule 6 deals with consequential amendments of other Acts. This important bill has been the topic of considerable discussion and concern among members of the legal profession, both within the New South Wales Bar Association - which represents, in the main, the interests of barristers - and the New South Wales Law Society - which represents, in the main, the interests of solicitors.

Some conflict has arisen between the two organisations and attempts have been made to reach agreement with regard to strongly held views. The approach to the bill by Call to Australia leans towards that adopted by the New South Wales Bar Association. We are concerned about a number of the proposals in the legislation and would sympathetically consider some of the amendments proposed by the Opposition, which are similar to the concerns presented to Call to Australia by the Bar Association. Some of those concerns have been mentioned in the past in this Chamber, such as the abolition of Queen's Counsel. Symbolically, that particular decision made Call to Australia less sympathetic and more suspicious of the bill than it might have been in the first instance. Of course, I have some experience of the activities of barristers, solicitors and the courts, though I have not been before the courts at my own instigation. I have been brought before the court by various people since I have been involved with public issues, whether because of my association with the Festival of Light or the Call to Australia group, or through my role in Parliament. Those court appearances involved five

defamation cases. I have had some experience with having to defend myself and I have been successful on all those occasions.

On one particular occasion, the group challenged at law the election to the Senate of a Mr Wood. Matters relating to his citizenship and the Constitution were raised. The group took that matter to the Court of Disputed Returns at the Federal level, that is, the High Court. When we commenced that action we did not realise that the Court of Disputed Returns for Federal purposes is in fact the High Court. That action was brought in the name of the Hon. Elaine Nile. We went to the High Court with great trepidation to present our case. On the one day we faced the full court of seven judges. Call to Australia has great respect for the law. We regard the law as an extremely important part of our society. The Bible, in Romans 13, speaks about government and magistrates being the servants of God. That same high view of the law and those who participate in the law - whether barristers, solicitors or judges - was reiterated in the oath that the Queen took when she was crowned.

The Queen promised in 1953 that she would govern the United Kingdom and the Commonwealth with equity and justice. The wording is, "To maintain the laws of God and the true profession of the gospel". To help make clear the source of our law in western society with its Christian heritage, the Queen is presented with the Bible and the Archbishop says to her, "Our Gracious Queen: to keep Your Majesty ever mindful of the Law and the Gospel of God as the Rule for the whole life and government of Christian Princes, we present you with this Book, the most valuable thing that this world affords". That is the Bible. Following that, the Moderator of the Church of Scotland basically seconds the motion when he says, "Here is Wisdom; This is the Royal law; These are the lively Oracles of God". It may sound strange in contemporary society to claim that our law is based on the law of God and comes from God,

the Creator, when developments in our society appear to demonstrate the opposite. Some people would like our society to become a secular, pluralist society - even an atheistic society. But the basis of our law is still the Bible and the principles enunciated therein.

When John Wyclif translated the Bible into English, he made the statement, "This Bible is for the government of the people, by the people, and for the people". As honourable members know, those words were later paraphrased by Abraham Lincoln, but they originated with John Wyclif. When he said those words, no one questioned them. It was accepted as a basic principle that the law should be God's law, and that belief was held by all. As I have said, that is not as clear-cut in modern society, and we should seek to restore that law and return to the basic principles. Early colonies in the United States were founded primarily by Christian pilgrims who had travelled there to start new lives. They followed the basic principles, even though that was many centuries after the law had been set down in the Old Testament and the New Testament. The New England colony, one of the early colonies, adopted the biblical law as the basis of its society. That was a return to Europe's past; it was a new beginning built on old foundations. Without any sense of innovation the New Haven colony, another of the early colonies, made the law of God the law of the colony.

Modern society perhaps demonstrates non-belief when it holds that the law of God no longer has any meaning or any binding force for man today. That sad development has led to many of the problems in society today: the breakdown in respect for law and order; the following breakdown of family life; increasing violence on the streets, which are no longer safe; and, unfortunately, increasing corruption at various levels of society - whether it is white collar corruption in the business world, about which honourable members have heard a great deal in recent days, the sad cases of corruption in the police force, or corruption in the political arena. Honourable members are aware of examples of that today as well. If the basis of law as set out in the Bible is not restored, society will not be perfect. We will have to seek God's help to implement and uphold His law. That would be a step in the right direction. One cannot understand western society or the present court and legal system without taking into account the impact of the Bible and the history of the church over many centuries. That is an important part of our history.

It may seem strange to some members of the House but many experts and I believe that the law in every culture is religious in origin, and that law governs man and society because it establishes and declares the meaning of justice and righteousness. The law is inescapably religious in that it establishes in a practical fashion the ultimate concerns of the culture. Accordingly, a fundamental and necessary premise in each and every study of law must be a recognition of the religious nature of law. The source of law in our society is God the Creator, as revealed in the Bible and through the prophets, the apostles and through Christ, our Lord. The source of law in unchristian societies is the religious beliefs and aspirations of those societies. In modern times Mao Tse-Tung, the leader of communist China, said, "Our God is none other than the masses of the Chinese people". He claimed that was the source of his law.

It is important to acknowledge the place of Christian biblical revelation and Christian history in our law. That is possibly why the oath "So help me, God" is still taken on the Bible. In the days of capital punishment the judge would say, after imposing the sentence of death, "May God have mercy on your soul". Our legal system is surrounded by quite a deal of Christian content. That heritage remains today, even though it may not be as clear-cut as it should be. We should do all we can to revive it, reform it and make it workable in modern society. Earlier I mentioned that the Bar Association had expressed a number of concerns to the Call to Australia group. Recently the Bar Association contacted me with more of its concerns about the legislation before the House. John Coombs, Q.C., President of the New South Wales Bar Association has written to me. I have had

a number of discussions with representatives of the bar as well. In a letter dated 24th September, Mr Coombs said:

Dear Reverend Nile

Re Legal Profession Reform Bill 1993

I am writing to you to express the serious concerns felt by the Bar at some of the provisions in the Legal Profession Reform Bill, tabled by the Attorney General last week.

The bill in its present form effects radical changes to the form of the legal profession, the extent and outcome of which it is presumably impossible to gauge.

I hope that you will permit me to attend upon you with a senior member of the Bar Council to discuss our concerns, some of the more important of which I set out for your consideration.

I did meet with them, as I said. Some of those concerns include:

A. The Constitution of the Admission Board

The Attorney has replaced the two boards [Solicitors' Admission and Barristers' Admission] with one, constituted as the Joint Board presently would be. But the *joint* board never ruled on the *eligibility* of candidates for admission: it had other functions.

Candidates for admission were always screened by Boards upon which judges were a majority. The Supreme Court actually admits the candidates and a Board, with a majority of judges, should do the screening so that the court itself does not actually have to *decide* the question of eligibility.

We recommend that the judges should form a majority on the Admission Board.

That is because the courts are in the hands of judges, who should have a very important role in considering the candidates who come before the admission board. The letter continues:

B. Co-Advocacy

Co-advocacy and joint rules relating thereto are not in the public interest.

•The right of a barrister to refuse to appear with an inexperienced or incompetent practitioner is removed. This will reduce service quality.

•Fees charged by junior barristers are in general much lower than the charges of solicitors. The change will increase costs.

•"Briefing in house" creates a conflict of interest, which is not in the public interest.

•The removal of the provision permitting a barrister to refuse to appear with another advocate if the case does not merit a junior means that the barrister cannot refuse a junior advocate though none is needed. This effectively reinstates the two-counsel rule which the Bar Council abolished some years ago in the public interest, to reduce costs.

These provisions (s. 38M) should be removed.

C. No Right of Appeal from Disallowance of Rules

If the Attorney General can disallow rules with no right of appeal, control of the profession will pass from the Supreme Court, where it belongs, to the Executive, where it does not.

D. The Constitution of the Advisory Council

Under the Bill the Attorney General appoints the members of this Council who are to make recommendations to him!

•The Chairman ought to be the Chief Justice, or his nominee, and the Chief Justice should select the lay members: all the professional representatives ought to be the nominees of the professional bodies, not the Attorney General's choices.

The Hon. B. H. Vaughan: Keep it away from government.

Reverend the Hon. F. J. NILE: The Deputy Leader of the Opposition just interjected, "Keep it away from government". It is a bit like Caesar reporting to Caesar: he appoints the people and they report back to him. Those people are his appointees. That does not seem to be a very efficient, fair or just way to operate. The letter from John Coombs continues:

E. Practising Certificates cannot be refused to those who are not going to practise

Non-practising barristers were, before 1987, an extraordinary anomaly, which the 1987 Act removed: see Section 35(1)(a) and (b).

The omission (from Section 37(1) of the Bill) of the power of a Council to refuse to issue a practising certificate to a barrister (or solicitor) who is not or does not intend to practise will -

•Encourage misleading conduct: "I am a barrister (or solicitor) and hold a practising certificate" but omitting "but I don't practise and have never (or not for a long time) practised as such".

•Permit the advertising of firms of "Solicitors and Barristers", suggesting that *practising* and experienced barrister advocates are available, contrary to the Bill's intention to maintain a separate specialist Bar.

Yours faithfully

John Coombs QC
President

Call to Australia is in agreement with those concerns. I understand the Labor Party is preparing amendments to rectify some of those matters, and Call to Australia would be very supportive of those amendments. We also had detailed submissions on some other aspects of the Legal Profession Reform Bill. The Bar Council's submission on Section 48G reads:

Clause 49G of the *Legal Profession Reform Bill* 1993 provides in part:-

"*Multidisciplinary partnerships*

49G(1) A barrister or solicitor may be in partnership with a person who is not a barrister or solicitor, except to the extent (if any) that the regulations, barristers rules, solicitors rules or joint rules otherwise provide."

My comment is that we should support the expressions of concern stated by the Hon. R. D. Dyer in his contribution. Some members of the Government have even said to me that this is quite a serious provision. The names of Mr Skase and others were mentioned. People could enter into partnerships with other quite undesirable people. Obviously, that is not the intention of the Government, but the legislation gives a blank cheque and it is open to abuse. The Bar Council's submission continued:

This provision unless overruled by the exceptions mentioned, would permit barristers to operate in partnership with solicitors or any other persons whatsoever provided some part of the partnership business was ordinarily that of a barrister, presumably, appearing in court.

The Bar has for hundreds of years required its members to be sole practitioners. The philosophical basis for this is the necessity to ensure that its members are entirely independent, uninfluenced by the needs or wishes of others, and beholden to no one. These are not mere lofty

ideals which may be brushed to one side. It takes little imagination to perceive that barristers, particularly in their early years, could well accept minor partnerships in enterprises in circumstances where they must inevitably be placed in positions of conflict of interest of one kind or another. It is the very existence of independent Bar which allows many conflicts of interest within solicitors firms to be completely overcome.

It is inconsistent with the concept of the profession of a barrister that the barrister's entitlement to practise should become a saleable item. Whilst it would no doubt suit many solicitors' firms to advertise themselves as "Barristers and Solicitors", it is impossible to see that any public benefit would accrue from this situation, given that a barrister if a partner in a solicitors' firm would, no matter how competent, immediately cease to receive briefs from other solicitors, and in that sense would cease to be a barrister. Nor is it difficult to see how the standing of the profession could be maintained were barristers to become mere adjuncts of entrepreneurial and commercial enterprises.

Call to Australia agrees with that expression of concern. From my association with members of the bar over many years I have come to respect that very important aspect of an independent bar. In some way - and it may be hard to express it in law - the independent bar is part of the protection of our very system of law. Barristers are independent, and in many ways they are both servants of the client and servants of the court. They have a very elevated view of that role.

Honourable members know that there may be exceptions to that but I believe that, in the main, that high view of their role and integrity is genuine and I do not believe we should do anything by this legislation that would undermine the profession and turn it into the "L.A. Law" we see so often on television. I somehow sense that the Attorney General, with good intentions, has moved more in the direction of "L.A. Law" - which may be what the Law Society and people such as Mr Marsden want, because they see solicitors as part of big companies, big operations and big offices. Call to Australia is concerned about that and we do not believe that is in the best interests of our legal system. We are also very concerned, as I have said before, about proposed clause 38O, which provides in part:

Any prerogative right or power of the Crown to appoint persons as Queen's Counsel or to grant letters of patent for precedents to counsel is abrogated.

Call to Australia does not support clause 38O, and we urge the Government to accept an amendment to delete it. We acknowledge, as we have said before, that there is debate in our society about republicanism but it seems as though the Government has jumped the gun. It is creeping republicanism to simply remove Queen's Counsel. That is not to say that every Queen's Counsel is necessarily in favour of either a republic or the constitutional monarchy. The application of the title has nothing to do with what the person thinks about the form of government we have in our society but it indicates that the Queen is the Head of State, which is a very historical part of our Australian law.

I guess mine is an emotional response, but the Bar Council has spelled out the many practical reasons for the measure to be deleted. New South Wales is alone among the States in proposing to cease appointing Queen's Counsel. It amazes me that this State would go in a different direction from other States when there is so much talk in the Parliament about a national or unified approach with other States. It has been suggested that when a law is passed by one State other States should

sympathetically adopt it, but with this measure New South Wales is going it alone. Even States with Labor governments have not proposed this particular measure. Therefore, Call to Australia believes it would be a wrong move. The title of Queen's Counsel is recognised internationally, certainly by nations that were and are part of the British Commonwealth or have had some association with it.

Legal firms in places such as Singapore, Malaysia, Borneo and other parts of Asia rightly or wrongly - the Government may say it is wrong - may seek to employ the services of a barrister from Australia to perhaps oppose a British barrister. They want someone of equal stature so they seek a Queen's Counsel from Australia. It is no good saying that a senior counsel has the same status. Senior counsel will not be able to use the initials Q.C., which clearly indicate that the person has recognised high standards of legal experience and ability. If there are no Queen's Counsel in New South Wales, the Asian firms will request a Queen's Counsel from another State. Why should New South Wales put itself at a disadvantage?

Another point the Bar Association made is that the existence of a peer recognition system is essential to provide an incentive for excellence within the bar. That is a very good point. Another point is that for historical and practical reasons the government of the day ought to have an input into the composition of the bar. The alternative would be to place a power of veto in the hands of the Chief Justice of the day. The Government can express its views merely by not appointing Queen's Counsel, but I do not encourage the Government to do that either. That would result in Queen's Counsel becoming a dying breed. I believe the title of Queen's Counsel is an incentive, if you like, for younger barristers to excel in their profession. It gives them something to aim for, not merely to be paid higher fees. It is an indication of merit and ability. Of course, another indication of the importance of retaining the title is that Queen's Counsel are often appointed as judges. That is the final step in their legal career, and the title Queen's Counsel plays an important role.

Judges believe that the present system is appropriate, and they have made submissions, I understand, in support of the retention of Queen's Counsel. It may be that solicitors who do not have the title of Queen's Counsel are envious. I am not sure why the Government feels this is such an excellent step, but obviously it would have been lobbied and influenced by the Law Society, which sees this measure as a mechanism whereby a more even playing field will be achieved in the legal profession. The abolition of the title of Queen's Counsel will not bring solicitors up to the level of

barristers. Rather, it will bring barristers down to the level of solicitors, and I do not mean that in a derogatory way. Solicitors perform a valuable role, but they have different skills and play different roles, and I believe they complement each other.

In the five court cases in which I was involved, I saw a strong difference in the attitude of solicitors and barristers, in the way they work and in their approach. I would certainly not want a solicitor to appear in court in the role of a barrister, even though the solicitors I had were very skilled, but they were skilled in their role as solicitors. The barristers were skilled in their role, and this became clear in briefing sessions with the solicitors and barristers. Barristers view matters completely differently from solicitors. They develop different skills and have a different role, and I think that should be maintained and we should not, as the legislation seeks to do, merge them, have barristers and solicitors swap roles, so to speak, and be treated equally. That is not the way to go. Obviously people in this House have a far greater knowledge of the law than I have. I am not a barrister. My involvement with the law has been purely from a client's point of view. I would have to take note of the views of members of this House who have legal experience.

The Opposition has given a sympathetic response to the concerns of the Bar Association, and for that reason Call to Australia would be in general agreement with those concerns. The foreshadowed amendments will not damage the bill. The bill will retain a number of admirable features. Perhaps the Attorney General has rushed ahead too fast. The amendments may not only be important so far as the law is concerned but important in the way barristers and solicitors continue to function in this State in a

spirit of co-operation. We do not want a power struggle between solicitors and barristers. Both those important arms of the legal system should work together in co-operation. It is important to consider this bill carefully, and that is why I hoped the debate would have been adjourned after the second reading. Obviously the Government will reject most of the amendments in Committee, which is not a good way to handle this important piece of legislation. I hope the Government will give serious consideration to the amendments foreshadowed by the Opposition.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [8.40], in reply: I thank honourable members for their general support of the direction of the legislation. I have noted the comments and concerns of a number of honourable members and obviously I will address those in Committee. A number of matters have been raised on which I have been asked to comment, and I will deal with them sequentially as best I can. The first issue concerns common admission and, in particular, the membership of the proposed Legal Practitioners Admission Board and the removal of the inherent power of the Supreme Court to appoint barristers and solicitors.

The proposed Legal Practitioners Admission Board represents an amalgamation of the existing Barristers Admission Board and the Solicitors Admission Board. Though at present the Chief Justice and judges of the court constitute a majority on each board, two points must be noted. First, the separate admission boards often meet jointly, particularly when dealing with issues of admission policy as distinct from individual applications. Second, I understand that the decision-making process rarely involves a divided vote. Differences of opinion are primarily resolved through discussion. Of the nine members of the proposed Legal Practitioners Admission Board, four will be judges. It is only in circumstances where representatives of both branches of the profession and the Attorney General's representative take a position contrary to that of the judges that the judges could be outvoted on admission issues.

Such a circumstance is highly unlikely. It must also be recognised that while admission carries with it the consequence that a legal practitioner is an officer of the court, it also involves matters concerning education and practical training standards appropriate for legal practice, which are of great concern to the professional councils. I believe the admission board, as constituted in the bill, represents the appropriate balance between the representatives of the court and those of the profession. The Government does not, therefore, accept the Opposition's amendments on this issue.

The Government does not wish to pursue the amendments of the Opposition because the issue now arises out of the mutual recognition legislation. Under that legislation, where a practitioner of another State seeks to gain admission in a host State and that recognition is rejected, the appeal against that decision goes to the Administrative Appeals Tribunal. The approach taken by the Opposition suggests that the control of admissions should be left with the Supreme Court. If the Supreme Court were to reject an application, the appeal from the court would go to the Administrative Appeals Tribunal. In a sense, that is degrading the status of the Supreme Court. Therefore, by constituting the admission board as an administrative board, if for any reason under mutual recognition a person is not admitted, the Supreme Court will not be put in a position of potential conflict with the Administrative Appeals Tribunal.

Reverend the Hon. F. J. Nile: Can you explain why it must go to the tribunal?

The Hon. J. P. HANNAFORD: Because the Federal mutual recognition legislation, which has been adopted in New South Wales, provides that the appeal body is the Administrative Appeals Tribunal.

Reverend the Hon. F. J. Nile: Perhaps we should amend that.

The Hon. J. P. HANNAFORD: Unfortunately, that is Federal legislation. It has been agreed to by all State governments and the Federal Government in relation to appeals under mutual recognition. I urge

honourable members to take that into account when they seek to deal with this issue. The Government,

therefore, does not accept the Opposition's amendments on this issue. The abolition of the inherent power of the court to admit solicitors and barristers is a necessary consequence of the introduction of common admission. This is because the inherent power is limited strictly to admission of solicitors and barristers. The court has no inherent power to admit legal practitioners.

Legal practitioners will be a statutory creation. Their status as officers of the court is specifically provided in proposed section 5 of the bill. It would be anomalous to have a situation where common admission lawyers were admitted as legal practitioners but to leave it open to the court to otherwise admit persons as barristers or solicitors. The bill does not detract from the powers of the court to discipline legal practitioners. The court remains the admitting authority. The next issue is practising certificates for barristers and the submission from the Bar Council opposing the removal of the provision that permits the council to refuse to issue a practising certificate if it is of the opinion that the person is not, or would not be, practising as a barrister. This provision is not provided to or required by the Law Society in relation to solicitors. In my view, it should be removed as it is an open invitation to the bar to prejudge applicants for practising certificates.

Under the bill the Bar Council will retain considerable control over how barristers may practise through making rules which govern practice and through the imposition of conditions on practising certificates. It is my view that these provisions are more than adequate to regulate practice without imposing other additional barriers to obtaining a practising certificate. I will illustrate how that could apply in this House. The Deputy Leader of the Opposition is admitted to practice as a solicitor, but may spend most of his time as a member of Parliament. If the proposed amendment were to apply to solicitors and barristers, because he is not practising as a solicitor, he would not be allowed to return to practise as a solicitor or to be known as a solicitor. Under the proposed amendments the Hon. J. W. Shaw could decide to become a full-time politician. The Bar Association would say, "You are no longer practising as a barrister; you must relinquish the title of barrister".

Reverend the Hon. F. J. Nile: They can make exceptions to that.

The Hon. J. P. HANNAFORD: The amendments do not provide for that; the only exception is for them to ignore the law. That emphasises the farce of the amendments. Under the proposed amendments a solicitor can be a non-practising solicitor but still hold the title of solicitor. However, one cannot be a non-practising barrister at the bar because the association wants to strike off the non-practising barrister. Where is consistency in that?

Reverend the Hon. F. J. Nile: Does it strike them off?

The Hon. J. P. HANNAFORD: The provision is there for that to be done.

Reverend the Hon. F. J. Nile: But does it?

The Hon. J. P. HANNAFORD: No. The amendments say that the Bar Association should be allowed to choose favourites.

The Hon. B. H. Vaughan: I did not think there was anything wrong with the non-practising list.

The Hon. J. P. HANNAFORD: Exactly. The Deputy Leader of the Opposition has said that there is nothing wrong with the non-practising barrister roll. We are saying that that should be in place. The Labor Party is proposing an amendment to make certain that we cannot have a non-practising barrister roll. That is a farce.

The Hon. B. H. Vaughan: It is a shame.

The Hon. J. P. HANNAFORD: Yes, it is a shame. I refer to access. The relevant provisions are

found in proposed section 38I of the bill. The bill does not provide for direct client access to barristers; it provides that barristers may accept clients subject to the barristers rules and the conditions of any relevant practising certificates. It is within the power of the Bar Council to make rules limiting direct access, and indeed I expect that the council may do so. Those rules will be subject to review to ensure that they do not impose any restrictive or anti-competitive practices that are not in the public interest.

The Government has no agenda to disallow rules on client access, but it will be informed by the review process and the recommendations of the advisory council. Clearly, there are arguments both for and against direct client access. The Bar Council has forcefully put its view that it is not in the public interest, while the Trade Practices Commission identified the restriction on direct client access as being anti-competitive and restrictive. The bill provides for rules to be made in relation to that matter and for those rules to be reviewed. In my view, this is the best means of ensuring the proper regulation of access.

I turn now to the issue of co-advocacy and the provisions of proposed section 38M of the bill. In my second reading speech delivered on 16th September, I indicated that I had noted the concern that the provisions on co-advocacy would be used by large city legal firms to pressure barristers into accepting a solicitor from the firm as a junior advocate in proceedings. I also indicated that I would monitor the operation of the provision to ensure that it did not give rise to overservicing or other misuse. While the concern is legitimate, it must also be noted that the provision addresses an immediate problem. At present bar rules provide that a barrister may not accept a brief to appear with a person who is not a barrister.

I am of the view that such a restriction is inappropriate, and where more than one advocate is required a barrister or a solicitor should have the right

to appear as a co-advocate with any other solicitor or barrister. The concerns about misuse can also be addressed by rules. The Bar Council and the Law Society Council will be able to make rules in relation to advocacy and joint rules in relation to co-advocacy. In this respect I am aware that the Bar Council has already commenced discussions with the Law Society Council about the terms of bar rules. If the councils are unable to agree on the terms of bar rules, it is an appropriate matter on which to recommend that a regulation be made. In my view the rules and regulations will prevent misuse of the right to appear as a co-advocate.

On the issue of Queen's Counsel, proposed section 38O abolishes the prerogative of the Crown to appoint Queen's Counsel and will provide that executive and judicial officers have no authority to conduct a scheme for the recognition or assignment of seniority and status among legal practitioners. The Government does not believe that it is appropriate or relevant in today's society to maintain a system of patronage for selected lawyers. Of course, the bar is at liberty to introduce its own scheme of senior counsel, and I understand that it intends to do so. This is an appropriate means of establishing a peer recognition system. Concern has been expressed that New South Wales is acting unilaterally in this matter. That is not the case. Although New South Wales is presently in advance of the Commonwealth and other States in withdrawing government and judicial involvement in the appointment of Queen's Counsel, other States have examined the proposal.

The recent Trade Practices Committee study of the legal profession specifically recommended that all States and Territories withdraw from the official selection and endorsement of Queen's Counsel. The recommendations of the Trades Practices Committee, I understand, have been endorsed by the Commonwealth Minister for Justice. I anticipate that the majority of States will follow the lead of New South Wales in this area. However, it would be entirely inappropriate to bind New South Wales to not commencing the provision until such time as all States and Territories have abolished Queen's Counsel. The Opposition amendments to provide for this are not acceptable. The issue of the qualification of Queen's Counsel being required for entry into the Asian market is noted. At present the title is the only means of recognition of eminence and experience. As I have noted, it is open to the bar to establish a

system of senior counsel to reflect the status of experienced barristers.

I trust that it will not be suggested that Asian users of legal services will rely only upon the term Queen's Counsel and not accept the similar designation of senior counsel. The whole issue of the export of legal services is important and is currently being examined by the Standing Committee of Attorneys General. Through the Commonwealth, trade-talk negotiations are taking place with other countries to allow for reciprocal recognition of foreign lawyers. The issue is much larger than the matter of nomenclature. I find it outstandingly ironic that members of the Australian Labor Party are advocating in this Chamber the retention of Queen's Counsel in New South Wales.

It is unbelievable that the New South Wales branch of Australian Labor Party proposes to move that the right of political patronage in the appointment of Queen's Counsel should be retained in New South Wales until it is abolished in all other States and Territories of Australia so that while ever one State or Territory holds out the politicians from the Australian Labor Party can continue to bestow royal patronage upon a select few in the legal profession. It is unbelievable that the Labor Party has moved away from its traditional roots of representing the real interest of the middle-class and the working-class. Labor members want to be the politicians who will continue regally to bestow patronage on a few select lawyers.

The Hon. J. R. Johnson: That's enough.

The Hon. J. P. HANNAFORD: I can understand why the Hon. J. R. Johnson squirms when he thinks about what some of his political leaders want to do in New South Wales.

The Hon. B. H. Vaughan: I think you need a glass of water.

The Hon. J. P. HANNAFORD: I thank the Deputy Leader of the Opposition for offering me a glass of water so that he can keep me going on this theme. Patronage is so endemic in the club of mates of the Labor Party that it wants it to continue in the vice regal area. We can be sure that tonight will go down in the records of the Australian Labor Party as the night when it turned against its traditional roots. Proposed sections 48F and 48G concern sharing receipts in multidisciplinary partnerships. It is not correct to say that these provisions have been inserted without prior consultation. Indeed, the matters were raised in an issues paper on structure and regulation of the legal profession produced by my department and released in November last year. The issues also have been extensively canvassed in the review of the legal profession conducted by the Trade Practices Commission.

Two of the recommendations in the recent report of the commission are, first, that rules which impose restrictions on the ownership and organisation of legal practices should be removed or reformed; and, second, that lawyers should be permitted to incorporate and establish multidisciplinary partnerships with other professions. The bill will allow this to occur in a very flexible way, by permitting the Bar Council and the Law Society Council to make rules which regulate multidisciplinary partnerships. In such circumstances it is ridiculous to suggest that the bill will permit open slather on who may form partnerships. I have already indicated to the profession that I am agreeable to delay in the commencement of these provisions to permit rules to be drafted. This seems to be the best option and the one most in keeping with the emphasis in the bill on continuing the role of professional bodies in the regulation of the professions.

Again, I am astounded that the Labor Party could be opposed to the concept of multidisciplinary partnerships. Why can people not go to a business firm made up of a real estate agent and a lawyer, buy their property and have the total transaction done in the one office? Why can people not go to an accountant to have accountancy and legal work done in the one office? An accountancy firm has the biggest legal practice in Europe. Why can we not have a similar situation in Australia? The Australian Labor Party does not want to give the worker the opportunity of choosing where he can get the cheapest

legal services. I am astounded that the Labor Party will not allow competition in the delivery of legal services. I can understand why Labor members in this House are adopting that position: they are getting their marching orders from the shadow attorney general in another place. I can understand why the Labor Party rank and file wanted to get rid of the shadow attorney general Paul Whelan from his seat: he is not representing the people he was elected to represent. That is evident from the approach he is taking to this proposed legislation in trying to force the Labor Party to march to his tune. It is about time the Labor Party began to readdress where it is coming from.

I turn now to the issue of rules and the operation of proposed division 4 of part 4 of the bill. The rule-making power in the bill will permit the Bar Council to make rules in relation to practice as a barrister and the Law Society Council to make rules in relation to practice as a solicitor. The rule-making power is based on the existing arrangements in the Legal Profession Act, whereby the councils are the responsible bodies for the day-to-day regulation of the profession, subject to the specific provisions of the Act. The bill will formalise this process and will permit rules to be disallowed when the rules are found to impose restrictive or anti-competitive practices that are not in the public interest. Disallowance will be by the Attorney General on the recommendation of the advisory council.

The Supreme Court may review a disallowance on administrative law grounds to ensure that it was properly made. However, I do not believe it is appropriate for the Supreme Court to review the reasons for a decision. Disallowance involves policy rather than legal considerations. In particular, it involves applying a competition policy test to determine the public interest. Issues of policy are more appropriately matters for government than for the courts. The Government does not accept the Opposition's amendments, which will provide a right of appeal in relation to matters of policy. I also point out that the Attorney General can only disallow a rule on receipt of a recommendation from the advisory council. This will prevent the Attorney General of the day acting capriciously or oppressively in the exercise of the power to disallow.

The issue of membership of the advisory council has also been raised. The bill provides for the Legal Profession Advisory Council to be constituted by 11 members, being an independent chairperson, two barristers, three solicitors and five lay representatives. This represents a substantial increase in lay members to ensure that the council is not dominated by lawyers. As I noted in my second reading speech delivered on 16th September, it is Government policy to select the lay members following advertisements calling for expressions of interest. The role of the council is to be advisory; it will review regulations and rules which govern legal practice. The council will not deal with issues of admission or the conduct of legal practitioners before the courts. I see no reason why the chairperson should necessarily be a judge. I do not accept the Opposition's amendment to provide that the advisory council is to be chaired by the Chief Justice or his nominee. Also, I do not accept the amendments that provide for the legal members to be exclusively the representatives of the Bar Council and the Law Society Council.

The Hon. B. H. Vaughan: Who will be the chairman?

The Hon. J. P. HANNAFORD: I have not addressed my mind to that issue, and I have not addressed my mind to who may constitute the council.

The Hon. B. H. Vaughan: Any member of the committee could be the chairperson?

The Hon. J. P. HANNAFORD: No. The committee members will be appointed in the structure, and there will be a separate chairman. That person could even be the Deputy Leader of the Opposition. But I have not addressed my mind to that. It is my desire that this board should not be dominated by lawyers. It is an advisory board aimed at making certain that the legal profession does not develop rules or restrictive practices.

Reverend the Hon. F. J. Nile: It is nominated by the Attorney General.

The Hon. J. P. HANNAFORD: No. It will be dominated by non-lawyers. The role of this committee will be to make certain that the lawyers, the Bar Association and the Law Society do not put in place restrictive rules that delimit competition within the profession.

The Hon. B. H. Vaughan: Will you choose the lay members?

The Hon. J. P. HANNAFORD: The lay members will be recommended by the Attorney General.

The Hon. J. R. Johnson: Neville Wran?

The Hon. J. P. HANNAFORD: He is not a practising lawyer; in fact, I do not think he got his practising certificate back. If this council is dominated by the lawyers one could expect the status quo to be retained in relation to restrictive practices of the profession. It must be clearly acknowledged that the Labor Party, by proposing these changes, is seeking an opportunity to retain the status quo. This proposed legislation is all about trying to get rid of the restrictive practices of the Bar Association and the Law Society which have inhibited competition and

maintained high legal costs. The Opposition's approach to this legislation is to make certain that the advisory council, which was established to get rid of those rules, should be dominated by the lawyers. The Opposition is all about retaining the status quo and maintaining the current regime in the New South Wales legal profession. The Government does not accept that.

It was noted in debate that it is proposed to provide a power to make regulations on matters for or with respect to which barristers rules, solicitors rules or joint rules have been or may be made. This, in effect, is a clarification of the power to make regulations to take into account other amendments introduced in the bill to formalise procedures for making rules. At present section 216(3)(d) of the Act provides that regulations may be made in relation to the practice, conduct and discipline of legal practitioners. That is a very wide regulation-making power. The bill simply confirms the width of this regulation-making power, taking into account that many matters of practice will be regulated by the rules made by the Bar Council and Law Society Council. Of course, regulations cannot be made which are inconsistent with the Act, and all regulations may be subject to parliamentary scrutiny. I also note that regulations can be made only after consultation with the Bar Council, Law Society Council and the Legal Profession Advisory Council. I draw the attention of honourable members to section 216(2) of the principal Act.

I envisage that a regulation could be made in circumstances where a joint rule is required and the councils cannot agree. It would be appropriate for a regulation to be made to ensure orderly conduct of practices. I turn now to schedule 2 of the bill, concerning complaints and discipline, which generally has been supported. I take this opportunity to correct a point raised by the Hon. Elisabeth Kirkby. Under the bill all complaints must be made to the Legal Services Commissioner. If complaints are made to a professional council the council is required to immediately forward the complaint to the commissioner. The relevant provision of the bill is proposed section 135(2). The only exception to this requirement is when a council initiates a complaint of its own motion, and in that circumstance the council is still required to notify the commissioner of the proposed investigation. The other issue of concern appears to be that encapsulated by the amendment proposed by the Hon. Elisabeth Kirkby, which proposes giving the commissioner a right to take over the investigation of a complaint.

The Government does not accept that amendment. The role of the commissioner should be to review, monitor and direct the investigatory process. This is amply provided for in the bill. Proposed section 149 provides that the commissioner will monitor the investigatory process and may issue general guidelines to assist the councils in the handling of particular complaints. The councils are required to provide assistance to the commissioner in monitoring investigations. In addition, under proposed section 150 the commissioner may give the council direction in the handling of a complaint if the commissioner

considers that it is in the public interest to do so, having regard to the seriousness of the complaint. In such circumstances it is unnecessary, and a duplication of resources, to provide that the commissioner will also conduct investigations. The conduct of primary investigations is also at odds with the role of the commissioner reviewing decisions to dismiss a complaint. The Government is of the view that the provisions of the bill as they stand represent the best system for handling complaints.

In relation to schedule 3, concern has been expressed about the proposal to change the basis upon which party-party costs are assessed. It is acknowledged that this will increase costs payable by an unsuccessful litigant, but it will be in a manner which is fair and just. The principle that costs should follow the event is a key component in our judicial system. At present it is weakened by the fact that a successful party can be left substantially out of pocket by the unfair basis of taxing party-party costs. I will not repeat here the arguments in favour of amending the taxation system, as I dealt with that issue in my second reading speech delivered on 16th September. I note that the amendment is consistent with recommendations of the Legal Fees and Costs Board and overcomes an artificial taxation system that has been heavily criticised by judges. These arguments were all set out in the statement of Government policy on reforming the system for setting and reviewing legal fees, which was released in April of this year.

The Hon. J. W. Shaw raised the issue of the eligibility of Compensation Commissioners to be judges of the Compensation Court as a result of amendments in schedule 5 to the bill. I point out that the criteria in the bill required to be met by a person wishing to be eligible for appointment as a Compensation Court judge are, inter alia, that that person must be either a judge of the District Court or a legal practitioner of at least seven years' standing. Under the Act as it stands, a reference to a legal practitioner is a reference to a person who holds a practising certificate. I point out that this definition will be amended by this bill to provide that a legal practitioner will be defined as a person admitted to the court. However, a commissioner who has been on the roll of the Supreme Court for seven years will be eligible for appointment as a judge of the court. I again thank honourable members for their thoughtful contributions to the debate. I commend the bills to the House.

Motion agreed to.

Bills read a second time.

In Committee

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): Order! The Committee will deal first with the Legal Profession Reform Bill (No. 2).

Page 4646

Schedule 1

The Hon. R. D. DYER [9.23], by leave: I move the following amendments in globo:

Page 5, Schedule 1 (2) (proposed section 10 (1)), line 19. Omit "9 members", insert instead "11 members".

Page 5, Schedule 1 (2) (proposed section 10 (2) (b)), line 22. Omit "3 Judges", insert instead "5 Judges".

Page 38, Schedule 1 (12), lines 26 and 27. Omit "5 members", insert instead "6 members".

I thank the Committee for that facility because it will shorten proceedings if some of the amendments circulated by the Opposition can be considered in groups. The first issue encompassed by the

amendments deals with the composition of the admission board, to use its short title, or the Legal Practitioners Admission Board, to use its full title. The existing form of proposed section 10, as contained in the bill, provides that the admission board is to consist of nine members and those members are to include the Chief Justice, three judges of the Supreme Court nominated by the Chief Justice, the Attorney General or a person for the time being nominated by the Attorney General, two barristers for the time being nominated by the Bar Council -

The TEMPORARY CHAIRMAN: Order! There is so much conversation I cannot hear the honourable member.

The Hon. R. D. DYER: - and two solicitors for the time being nominated by the Law Society Council. That makes a total of nine members of the admission board. The amendments propose that instead of nine members of the admission board there should be 11 members. The other amendment to proposed section 10 is -

The TEMPORARY CHAIRMAN: Order! It is impossible to hear while members converse. If members want to converse they should leave the Chamber.

The Hon. R. D. DYER: - to the effect that instead of there being only three judges of the Supreme Court as members of the admission board there shall be substituted, for that number, five judges. It is not my intention during the Committee stage of this bill to reiterate at length what I said during the second reading debate when foreshadowing the amendments before the Committee. Suffice it to say that last night I said in detail that both the bar and the judges of the Supreme Court are highly critical of the proposed composition of the Legal Practitioners Admission Board. The judges, in particular, note that for the first time in the history of this State they will be in a minority on the admission board. The judges put the cogent and persuasive view that the admission board needs the political neutrality and independence of judges.

In our society many people have difficulty in coping with the concept of independence but it is true to say that judges, whatever view one might take regarding them and their role in society, are truly independent. The views of the judges about the composition of the admission board are supported by the bar, which has urged the Opposition to press for the board to be constituted in the manner that the Opposition suggests or, at the very least, to maintain a majority representation of judges of the Supreme Court. After all, the practitioners are being admitted as practitioners of the Supreme Court of New South Wales. It is by no means unreasonable and it follows long practice that judges should maintain their majority on the admission board. The Opposition presses for the amendment that I have moved.

Reverend the Hon. F. J. NILE [9.28]: The Call to Australia group supports the amendment for the reasons outlined by the Hon. R. D. Dyer. We accept that there will be one board and that one board will admit either solicitors or barristers as legal practitioners. The composition proposed for the board by the bill, however, means that the Supreme Court - which is the sole authority having power to admit legal practitioners as officers of the Supreme Court, and we stress that - properly retains its power of supervision over the legal profession but does not hold majority representation on that board. It did enjoy that majority representation when applications for admission were considered by separate boards, which are now to be abolished. We therefore support the amendment.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [9.29]: The Government does not accept the amendments. The proposed Legal Practitioners Admission Board will be an amalgamation of the existing Barristers Admission Board and Solicitors Admission Board. At present the Chief Justice and the judges of the court constitute a majority on each board. However, two points must be noted. First, the separate admission boards often meet jointly, particularly when dealing with issues of admission policy as distinct from individual applications. Second, I understand that the decision-making process rarely involves a divided vote. Differences of opinion are primarily resolved through discussion. Four of the nine members of the proposed Legal

Practitioners Admission Board will be judges. Only in the circumstance where both branches of the legal profession and the Attorney General's representative take a position contrary to the judges on admission issues could the judges be outvoted. Such a circumstance is highly unlikely.

It must also be remembered that admission as a barrister or solicitor carries with it the consequence that such legal practitioners are officers of the court. Education and practical training standards appropriate to legal practice - which are of great concern to the professional councils - are also involved. The proposed admission board as constituted in the bill represents the appropriate balance between representatives of the court and those of the profession. Under the proposal, the board will comprise four judges and four representatives of the legal profession. If there is a dispute and a decision has to be taken, the numbers will be equal between the judges and the members of the legal profession.

When that occurs, it will be appropriate for the fifth person to make a decision, in support of either the judges or the legal profession. Nothing could be fairer than that. The proposal contained in the amendment is advocated by the Bar Association and the judges, not by the largest section of the legal profession - the solicitors. The proposal seeks to retain the status quo of dominance of the bar and the judiciary over admissions. The bill proposes a system of fairness, not of dominance. The Government rejects the amendments.

Question - That the amendments be agreed to - put.

The Committee divided.

Ayes, 15

Mrs Arena	Mrs Nile
Mr Dyer	Revd F. J. Nile
Mr Egan	Mr O'Grady
Mr Enderbury	Mrs Symonds
Mrs Isaksen	Mr Vaughan
Mr Johnson	*Tellers*,
Mr Kaldis	Ms Burnswoods
Mr Macdonald	Mr Obeid

Noes, 15

Mr Coleman	Mr Mutch
Mrs Forsythe	Dr Pezzutti
Dr Goldsmith	Mr Pickering
Mr Hannaford	Mr Samios
Mr Jobling	Mrs Sham-Ho
Mr Jones	*Tellers*,
Miss Kirkby	Miss Gardiner
Mr Moppett	Mr Ryan

Pairs

Dr Burgmann	Mr Bull
Mrs Kite	Mrs Chadwick
Mr Manson	Mr Rowland Smith
Mr Shaw	Mr Webster
Mrs Walker	Mr Willis

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): Order! The vote being equal, I give my casting vote with the noes and declare the question to have passed in the negative.

Amendments negatived.

The Hon. R. D. DYER [9.40]: The Committee will be aware that there are a number of amendments awaiting consideration by the Committee. I indicate, however, that the Opposition has taken a decision not to proceed with the further amendments and will consider its position and move other amendments in another place.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [9.41]: That is the clearest admission of defeat from the ALP that I have ever heard. The ALP stands divided over the issue of Queen's Counsel. That is what the issue is. It is concerned that some in its ranks will cross the floor.

The Hon. R. D. Dyer: On a point of order. I made an announcement as to the course the Opposition proposes to adopt in relation to certain amendments that have been circulated. My point of order is that the Attorney General is not speaking to any amendment or any clause of the bill; he is making an assumption that there is a particular reason for the announcement that the Opposition has made.

The Hon. J. P. Hannaford: On the point of order. I have made my point and I acknowledge the point taken by the honourable member.

The TEMPORARY CHAIRMAN: Order! There is no point of order.

Reverend the Hon. F. J. NILE [9.42]: I move Opposition amendment No. 3:

Page 7, Schedule 1(2) (proposed section 14). After line 9, insert:

(4) An appeal under this section is to be by way of rehearing and fresh evidence, or evidence in addition to or substitution for the evidence before the Admission Board, may be given on the appeal.

(5) a Judge is disqualified from hearing an appeal under this section if the Judge was a member of the Admission Board when it made the decision to which the appeal relates.

Call to Australia has had representations from the Bar Council and we are honour-bound to continue with the position we adopted at the beginning. This particular amendment, and others we propose to move, should be moved.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [9.43]: The Government has no objection to the terms of this amendment and it is supported.

Amendment agreed to.

Reverend the Hon. F. J. NILE [9.43], by leave: I move Opposition amendments Nos 4 to 8 inclusive in globo.

Page 20, Schedule 1(4) (proposed section 38O(1)), line 7. After "abrogated", insert "on the appointed day".

Page 20, Schedule 1(4) (proposed section 38O(2) and (4)), lines 10, 14 and 15. Omit "commencement of this section" wherever occurring, insert instead "appointed day".

Page 20, Schedule 1(4) (proposed section 38O(5)), lines 17 and 18. After "no authority", insert ", on and after the appointed day,".

Page 20, Schedule 1(4) (proposed section 38O). After Line 24, insert:

(7) The Governor may, by proclamation, appoint a day as the day on which this section has effect. Such a day may not be appointed until legislation that corresponds to this section has been enacted in the Commonwealth, the other States, the Northern Territory and the Australian Capital Territory.

(8) Until the appointed day, section 24 of this Act (as in force before the repeal of that section by the Legal Profession Reform Act 1993) continues to have effect.

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Page 20, Schedule 1(4) (proposed section 38O). After line 25, insert:

"appointed day" means the day appointed under subsection (7);

I wish to provide further evidence of the very serious consequences if these amendments are not supported and the bill is left in its present state. The system should not be scrapped in New South Wales, given that it operates in other States. As the amendment clearly indicates, it is not a hard and fast amendment to the effect that Queen's Counsel are here to stay for ever; it simply says that Queen's Counsel will be treated uniformly when the other States conform - as the Attorney General says they are going to do. I see no reason why the Government should not accept this amendment. If the Attorney General is genuine when he says that all the States will agree, why should there be any objection to the amendment?

I have important information that was sent to me by Professor David Flint, a representative of the University of Technology, Sydney. In that information Professor Flint indicated, contrary to the information given by the Attorney General, that the abolition of Queen's Counsel will have no effect on the operation of lawyers beyond New South Wales. Professor Flint has indicated that the Government of Singapore has drawn up new proposals and is taking strong measures to restrict the supply of new lawyers; that with the growth of Singapore as an international business centre the demand for highly skilled commercial lawyers can be expected to rise. The proposed abolition of the rank of Queen's Counsel may close off a growing export market to the benefit of the British, New Zealanders and Canadians. Professor Flint has attached a document which indicates that foreign lawyers who have not been admitted to the Singapore bar cannot appear before Singaporean courts.

However, there is provision in the Legal Profession Act for an ad hoc admission of Queen's Counsel. One must be a Queen's Counsel if one with special qualifications or experience intends to appear in a case in Singapore or Malaysia - that is, if one is not a resident of Singapore or Malaysia. I know from experience that once the one side appoints a Queen's Counsel, the other side is virtually honour bound to appoint a Queen's Counsel. That is how the law operates. So that if in a Singapore court case Queen's Counsel is engaged by one party, the other party would be obliged to engage Queen's Counsel also. It is not a question of ability; it is a question of the system under which the courts operate. Queen's Counsel appear against Queen's Counsel. That is the system and that is why I believe this amendment is very important. Amendment No. 7 is simply a delaying mechanism to bring about a uniform system in Australia, to provide for a system of equal opportunity and equal competition in Australia. Therefore, this series of amendments is extremely important and should be supported.

The Hon. ELISABETH KIRKBY [9.48]: The arguments advanced by Reverend the Hon. F. J. Nile were also brought to the attention of the Australian Democrats. I shall repeat the statement I made when I spoke in debate on the second reading of the bill. As members of the Parliament of New South Wales

we are charged to regulate the legal profession in New South Wales for the benefit of the citizens of New South Wales. We have no duty to arrange the profession in New South Wales to suit those members of the Bar Council who wish to earn an even greater income than they earn already by practising in Hong Kong or Singapore or any other Commonwealth territory. Parliament operates to make good laws for the benefit of New South Wales. My understanding is that in order to appear in Singapore, Hong Kong or Kuala Lumpur, barristers would have to seek leave of the bar in those territories.

I cannot believe that Singapore, Hong Kong or Kuala Lumpur would deny a senior counsel of the State of New South Wales the ability to appear. They are not going to be concerned about whether that senior counsel is called a Queen's Counsel or a senior counsel. My understanding is that the Bar Association is drawing up rules already to divide its profession into the most experienced of the profession, to be described as senior counsel, and those with less experience, to be described as junior counsel. That should satisfy the needs of the bar in Singapore, as pointed out by Reverend the Hon. F. J. Nile. I reiterate the statement I made earlier in jest, that if the profession is to be divided into those with the least experience and those with the greater experience, the name by which they are called is irrelevant. The story I related earlier was that if senior counsel are called kangaroos and junior counsel are called wombats, overseas they will choose kangaroos because they will learn very quickly that kangaroos represent senior counsel. I could not possibly support the amendment.

Reverend the Hon. F. J. NILE [9.51]: That is my point; obviously the Singaporean Government would not employ a kangaroo to oppose a Queen's Counsel.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [9.52]: Tonight is the height of the Australian Labor Party farce. Last night we spent two hours, and all today since 4.15 p.m., listening to the ALP berate the Government about the retention of the title Queen's Counsel. Opposition members circulated amendments proposing the retention of the title Queen's Counsel in New South Wales. When the time came for them to move their amendments they squibbed out. They turned and ran. I give Reverend the Hon. F. J. Nile credit for being prepared to move the amendments. He knows that the ALP is squibbing. It is split down the middle over the issue of the title Queen's Counsel. The height of ALP hypocrisy is being witnessed tonight. The bill abolishes the prerogative of the Crown to appoint Queen's Counsel and provides that the executive and judicial officers shall have no authority to conduct a scheme for the recognition or assignment of seniority and status among legal practitioners.

The ALP has said in its circulated amendments that it wants to retain the prerogative of politicians to bestow patronage on a limited number of lawyers in New South Wales. Opposition members are all about patronage, trying to bestow favours on their mates. They want to keep for themselves the right to bestow political patronage on people in this State. The coalition parties are intent on eliminating that patronage. We are not about bestowing, through the use of politicians, the opportunity to appoint people so that they can earn more money. That is exactly what ALP members want to do. I understand why some members of the ALP want to walk out of this Chamber. They are not prepared to stand with their ALP colleagues on this issue. The coalition parties are united. They will get rid -

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): Order! I will not tolerate such a level of noise in the Chamber. Either the Minister will be heard in silence and members will behave with decorum or I will dismiss the Committee.

The Hon. J. P. HANNAFORD: I apologise for the interjections from the Opposition. Opposition members cannot stand the heat of debate. They have tried to protect privilege. The Government will not keep privilege, and it opposes the amendments.

Question - That the amendments be agreed to - put.

The Committee divided.

Ayes, 2

Tellers,
Mrs Nile
Revd F. J. Nile

Noes, 24

Mrs Arena	Mr Obeid
Ms Burnswoods	Mr O'Grady
Mr Egan	Dr Pezzutti
Mr Enderbury	Mr Pickering
Mrs Forsythe	Mr Ryan
Miss Gardiner	Mr Samios
Mr Hannaford	Mrs Sham-Ho
Mr Jobling	Mrs Symonds
Mr Johnson	Mr Vaughan
Miss Kirkby	
Mr Macdonald	*Tellers*,
Mr Moppett	Mrs Isaksen
Mr Mutch	Dr Goldsmith

Question so resolved in the negative.

Amendments negatived.

Reverend the Hon. F. J. NILE [10.1]: I move:

Page 35, Schedule 1(7) (proposed section 57G). After line 17, insert:

(3) The Attorney General must make each report public as soon as practicable after it is received by the Attorney General.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.2]: The Government accepts that amendment.

Amendment agreed to.

Reverend the Hon. F. J. NILE [10.2]: I move:

Page 35, Schedule 1(7) (proposed section 57H). After line 25, insert:

(3) The Attorney General must make each report public as soon as practicable after it is received by the Attorney General.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.3]: The Government does not accept the amendment in its present form. But, having regard to other matters which are being considered, I assure Reverend the Hon. F. J. Nile that I will give consideration to the intent behind his amendment with a view to introducing a similar amendment when the bill is considered in the other place.

Amendment negatived.

Reverend the Hon. F. J. NILE [10.3], by leave: I move the following amendments in globo:

Page 36, Schedule 1(7) (proposed section 57I(4)), lines 8-10. Omit all words on those lines, insert instead:

(4) A declaration takes effect on the expiration of 21 days after the date on which the declaration is published in the Gazette or on a later date specified in the declaration. If an appeal against the order is made under section 57IA, the declaration takes effect when it is confirmed by the Supreme Court or the appeal is withdrawn.

Page 36, Schedule 1(7). After line 10, insert:

Appeal against decision of Attorney General to declare rules inoperative

57IA. (1) The relevant Council may appeal to the Supreme Court against a declaration of the Attorney General under section 57I.

(2) The relevant Council is the Bar Council in the case of barristers rules or joint rules and the Law Society Council in the case of solicitors rules or joint rules.

(3) An appeal must be made within 21 days after the declaration is published in the Gazette.

(4) On any such appeal, the Supreme Court may confirm the declaration or may quash the declaration.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.4]: The Government does not accept these amendments. The rule-making power in the bill permits the Bar Council to make rules in relation to practice as barristers and the Law Society Council to make rules in relation to practice as solicitors. This rule-making power is based on the existing arrangements in the Legal Profession Act, whereby the councils are the responsible bodies for the day-to-day regulation of the profession, subject to the specific provisions of the Act.

The bill formalises this process and permits rules to be disallowed when they are found to impose restrictive or anti-competitive practices that are not in

the public interest. Disallowance is by the Attorney General on the recommendation of the Advisory Council. The Supreme Court may, of course, review a disallowance on administrative law grounds to ensure that it is properly made. However, I do not believe that it is appropriate for the court to be reviewing the reasons for the decision. Disallowance involves policy rather than legal considerations; in particular, it involves applying a competition policy test to determine the public interest. Issues of policy are more appropriately matters for the Government than the courts.

I also point out that the Attorney General can disallow a rule only on receipt of a recommendation from the Advisory Council. This will prevent the Attorney General of the day acting capriciously or oppressively in the exercise of the power to disallow. The position quite clearly is that we have put in place, through the Legal Profession Review Council, an administrative body. That administrative body basically is making policy decisions as to whether the rules or the rulings of the Bar Association or the Law Society are restrictive or anti-competitive. That is a policy issue; it is an administrative issue.

The amendment of Reverend the Hon. F. J. Nile proposes that administrative matters, policy matters of government, should be the subject of review by the Supreme Court, with the Supreme Court imposing a government policy decision. Within our structure there is a quite clear division of powers. The role of

the courts is to apply the law and to interpret the law, not to apply a policy decision-making role. What the Bar Association is encouraging by its advocacy for this change is the putting into place of a mechanism whereby the judges are asked to take over the role of an administrative body; that is, in fact, to break down the distinction between the role of the Executive and the role of the judiciary. The break in those separate divisions advocated by the amendment is not tenable. I oppose the amendments.

Amendments negatived.

Reverend the Hon. F. J. NILE [10.7]: I move:

Page 37, Schedule 1(8)(b), lines 16-25. Omit all words on those lines, insert instead:

(a) 1 is to be the Chief Justice of New South Wales or a nominee of the Chief Justice, who is to be appointed as the Chairperson of the Advisory Council; and

(b) 2 are to be barristers nominated by the Bar Council; and

(c) 3 are to be solicitors nominated by the Law Society Council; and

(d) 5 are to be lay persons appointed to represent the community, including persons to represent consumer interests.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.8]: The Government does not accept this amendment. The bill provides for the Legal Profession Advisory Council to be constituted by 11 members, they being an independent chairman, two barristers, three solicitors and five lay representatives. There are five lawyers, five non-lawyers and an independent chairperson. The purpose of the Advisory Council is to determine whether competition policy is being adhered to within the legal profession; that is, if the barristers want to impose restrictive rules which limit competition within the Bar Association and the ability of the Bar members to do business, the review council should be in a position to review that independently and to disallow the rule if it is restrictive. That happens in exactly the same way if the Law Society decides to restrict its members in the way in which they perform their business.

The amendment provides that instead of having five lawyers and five lay people the chairman shall be virtually the ultimate lawyer in New South Wales, the Chief Justice. The Government takes the view that it is, first, inappropriate to put the Chief Justice into that position but, second, it is inconsistent with the purpose of the legislation, which is to ensure that competition policy which is in the interest of the total community is adhered to. The whole purpose of the legislation is to break down the restrictive practices that have bedevilled the legal profession in this State, this country, and perhaps in the whole of the common law world for generations, if not centuries.

That can only be done by making certain that it is an independent committee where there is at least a balance of views between the lawyers and the lay people and, if there is a divided position, a prominent independent chairman cuts the Gordian knot. To leave that responsibility to the Chief Justice is not appropriate. By leaving the lawyers in charge, it would effectively mean that the intention of the legislation would not be achieved, the status quo would potentially be retained. If there is anything in this legislation that will take the legal profession into a new era, it is the ability to get rid of restrictive practices. Therefore, the Government does not support the amendment because it would retain the status quo.

Reverend the Hon. F. J. NILE [10.12]: The amendment makes it clear that the Chief Justice could be the chairman, but the Chief Justice can nominate the chairman. It is a question of whether the Chief Justice should nominate the chairman or whether the Attorney General should do it. The bill provides that the Advisory Council is to consist of 11 members appointed by the Attorney General. The entire 11 are appointed by him. All the amendment would provide is that others could take part in the process.

The numbers would not be changed. There would still be two barristers and three solicitors. It is just a question of whether all power resides in the Attorney General. I believe the amendment is quite moderate, and I urge the Government to accept it.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.13]: Reference has been made to the role of the Attorney General. I take the view that the Attorney General's role is to act in the public interest. I recall attending a function when

debate on the legislation was at its height. A very prominent Queen's Counsel, a former Federal Attorney General, was present. After I had indicated the direction in which I was moving in this area he said that I was the leader of the bar and it was my duty to protect the bar. I was berated for failing to protect the bar. I took the view that I was the Attorney General, the first law officer of the State, the leader of the profession, and that it was my duty to protect the public interest. Attorneys general should always keep that in mind. This reform is aimed at securing the public interest.

Amendment negatived.

Schedule as amended agreed to.

Schedule 2

The Hon. ELISABETH KIRKBY [10.15]: I move:

Page 46, Schedule 2(2) (proposed section 126), lines 18-22. Omit all words on those lines, insert instead:

"investigation" means an investigation under this Part by a Council or the Commissioner into a complaint, and includes an independent investigation under section 151;

It is necessary to explain at some length the reason for the amendment. The present professional complaints procedures within the legal profession in New South Wales have been the subject of an extensive and critical report published in February 1993 by the New South Wales Law Reform Commission. The reason for the report was extensive criticism in recent times of the existing position whereby complaints against legal practitioners are made to and investigated by their respective professional bodies. It was suggested in a submission to the Trade Practices Commission that:

It is definitely not acceptable for the Law Society to be both the representative organisation of solicitors and the investigator and prosecutor of complaints about solicitors. The conflict of interest is obvious and has a deleterious effect on public confidence in the legal profession.

That is contained in the report of 7th October. In the draft bill published by the Attorney in June the proposed legal services commission was given the function under proposed section 131(1)(e) to investigate or take over the investigation of a complaint if it is in the public interest or in the interests of justice. In proposed section 35 of the draft bill it was provided that the commissioner may take over the handling of a complaint made to the Law Society Council by direction to the council or at the request of the council. Proposed subsection (4) provided:

(4) If the Commissioner takes over the handling of the complaint the complaint is taken to have been made to the Commissioner and in that case the council is to give the Commissioner all the documents held by the council in connection with the complaint.

Proposed section 150 further provided:

The Commissioner may conduct an investigation into a complaint instead of referring it to a

council for investigation. The Commissioner may take over the investigation of a complaint from a Council at the request of the council or by direction to the Council. In that case the Council is to give the Commissioner all the documents held by the Council in connection with the complaint and investigation.

Proposed subsection (3) provided:

(3) A complaint may be investigated by the commissioner only if the commissioner is satisfied that it is in the interests of justice or public interest to do so.

Proposed part 10 of the draft bill was commented on by the Law Reform Commission in a submission to the Attorney dated 13th July. At pages 8 and 9 of the submission the Law Reform Commission commented as follows:

As detailed in our report, the Commissioner found the experience of obtaining information from the Law Society extremely difficult. The Commission was at pains therefore to prevent the Legal Services Ombudsman from being placed in an equally powerless or frustrating position . . . In order for the commissioner to be able to assess the relevant council's handling of a complaint he or she needs to have a general right of access to the files in the first place as distinct from the power to uplift a specific file . . . The bill contains no such provision and as such it is in the Commission's opinion seriously deficient. If there is no effective monitoring or review of the complaints handling system, then the various sections are not sufficiently accountable for their actions. In the Law Reform Commission's review the bill fails to ensure that the Commissioner will be able to monitor effectively the operation of the whole complaints system.

Certainly the bill provides a limited review role for the commissioner but that is far from the broader supervisory role envisaged and recommended for the commissioner in Law Reform Commission Report No. 70, and apparently later adopted as Government policy. However, what has happened is that the bill introduced by the Attorney General, in its final form after draft exposure, far from addressing these concerns expressed by the commission, has completely withdrawn the initial investigative powers given to the commissioner in the draft bill. The proposed power of the commissioner to take over investigation of a complaint under section 150(2), referred to by the Law Reform Commission in the extract I have just quoted, has been removed.

In his newly defanged condition, the commissioner's direct investigative power arises under section 131(1)(g) only after the complainant has applied under section 158(1) for a review of a council's decision to dismiss his complaint. Unless that happens, the complainant is limited to the role under section 131(1)(e) to monitor investigations and give directions and assistance to councils in connection with the investigation of a complaint. This change of heart on the part of the Government has been reported with satisfaction and approval by the chief executive officer of the Law Society in its 1993 annual report to the membership, as follows:

The society and its members strongly oppose two features of the bill. The first was the provision for the proposed Legal Services Commission to receive and assess complaints. Having reviewed the submissions received in respect to the exposure draft, the Government has announced that it intends to modify the objectionable provisions when the bill is revised for submission to Parliament.

It would appear that in this instance the Attorney General has bowed down to what is desired by the Law Society and what is in fact perpetuating an unsatisfactory complaints procedure. The essential difficulty with an internal system of dealing with complaints within a very small professional body is that there will very often be the perception, rightly or wrongly, of bias, favouritism or erratic behaviour. It should not be assumed that the potential for bias or erratic behaviour on the part of professional bodies in investigating

a complaint against one of their own will necessarily be exercised in favour of the legal practitioner the subject of the complaint. A striking example of erratic behaviour in the investigation of a complaint under the present system is the notorious case of *Malfanti* v. *Legal Profession Disciplinary Tribunal.* In that case the Law Society brought and proceeded with 10 charges against a suburban solicitor of 26 years' standing and hitherto unblemished reputation when it had no evidence to sustain a single one of those charges. That case was reported in the *Sydney Morning Herald*. A much quoted judgment was delivered in that case by Mr Justice Meagher in the Court of Appeal on 23rd August, 1993.

This deficiency in the commissioner's powers, as framed in the bill now being debated, can be addressed by an amendment to section 131 along the lines I have presented. Investigation means investigation of a complaint under this part by a council or the commissioner and includes an independent investigation under section 151. I am given to understand that the Opposition is happy to support my proposed amendment. I trust that will happen. I trust also that the Attorney will see fit to support the amendment because it certainly formed part of his draft legislation when that was first circulated. He must have had good reason at that time to include that provision in the exposure bill.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.25]: The Government does not accept the amendment. I note the comment of the honourable member that the amendments she now proposes were those contained in the exhibited bill. I will outline what was proposed then and why I changed my mind and introduced the present measure. This most important issue goes to the heart of the complaints procedures. In the original proposal there was an opportunity for a complainant to lodge a complaint with a council or with the commissioner. Therefore, there were two ways in which a complaint could be lodged, and there was need for communication between the two. It was not inconceivable that complaints could be lodged with both bodies, with both of them pursuing investigation of complaints. I had no doubt, after much consultation, particularly with the community, that the proposal would do nothing but lead to confusion about who was responsible for the conduct of investigations and who would be responsible for providing oversight and monitoring.

I changed the legislation to reflect the way it operates now. All complaints must now be lodged with the commissioner. The commissioner will review the complaints. The commissioner will either reject the complaints because he regards them as frivolous or vexatious or he will refer them to the Law Society or the Bar Association councils for investigation. He can, as part of that reference, recommend that matters be the subject of mediation. The Law Reform Commission Report stated that the vast majority of complaints are more likely to be resolved by mediation than investigation. But at all times the commissioner controls complaints. It is not that the council or the commissioner could be controlling complaints: the commissioner is in charge of the process.

Under the bill in its present form, the commissioner also has power to issue directions to the Law Society Council or the Bar Association. The commissioner can monitor an investigation. Though the council conducts an investigation, it can only do so in accordance with standards and requirements imposed by the commissioner. One body will be enforcing standards. If the council, having conducted an investigation, decides that a complaint is sustainable, that complaint will go to the professional tribunal. If the council decides to dismiss the complaint, the complainant will have an opportunity for review. The complainant can appeal to the commissioner and object to the commissioner that the complaint has been unreasonably dealt with. The commissioner then has complete power to reinvestigate and take total control of the investigation, and to do it anew.

Therefore, I have made certain that there are clearly defined lines of responsibility and accountability. Unfortunately, the amendment recommended by the Hon. Elisabeth Kirkby would take the bill back to the original proposal and leave the system confused. I can understand why the Hon. Elisabeth Kirkby was attracted by the words in the original bill, that is, to give the commissioner power to investigate or take over the investigation of a complaint if it is in the interests of justice or in the public interest, which is the subject of her next proposed amendment. But to give that power to the

commissioner would confuse the picture. The community would not know who is responsible for what, who oversights what, or who has complete control. The honourable member is saying in relation to the proposed legislation that complaints should be lodged with the commissioner, who could investigate. If the commissioner does not investigate and refers a complaint to the council, the council will investigate. But if that course is not preferred, an appeal can be made to the commissioner, who must then investigate.

That is too confusing. It makes the procedure cumbersome and the community will become dissatisfied with what is being sought to be achieved here, which is much greater accountability within the complaints investigation mechanism. I understand what the honourable member wants to achieve. I urge her to consider that what she wants to achieve I also want to achieve. The framework in the reconsidered legislation is the better way of doing that, making certain that there is clearer public accountability to the community through the commissioner.

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The Hon. Dr B. P. V. PEZZUTTI [10.30]: When the whole idea of a review of the complaints handling process of the Law Society and complaints about legal practitioners became an issue, it was my firm belief that the issue was one more of perception than reality, having been part of the complaints process for a long time. From watching the careful way in which the investigations were carried out - Madam Chair, could I have silence? If honourable members want to laugh, could they go outside?

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): Order! Several times I have asked for silence. It is not fair to Hansard. It is terribly difficult to hear. There is to be no talking outside the Chamber; if people want to converse they can go outside the building. There will be silence. The honourable member may continue.

The Hon. Dr B. P. V. PEZZUTTI: This is a very serious matter. The complaints handling process was being carried out with diligence and correct process. The problem became one where every complaint required a report to the council. That became extremely cumbersome. When this matter came for review, I approached the Attorney General and had a series of discussions with him. It became clear that the only way the community would believe that they had had a fair hearing and that the process was all above board was for the power to be given to a commissioner to deal with these matters, he not being a member of the legal profession or a member of what the community might call the club. I ask Ian Macdonald to just shut up and get out of here.

The TEMPORARY CHAIRMAN: Order! The honourable member will apologise. This Chamber does not have that type of language.

The Hon. Dr B. P. V. PEZZUTTI: I apologise, Madam Chair. But, please, this is difficult matter to get through. It is late. It is difficult to concentrate to get one's words right for Hansard. I ask members to please assist me. If a person outside the profession made a complaint about professional practice or performance it was perfectly understandable that that person may have been unaware of the standards. To have a commissioner receive a complaint and determine that it would be better handled by mediation - a procedure that was not available under the old arrangements - or by dismissing it after assisting the complainant to understand matters, would leave the more serious matters to be investigated. Quite appropriately the system of investigation and prosecution in place was pretty fair dinkum - so long as the community was protected by direction or supervision of the commissioner.

If at the end of the day the matter was resolved, but to the dissatisfaction of the complainant, a separate loop coming back with a small number of matters being looked at by the commissioner was an appropriate way to go. The person setting the standards could judge the standards and, if necessary, apply the standards to himself or herself. In terms of public perception, which is as important as the process - in other words the believability and trust that one can have in the process, which is really what

this is all about - the matter of self-regulation and self-testing was allowed to be in place, with the community having a watchdog on the process. The standard of test was thus more able to be looked at in terms of the community stand, with the community expectation being ever present in the mind of the commissioner.

The Attorney General has set this up in a fairer way. The Hon. Elisabeth Kirkby is the only person in this Chamber who shared with me that experience with the Law Society. The Hon. Elisabeth Kirkby served on the committee with me for quite a few years without either of us being captured by any form of culture. That is how I saw this in terms of fairness and, I suppose, transparency and perception in the community; not only was the right thing being done, it was seen to be done.

The Hon. ELISABETH KIRKBY [10.36]: The hour is late but I must go back to what I said in my speech in the second reading debate. The problem with the bill as it stands now is the delay that is involved in not allowing the commissioner to conduct an initial independent investigation. The Law Society has argued, because they wish to keep the control to themselves, that this would set up a bureaucracy. I do not accept that argument, as I said earlier today, because it is important that the commissioner should be allowed to oversight the handling of complaints by the Law Society and by the Bar Association. Ample evidence is now available to prove that difficulties have been experienced in accessing complaints information held by the professional associations. I remind the Attorney General that the Law Reform Commission stated:

> In its review of Law Society's 1991 complaint files, the Commission came across a significant number of files where there was little or no progress for some months for no apparent reason. The Commission sought directly to ensure, by its recommendations that the Legal Services Ombudsman would be able to review and monitor the Council's dealings in relation to such complaints and be empowered to call for specific action to be taken. For this to happen, the Commission intended that the Legal Services Ombudsman's access would be "unfettered access".

This is the reason that I introduced the amendment and made certain comments earlier today in the debate. With the Hon. Dr B. P. V. Pezzutti I was a member of the complaints committee of the Law Society. Having been a member of this Chamber now for 12 years I constantly receive letters from constituents who have complained to the Law Society and months and months have gone by during which nothing has happened. It produces disillusionment with both the society and the legal profession. Unfortunately, because of the way the Attorney General has seen fit to change the bill, these delays will not be improved even by the many good measures that are implicit in this legislation. It will take six months before a complainant will be able to go to the commissioner. During that six-month period the matter may well be moribund within the Law

Society or within the Bar Association. I assure the House that so far as the Law Society has been concerned in the past, six months was a short period. When I was on the complaints committee, files kept coming before the committee and some were up to 12, 15 or 18 months old.

That is the reason I have moved the amendment. I am aware that it is the Minister's intention to make the profession consumer friendly. All his reforms have been introduced to achieve that objective. The amendment will lead to a more speedy and expeditious outcome so far as complainants are concerned. I agree that there will be some overlapping, but surely it is better to have a speedy outcome and an overlap than to continue to have complainants waiting for several months before they receive any reasonable reply to their complaints. That does not help the profession. The perception in the minds of the public is that if one complains to the Law Society, all the society does is protect its own and does not look after the interests of consumers.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.40]: In her comments the Hon. Elisabeth Kirkby has properly raised the issue of complaints being dealt with quickly and the ability of complainants to further the matter if that does not

happen. I draw her attention to proposed subsection 150(2) at page 55 of the bill. That proposed subsection reads:

(2) The directions -

These are the directions that may be issued by the commissioner:

- may include, for example, directions to pursue a particular line of inquiry or -

I emphasise the following:

- directions concerning the time for completing the investigation.

The legislation addresses the specific issue of concern raised by the Hon. Elisabeth Kirkby. The commissioner will have control over the issue of delay. To reinforce the commissioner's power, I draw the honourable member's attention to proposed subsection 150(4), which also appears on page 55 of the bill. That proposed subsection reads:

(4) If the directions of the Commissioner about the investigation of a complaint are not complied with, the Commissioner may carry out a review under Division 6 as if the Council had decided to dismiss the complaint.

This subsection means that if the commissioner issues a direction and that direction is not complied with, the commissioner will take over the complaint and investigate it completely himself. The protections that were of concern to the honourable member, and which have given rise to her desire to return to the original proposals, have all been put in place.

The Hon. ELISABETH KIRKBY [10.42]: In view of the Minister's explanation, I seek one further clarification from him. He referred me to proposed subsections 150(2) and 150(4) of the bill. At what point in the complaint procedure will the complainant be able to rely on those two proposed subsections? Will there still be a six-month delay while the matter is initially investigated?

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.42]: I anticipate that the commissioner will have the standard set of instructions that will be given to the Law Society. All complainants will be given details of those instructions. If the commissioner has issued instructions to the Law Society in relation to any particular complaint, that information will also be provided to the complainant. If the instructions include time frames for doing things, it will be open to the complainant to say to the commissioner of the day after the expiration of a specified time, "The Law Society is not complying. I now want you to take it over and do it yourself". The complete control of all of those issues will be in the hands of the commissioner and, effectively, the complainant.

The six-month time frame to which the honourable member referred is virtually a catch-all. If, for some reason, a complaint has been referred to the Law Society without the appropriate controls, and it has not been dealt with at the expiration of six months, it will be deemed to be dismissed and the commissioner will investigate it. It is a fail-safe mechanism in case everything else goes wrong. The intention is that the commissioner will have complete control of the investigation process, although the actual conduct of the investigation will be left to the Law Society Council. To make it clear how broad the direction power will be, proposed subsection 150(2) provides that a direction may be issued to pursue a particular line of inquiry. During the course of an investigation a complainant may say to the commissioner, "The Law Society is looking at X but should really be looking at Y". The commissioner will be able to issue a direction to the council to pursue line of investigation Y. The bill gives ample powers, almost complete and unfettered powers, to the commissioner to ensure appropriate lines of investigation.

The Hon. ELISABETH KIRKBY [10.45]: I thank the Minister for his very full explanation. However, I maintain the stand I took when I moved the amendment. I again commend my amendment.

Question - That the amendment be agreed to - put.

The Committee divided.

[*In Division*]

The Hon. Virginia Chadwick: Given that our friend and colleague the Hon. R. S. L. Jones has only recently entered the Chamber in support of his colleague the Hon. Elisabeth Kirkby, and given the way the numbers appear to be going on the division, I am curious as to who seconded the call for the division.

The TEMPORARY CHAIRMAN (The Hon. Beryl Evans): I assure the Minister that there were two voices.

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The Hon. Virginia Chadwick: As a matter of record, I am curious to know to whom the second voice belonged.

The Hon. R. S. L. Jones: It was mine.

The Hon. Virginia Chadwick: The Hon. R. S. L. Jones was not in the Chamber.

The Hon. R. S. L. Jones: I was.

The TEMPORARY CHAIRMAN: I assure the Minister that I waited until the second voice was heard and that I heard the two voices of the Australian Democrat members. There is a great difference in the two voices.

Ayes, 2

Tellers,
Miss Kirkby
Mr Jones

Noes, 16

Mr Bull	Revd F. J. Nile
Mrs Chadwick	Dr Pezzutti
Miss Gardiner	Mr Pickering
Dr Goldsmith	Mr Ryan
Mr Hannaford	Mr Samios
Mr Jobling	
Mr Moppett	*Tellers*,
Mr Mutch	Mr Coleman
Mrs Nile	Mrs Forsythe

Question so resolved in the negative.

Amendment negatived.

Schedule agreed to.

Legal Profession Reform Bill (No. 2) reported from Committee with amendments, and cognate bill reported without amendment, and passed through remaining stages.

SYDNEY ORGANISING COMMITTEE FOR THE OLYMPIC GAMES BILL

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

Bill received and read a first time.

Second Reading

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier), on behalf of the Hon. J. P. Hannaford [10.57]: 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.

On 23rd September, 1993, the President of the International Olympic Committee, His Excellency Juan Antonio Samaranch, announced that Sydney had been chosen to host the Games of the XXVII Olympiad in the year 2000. It marked the end of a long and arduous campaign by many dedicated people - by all of those associated, in whatever capacity, with the Sydney bid and the Australian Olympic movement who gave countless hours of their professional and personal time to ensuring that Sydney was successful in its bid to host the 2000 Olympics. The decision recognised that our entire community, across all walks of life, professions and cultures shared a common desire to celebrate the Games that begin the second century of the modern Olympic movement, in our city in September 2000.

The decision was recognition of the technical excellence of the Sydney bid, with its emphasis on the needs of the athletes, as well as a further recognition of Australia's standing in the international Olympic movement - one of only three nations to have participated in every summer Olympic Games of the modern era. Sydney's victory will be a wonderful boost for sport in Australia and for our Olympic neighbours in Oceania, not just for the Games in September 2000 but for the years preceding and beyond. It is of special significance for those Australian sports that have found it difficult to qualify for past Olympic Games. As host nation in the year 2000 Australia will be entered in every sport on the program of the Games, thus enabling all of our chosen athletes to savour the special thrill of Olympic competition.

For a nation where the love of sport is so ingrained in its character, the 2000 Olympics offers Australians the once in a lifetime opportunity to see the world's greatest athletes from the family of Olympic nations perform on Australian soil. The Games will provide Australian athletes with the chance to compete in front of home crowds in what all Australians fervently hope will be our nation's greatest Olympic performance of all times. Now begins the greatest organisational and logistical challenge ever faced by our city - the staging of the Olympic Games when the eyes of the world will be focused on Sydney at the beginning of the twenty-first century. The bill will create the Sydney Organising Committee for the Olympic Games - SOCOG - setting in place the framework to manage and organise the 2000 Olympics.

In hosting the games Sydney has a marvellous Olympic tradition to follow. As the IOC member resident in Australia, Phil Coles, said in Monaco only an hour after the decision: "We now have a great

responsibility". We have a great responsibility to the 10,000 athletes who will come to Sydney to perform at their best in front of a massive global audience. They will reside during that period in the municipality of Auburn. We also have a great responsibility to the people of Sydney, New South Wales and Australia with the staging of the Games. The bill establishes the Sydney Organising Committee for the Olympic Games, whose primary objective will be to organise and stage the Games of the XXVII Olympiad from 16th September to 1st October 2000.

The bill covers the following: constitution of the organising committee, its roles and responsibilities; the establishment of the board of directors and the duties of directors; the appointment of committees and subcommittees within the structure; financial arrangements; and the committee's winding up once the Games are over. Throughout the bill it is made abundantly clear that proper financial management must be at the forefront of all planning.

The bill also clearly states that the organising committee will be subject to the Public Finance and Audit Act, the Annual Reports Act, the Freedom of Information Act, the Independent Commission Against Corruption Act and the Ombudsman Act. This regime will ensure that the SOCOG is properly accountable. For the benefit of the House I will detail some of the key points contained in the bill. The SOCOG does not represent the State and it may not render the State liable for any debts, liabilities or obligations. The Act clearly states that the organising committee must act in a financially sound and responsible manner, have regard to the limits of the financial resources

available to it and the State, and use its best endeavours to avoid the creation of debts and liabilities of both the SOCOG and the State once the Games are over.

To manage the affairs of the organising committee, a 15-person board will be appointed. The membership of this board, other than the chief executive officer, has been announced. The chief executive officer will be selected by the board and will be announced at a later date. The board is made up of the president of the board, Mr Gary Pemberton; members of the International Olympics Committee in Australia, being Mr Kevan Gosper and Mr Phil Coles; the President of the Australian Olympic Committee, Mr John Coates; the Executive Director of the AOC, Mr Perry Crosswhite; the Lord Mayor of the City of Sydney, Councillor Frank Sartor; two persons representing the Premier, Ms Sallyanne Atkinson and Mr Robert Maher; the chief executive of the organising committee; four persons with appropriate experience and expertise recommended by the Premier - Mr Nick Greiner, Mr Kerry Packer, Mr Graham Lovett and Mr Rod McGeoch; and two nominees of the Prime Minister, who also must be recommended by the Premier on the advice of the Prime Minister, the Hon. John Brown and Mr Simon Balderstone. I am confident that the range of experience and skills that these individuals bring to the task will ensure the board operates effectively.

Also provided for in the bill is the board's power to establish commissions and subcommittees to provide it with expert advice in specific areas related to the organisation of the Games. The bill sets out a framework for the management of budgets and expenditure to be controlled by the board. Detailed work on the budget has been completed. As an additional safeguard, provision has been included in the bill for the Premier and the Treasurer to approve any deviation from the existing budget. The committee may not borrow or invest money without the prior approval of the Premier with the concurrence of the Treasurer and in accordance with the Public Authorities (Financial Arrangements) Act 1987. Strict accounting procedures will be adopted, with the SOCOG being subject to the Public Finance and Audit Act.

As honourable members can see, the bill provides a framework which will ensure that the SOCOG is fully accountable. Part 7 of the bill deals with the winding up of the organising committee once the Games are over and all matters are concluded. The bill requires the organising committee to be wound up by 31st March, 2002, in accordance with the provisions of chapter 5 of the corporations law. The surplus funds of SOCOG will be distributed in accordance with the host city contract, which stipulates that 10 per cent must go to the IOC, 10 per cent to the AOC and a further 80 per cent to Olympic sports

in Australia, under the administration of the AOC. Even though the Games will not be held for close to seven years, it is important that as soon as possible we have the proper mechanisms in place to ensure that those 16 days of competition are memorable. I believe that the Sydney Organising Committee for the Olympic Games Act will ensure that this process proceeds correctly.

During the bidding period, Sydney was widely regarded as having put together a thoroughly professional and technically excellent bid. Our painstaking research and planning for the Games in 2000 and the way in which we presented this and our city to the IOC and Olympic family paid off. We have created a very high level of expectation and we have to deliver. I am confident that this bill is steering us in the right direction. We can capitalise on the great opportunities with which the Games can provide us. The financial consulting group, KPMG Peat Marwick, recently undertook a study of the economic impact of Sydney hosting the Olympic 2000 Games. The results were very interesting. According to the report the Olympics will add $A7.3 billion to Australia's gross domestic product between 1991 and 2004; create over 150,000 full-time and part-time jobs during the same period; and the Olympics will bring an extra 1.5 million visitors to Sydney, of whom 1.3 million will be from overseas. Sydney will gain a magnificent world-class sporting and cultural infrastructure that will service the Olympic Games and benefit future generations by taking into account the long-term sporting and cultural needs of Sydney.

As honourable members are aware, the majority of new facilities will be built at Sydney Olympic Park at Homebush Bay, in the demographic heart of Sydney. Three million people live within half an hour's drive of Homebush Bay. This means that Sydney's new sporting and cultural facilities will be accessible to many millions of people. In the lead-up to the Games, Sydney can expect to host several world championships and many other major international competitions as the international summer Olympic sports federations test Sydney's venues and organisational skills. Importantly, all of Sydney's Olympic venues will be completed at least one year before the Games.

As part of the Games, Sydney will get an 80,000-seat stadium. Not only will this be used as the centrepiece for the Olympics; it will be the centrepiece of sport and culture for many decades to come. But it will be the athletes who will benefit most, and we will stage a Games where their needs and comfort are the main priorities. Sydney will become a centre of sport with world-class facilities for sportspeople in which to train and compete. They will come from all over Australia, the Pacific, Africa and Asia to Sydney's centre of sporting excellence. With better facilities these athletes will deliver better results. Sydney's investment in Olympic facilities is an investment in our nation's sporting, entertainment and cultural infrastructure. They will last a lifetime. The bid process shows Australia can compete with the best in the world and when we really want something we can do it, and do it very well. As I said earlier, we have set ourselves a very high standard and the world is expecting something magnificent in 2000.

There is something I should emphasise here: the Sydney Olympics will be managed as a green Olympics. Environmental guidelines for the Sydney Olympic Games were developed by the Sydney bid committee with environmental groups such as Greenpeace and were released at Monte Carlo as part of the successful Sydney bid. I should like to reaffirm the Government's commitment to use these environmental guidelines as the framework to develop the Olympic facilities and stage an environmentally sensitive Games. The Sydney Olympics will be an international role model for how ecologically sustainable development can be implemented through the construction of facilities, the design of the athletes' village, and the management of the Games.

In view of the environmental and economic significance of the Olympics to the State, the Minister for Planning will be gazetting a new State environmental planning policy on the development of Olympic Games projects. The policy will apply to Olympic Games projects in the Sydney region. The aim is to facilitate the development of Olympic projects by establishing a planning process within which all projects can be considered and their impact fully assessed. The policy provides for consultation with relevant councils and public authorities, and advertising in the assessment of applications for

specific Olympic Games projects.

The Government will undertake a detailed assessment of the impact of the environmental guidelines released in Monte Carlo to ensure that they are properly and fully taken into account. The Government proposes to include the guidelines in the State environmental planning policy. Once a detailed examination of the guidelines has been undertaken, the Government will undertake to assess ways of incorporating them more generally in the planning process. In view of the detailed planning already undertaken as part of the bid process, there is adequate time to properly prepare for the Games in a way which will respect planning processes. Further details of the State environmental planning policy on the development of Olympic Games projects will be provided by the Minister for Planning. The fact is that the Sydney 2000 Olympics will be a showcase for responsible developments based on sound environmental

practices and principles. To get it right, we need the right people and these people must have the right framework in which to operate. The bill for the Sydney Organising Committee for the Olympic Games will ensure this occurs, and I commend it.

The Hon. I. M. MACDONALD [11.0]: The Opposition will support this bill, but as I glanced through the speech that was delivered in the other place a short while ago, I noted one of the more divisive issues in relation to the Sydney Organising Committee for the Olympic Games: the Government has chosen to insult every woman in this State by appointing to the committee a failed Queensland politician as the sole female representative. It is an absolute disgrace. It is an insult to the Hon. Beryl Evans, the Hon. Patricia Forsythe, and even the Minister, who probably would not even realise it. It is an insult to those many businesswomen in the State and to women in sports administrations, that the Government had to drag Sallyanne Atkinson to Sydney, pay her a paltry fee of $50,000, and appoint her as a member of the committee. The Government could find no other woman in this State with sufficient talent to appoint to the committee. The Government has stacked the Olympic organising committee not with members of the Call to Australia group, not with members of the Australian Democrats, and not anyone associated with the Labor Party. This alleged bipartisan committee is stacked with Mr Greiner and people - other than Mr Packer - who have some connection with the Liberal Party. It is an absolute outrage. Reverend the Hon. F. J. Nile has indicated that -

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member will address the Chair.

The Hon. I. M. MACDONALD: I always do that. I find it a most worthwhile exercise. The Government chose to make the committee partisan from its very inception. Before it introduced the bill to the Parliament the Government appointed Liberal Party hacks from Sydney but could not find a failed female Sydney hack to appoint. If the Government has problems with the committee over the next year or so - the length of its remaining time in office - it can only blame itself. The Government chose to make the Sydney organising committee a partisan political group, and the Government will suffer the consequences of its action in this regard. The Opposition supports the bill, but in the future it will certainly highlight any examples of gross mishandling by the committee. I note that the Government accepted an amendment moved by the honourable member for Manly in the other Chamber. The amendment endeavours to ensure some Australian content in the -

The Hon. J. F. Ryan: We were going to do that anyway.

The Hon. I. M. MACDONALD: The Hon. J. F. Ryan says they were going to do that. He should talk to the manufacturer from Ryde who was not permitted to install Australian gear in the scoreboard at Homebush. The honourable member should get his facts right. The amendment improves the bill a little, but the glaring weaknesses of the partisan political decision-making appointments of this declining Government cannot be overcome. I know the Hon. Patricia Forsythe believes there should be bipartisan activity in relation to the Olympic Games.

The Hon. Patricia Forsythe: Do not verbal me.

The Hon. I. M. MACDONALD: The honourable member has obviously misread the real needs of the Olympic organising committee. The Minister in her usual insulting way said that I am anti-sport. How could she accuse me of being anti-sport?

The Hon. Virginia Chadwick: Look at you. You are anti-sport.

The Hon. I. M. MACDONALD: I will rate myself against you any day in terms of whether I am a sport. The Minister's portrayal of the Labor Party as anti-sport is totally inaccurate. The Labor Party participated in trying to win the Olympic bid. Gough Whitlam, that great man that Government members have traduced at every opportunity in this Parliament, made representation in Africa to ensure that Sydney won enough votes from third world countries to tip out the Beijing bid. Labor Party members have asked a few questions about how the Premier deceived the people of New South Wales in relation to the cost of staging the Olympics - it will cost $3 billion and not $1.7 billion.

Even the head of Treasury the other night on the "7.30 Report" made it clear that he stood by his views. He said that those views are in writing. No one could have a discussion on this issue tonight without putting to rest the slur perpetrated by the Minister for Education, Training and Youth Affairs in the Chamber tonight. She echoes in her own way what the Premier and others have attempted to convey to the people of New South Wales, that the Labor Party is anti-sport because, although it supports the Olympics, it is concerned about the cost.

The Hon. Virginia Chadwick: You hate sport. You hate fun. You are anti-sport.

The Hon. I. M. MACDONALD: The Minister says I hate sport and I hate fun. That is an absolute insult and she should withdraw it. The Labor Party supports the Olympics. But the Government has to manage the staging of the Olympics in such a way that the people of New South Wales are not left with a massive debt to be paid for over the next 15 or 20 years.

[*Interruption*]

I remember the things that the coalition said about Darling Harbour but I remember also that when the buildings and the harbour tunnel were being opened Nick Greiner could not get down there quick enough to cut the ribbon. As much as I would like to speak further on this issue, I hope I will have the opportunity in the near future to debate bills that will

put some teeth into the Olympic organising committee, particularly in terms of the role that Australian manufacturers will play in the production of goods and services for the Olympic Games. I am pleased that in the other place the Government accepted an amendment that seeks to direct the committee to use Australian made goods and services for the Olympic Games. The Opposition will monitor that situation. I am sure the Government will have a change of heart and come down the track with us, instead of constantly endeavouring to run away from issues that face the State - the need to create jobs and the need for Australian manufacturing to participate heavily in the Olympic Games. It should not sell off the television rights for the Games to overseas interests.

Reverend the Hon. F. J. NILE [11.10]: The Call to Australia group enthusiastically supports the Sydney Organising Committee for the Olympic Games Bill. We congratulate the Liberal Party-National Party Government, especially the Minister for Transport and Minister for Roads, the Hon. Bruce Baird, and the Premier and Minister for Economic Development, the Hon. John Fahey. We also congratulate all those who worked hard, against all odds, to win the Olympic Games in the year 2000. There was excitement when the winner was announced. We knew it would be difficult to win the Games and compete against all the other cities. I agree that Sallyanne Atkinson is not the right person to be

appointed to SOCOG. A Sydney lady should have been appointed. I do not know whether Senator Bronwyn Bishop could have been appointed to SOCOG, as she is currently a senator. Someone from Sydney could have been appointed, such as Dawn Fraser or Dame Leonie Kramer.

This bill sets up the Sydney Organising Committee for the Olympic Games. The primary objective of that committee is to organise and stage the Games of the XXVII Olympiad in Sydney in the year 2000, in accordance with the rights and obligations conferred and imposed under the host city contract. We are most pleased to support the bill. We congratulate the Government for preparing this bill so rapidly. We know that the cost of the Olympic Games is not $3 billion; it is $1.7 billion. There are other projects related to the other expenditure. The Labor Party is endeavouring to mislead the public by referring to $3 billion.

The Hon. ELISABETH KIRKBY [11.12]: The Australian Democrats support the Sydney Organising Committee for the Olympic Games Bill. However, I am concerned, as honourable members would be aware as a result of a question I asked yesterday, about the composition of the board of directors. I refer to page 6 of the bill, part 4, division 1, which outlines the composition of the board. It is perfectly reasonable that the President of SOCOG, members of the International Olympic Committee representing the IOC in Australia, the President of the Australian Olympic Committee and the Secretary-General of the Australian Olympic Committee be on the board.

Obviously, the Lord Mayor of the City of Sydney has to be on the board because the Olympics are run by the city, not the State or the country. That fact has been overlooked. The chief executive officer of SOCOG has to be on the board. I have no objection to two persons with appropriate expertise and experience being appointed to the board by the Governor, on the recommendation of the Premier, to represent the Premier. However, six other people are to be appointed to the board - four with appropriate expertise and experience appointed by the Governor on the recommendation of the Premier, and two with appropriate expertise and experience appointed by the Governor on the recommendation of the Premier, being people nominated by the Prime Minister of Australia for consideration by the Premier.

I fail to understand why, of those six people, only one is a woman. I believe that more than 50 per cent of the participants in the Games will be women; almost certainly far more than 50 per cent of those viewing the Games will be women. Prospective female appointees to the board could have been chosen from a wide field. If the Premier or the Prime Minister did not wish to nominate one of our female Olympic athletes of the past - such as Dawn Fraser, who was a member of this Parliament -

The Hon. Franca Arena: Or Evonne Goolagong.

The Hon. ELISABETH KIRKBY: Yes, she is a great leader of the Koori community and a great athlete. Kay Cottee is a superb example of what a woman can do. If the Premier and Prime Minister did not want to appoint a sportswoman, they could have appointed a woman with business expertise - there are many such women. Alison Crook, the head librarian of the State Library, is a supreme example of a woman who has succeeded in the corporate field. There are other women in the corporate field, as well as leading members of the community in academia and in the professions. Surely one of those women would have what is regarded as appropriate expertise and experience.

I simply do not understand why, out of a board of 15 members, the Government decided that there could be only one woman. The Government's appointee is not even a resident of New South Wales; she has nothing to do with New South Wales. I simply do not understand the rationale of her appointment. If the Government wished to choose a member of the Liberal Party from Queensland, surely it could have chosen another woman, from New South Wales, to make up the balance. I do not know whether it is too late for that decision to be reversed. I ask the Premier to reconsider the appointment, for the benefit of all women in Australia, all women athletes everywhere, particularly women participants in the Games of the year 2000. Another woman should be appointed to SOCOG. I do not care whether she is an athlete, a businesswoman or someone from the professions. This decision is shortsighted. Quite frankly,

it is an insult to all women.

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The Hon. M. R. EGAN (Leader of the Opposition) [11.17]: The Opposition supports the Sydney Organising Committee for the Olympic Games Bill, but we want to make it perfectly clear that when the Labor Party comes to office it will ensure that women are fairly represented on this committee.

The Hon. Patricia Forsythe: Paul Keating appointed two members to the committee; he had a chance to appoint a woman.

The Hon. M. R. EGAN: That may well be so, but he was able to appoint only two people; the Government of New South Wales was able to appoint six people. Out of that six, the Government has appointed only one woman - a Queenslander, a twice-defeated Federal Liberal candidate and a defeated Liberal Lord Mayor of Brisbane. The Opposition made it quite clear, well before these appointments were announced, that it would support the appointment of Mr Greiner. We believed it was appropriate that both the State and Federal governments should be politically represented on this committee. Not only has Mr Greiner been appointed but three of the Premier's six nominees are members of the Liberal Party. Robert Maher, the former director of the Liberal Party, who is now chief of staff for the Premier, is a member of the Liberal Party.

The Hon. Patricia Forsythe: How do you know that?

The Hon. M. R. EGAN: Is the Hon. Patricia Forsythe saying that he is not?

The Hon. Patricia Forsythe: I am just saying that you have no evidence.

The Hon. M. R. EGAN: He was the State Director of the Liberal Party. Is the honourable member really suggesting that we should take her claim seriously?

The Hon. Patricia Forsythe: Yes.

The Hon. M. R. EGAN: How absurd!

The Hon. J. F. Ryan: You do not have to be a member of the Liberal Party to be the State director.

The Hon. M. R. EGAN: More fool you. The fact of the matter is that Robert Maher was the State Director of the Liberal Party and is now the Premier's chief of staff. So we have Mr Greiner, a Liberal; Mr Maher, a Liberal; and Sallyanne Atkinson, a Liberal. Really, her only claim to being on the committee is the fact that she is a political crony of the Premier.

The Hon. Dr B. P. V. Pezzutti: What about Mr Packer? Which party does he belong to?

The Hon. M. R. EGAN: He certainly did not belong to the Australian Labor Party.

The Hon. Dr B. P. V. Pezzutti: He does not belong to the Liberal Party.

The Hon. M. R. EGAN: I have never said that he did.

The Hon. J. F. Ryan: Mr Balderstone is not a member of the Labor Party?

The Hon. M. R. EGAN: No, he is a Federal public servant. To my knowledge he has no party affiliations whatsoever. When the Labor Party comes to office it will put a proper share of women on the committee, and they will be women who live in New South Wales. Also, we will do away with the

outrageous $50,000 fee that is being paid to members of the committee. Any Olympiad depends on tens of thousands of volunteers. It has been estimated that about 40,000 volunteers will give their services during the Games. In addition, thousands of people in Sydney will billet overseas visitors in their homes. It would be a tragedy if the volunteers were expected to provide all the community spirit and the big shots were to reap all the fat financial rewards. It is absolutely outrageous that anyone should be paid $50,000 for membership of a part-time board.

I am not criticising members of the board for that, because so far as I can gather it was as big a shock to them as it was to the rest of the community that the enormous financial rewards were to be paid. I do not believe for one minute that any one of the committee members, including the three Liberals, would have refused to serve on the committee if it had been purely in an honorary capacity. I am quite sure that every one of those 15 people would have been happy to serve on it. I assure the people of New South Wales that when Labor comes to government, membership of the committee will be honorary except for a small payment for legitimate expenses. That is as it should be. That is in keeping with the community spirit that the Games should have. That will retain the Games as a community endeavour, not just as a commercial venture, which members opposite clearly want to turn it into. With those comments the Opposition indicates that it supports the bill.

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [11.24], in reply: I thank all members for their enthusiastic support of the bill, which will help with the successful completion of the hard work that needs to be done in the next seven years until the Olympics. In spite of minor disagreements about the composition of the committee, all parties have committed themselves to the committee and, by that commitment, have given a vote of confidence and shown an act of faith in the capacity of people who will drive us forward for the next seven years. I thank honourable members for that confidence and support, and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [11.26], by leave: I move:

That this bill be now read a third time.

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The Hon. R. S. L. JONES [11.26]: I wish to put on the record my disappointment that the Premier was unable to find a single woman in New South Wales capable of serving on the committee. There are a number of capable women in this very Chamber. I point out that this Chamber has more women as a percentage of members than any other Chamber in the Commonwealth. Of that we should be partially proud: the percentage is still not high enough. When it gets to 50 per cent we can be proud of that. At least half the committee should be women. Surely there are seven or eight women in New South Wales capable of serving on the committee. I am sure the membership of the committee will be amended over the next seven years, and I look forward to the day when that is done.

Motion agreed to.

Bill read a third time.

SENTENCING (LIFE SENTENCES) AMENDMENT BILL

Bill received and read a first time.

Suspension of certain standing and sessional orders agreed to.

BILL RETURNED

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

Crimes Legislation (Review of Convictions) Amendment Bill

UNIVERSITY OF NEW ENGLAND BILL

SOUTHERN CROSS UNIVERSITY BILL

HIGHER EDUCATION (AMALGAMATION) AMENDMENT BILL

Second Reading

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [11.34]: 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 purpose of these cognate bills is to dismantle the existing University of New England network and establish instead two successor institutions, a new University of New England at Armidale and a new university, called the Southern Cross University, to serve the North Coast areas of the State. The legislation will also transfer the Orange Agricultural College to the University of Sydney.

For those unfamiliar with the recent history of the UNE, the University of New England Act of 1989 established a federated network consisting of two members. One was the University of New England at Armidale, incorporating the former Armidale College of Advanced Education, and the other was the University of New England at Northern Rivers, formerly the Northern Rivers College of Advanced Education. Additional legislation effective from January 1990 added the Orange Agricultural College to the university and in October 1990, a University of New England presence, with the status of a centre of the university network, was established in Coffs Harbour by resolution of the UNE board of governors.

In May 1992, I received a submission from the UNE board of governors expressing the view that the network had become unworkable and that the existing university structure should be dismantled. The Federal Minister and I jointly established a State-Commonwealth advisory group on the UNE network, headed by Professor Michael Birt. The role of the Birt committee was to advise upon the higher education needs of the northern regions of New South Wales and upon the effect that the proposed dismantling of the network may have on higher education for those regions and at each of the network campuses.

Following wide-ranging consultations with the university communities served by the four UNE

campuses, the committee submitted its report in October 1992. Its major recommendations were: first, that the UNE network be dismantled; second, that a new university be established on the New South Wales North Coast, incorporating the current UNE Centres at Lismore and Coffs Harbour and formally sponsored by a major metropolitan university for a period of three years; third, that Orange Agricultural College seek an affiliation with the University of Sydney; and, fourth, that UNE-Armidale, incorporating the former Armidale C.A.E., be reconstituted as an autonomous university.

Through this review of the Birt committee and other submissions received by the Government, it was evident that conflict had grown and developed between the network members to such an extent that the detrimental effects on both students and staff made continuation of the network untenable. Different views among the network members as to their respective roles within the unified structure resulted in conflict sufficient to inhibit the development of cohesion and trust between members.

The governance structures created under the 1989/1990 legislation had unforeseen effects on the network as a whole. The trans-campus role of the vice-chancellor conflicted with the role of the campus principals appointed to the board of governors on an equal footing with the vice-chancellor.

The distribution of funds among network members was a source of conflict. Although the university moved towards a non-discriminatory funding approach, there was criticism within the university in relation to funding allocations. Distance and transport problems also contributed to the breakdown of network relationships. Long distances and travel times between campuses impeded staff communication and inhibited co-operative course development. Differences in regional and cultural identity helped to create an atmosphere of rivalry between network members rather than a spirit of co-operation. The use of tele-conference and video-conference procedures between centres was not able to overcome these problems of distance.

Following consideration of the Birt committee's report, the Commonwealth Minister and I established, in January 1993, a UNE advisory panel to advise on the implementation of the recommendations. The panel comprised senior State and Commonwealth officers and the vice-chancellor of the UNE, Professor Robert Smith, who was appointed subsequently as planning vice-chancellor. The panel was asked to advise me on the most effective strategies for dismantling the current UNE network, to consider all community responses to the Birt committee proposals, and to consult widely with representatives of the UNE communities and other higher education bodies.

The report of the UNE implementation advisory panel confirmed that the existing university network structure be dismantled and that northern New South Wales in future be served by two universities, one based at Armidale and the other at Lismore. It was apparent that the most effective

successor structures on educational, community and geographic grounds would be, first, a completely new, autonomous university at Armidale, which would nevertheless retain the name `University of New England' in recognition of the history of higher education in Armidale and, second, a unified, integrated university serving the entire North Coast region of New South Wales, comprising the Lismore and Coffs Harbour components of the present UNE network as well as the `Tweed' `Clarence' and `Hastings' open learning access centres.

As recommended by the implementation advisory panel, Cabinet immediately approved the appointment of interim councils for each of the new universities to undertake two crucial tasks. The first task of the interim councils was to establish selection committees to recommend the appointment of vice-chancellors of the new universities. The second task was to provide me with advice on the development of this legislation.

I strongly recommended to the Government that the vice-chancellors of the new universities be selected through open public competition. For reasons of equity, to ensure the credibility of the new institutions and because of the overriding principle that appointments be based on merit, the

Government fully supports the recommendation of the implementation panel that the interim councils establish representative committees to undertake the selection process. This selection process has commenced for both of the new universities and close consultations have occurred with the interim councils of each university on all aspects of the legislation.

In recognition of the valuable role played by these interim councils in advising on the development of legislation and in implementing the procedures for selecting vice-chancellors, provisions have been included in both the University of New England Bill and the Southern Cross University Bill for the Minister to appoint interim councils with legislative authority to govern the new universities until the necessary elections and appointments of members of the permanent governing councils are completed. In this regard, I intend to reappoint interim councils with, by and large, the same membership as the existing interim councils and to instruct them to discharge their responsibilities as soon as possible.

These three cognate bills, the University of New England Bill, the Southern Cross University Bill and the Higher Education (Amalgamation) Bill are the means by which the present University of New England network will be dismantled and two new and autonomous universities established in its place. These bills follow as far as possible the pattern set by the university Acts of 1989. It is worth noting in this regard that the interim councils of the new universities have elected to follow the format of the other university Acts introduced by the Government in 1989.

The principal objects of the University of New England Bill are repeal of the University of New England Act 1989 and, in line with the preferences of the university community at Armidale, the creation of a completely new autonomous University of New England consisting of the staff, students and facilities of the Armidale campus of the present University of New England network. The bill establishes a body corporate under the name of the University of New England, comprising a governing council, convocation, staff, students and graduates.

The membership of the governing council of the new University of New England generally follows that of the State's other universities, comprising parliamentary members, ex-officio members such as the chancellor, vice-chancellor and presiding member of the academic board, members appointed by the Minister and members elected from within the ranks of the academic staff, general staff, students and convocation.

Concern has been expressed in relation to clause 9(4) of the bill, dealing with ministerial appointments to the governing council of the university. I welcome, therefore, this opportunity to clarify questions relating to these six ministerial appointees. It has been suggested that the presence of these six members on the council will enable the Government to control and direct the policies and activities of the council. It is certainly not the intention of the Government to interfere with the independence and academic integrity of the universities and I feel this suggestion may be based on a misunderstanding of the nature of the appointments involved.

In fact, the purpose of this clause is to assure the university that the Minister will consult on the matter of the six ministerial appointments to the council so that, as far as practical, they reflect the needs of the council. I expect that this consultative process will lead to the appointment of appropriately qualified and eminent people to these demanding yet unremunerated positions.

In addition, the inclusion of six ministerial appointees has been questioned on the grounds that it inflates the overall size of the governing council to a level which is not commensurate with the governing boards of large industrial and commercial concerns. This comparison fails to acknowledge that universities are publicly accountable bodies charged with meeting the diverse educational, research and economic needs of society and that they are expected to play a leading role in the intellectual life of the nation. In fact, with a total of 19 members, the size of the council of the University of New England is smaller than average.

The interim council of the University of New England has been most concerned to ensure that members of the highest calibre, representative of a broad range of professional, industrial and entrepreneurial skills are included on the governing council of the university. The provision for six ministerial appointees represents a consensual position established with the campus communities during six months of detailed discussion and the present membership formula has the support of those at the local level.

There are many advantages for both new universities, the Government and the community in providing for six ministerial appointees in these bills. By having six ministerial appointees, a balance is assured between the `internal' interests of the staff and students and the `external' interests of the local and wider State communities served by the universities. There is also the opportunity to ensure that local, regional and State needs and interests are reflected by the appointment to governing councils of people of appropriate ethnic or Aboriginal background and women.

It will be obvious to all honourable members that the appointment of high calibre people to the councils of both new universities is important to promote the ongoing development of the universities and the northern regions of the State. The provisions in the University of New England Bill concerning the election of a chancellor and deputy-chancellor, the appointment of a vice-chancellor and the constitution of the academic board are consistent with the 1989 universities legislation. The provisions specifically defining the composition and procedures of the University of New England convocation are required because of the varied history of the university.

The savings and transitional provisions contained in schedule 3 of this bill are crucial to the smooth transformation of the present University of New England network into new and separate institutions. In general, the effect of these provisions is to transfer the staff, assets, property, liabilities and students of the Armidale campus of the present UNE network to the new University of New England, and these aspects of the savings and transitional provisions are complemented by similar provisions in the Southern Cross University Bill and in the Higher Education (Amalgamation) Act. Staff, assets, property, liabilities and students attached specifically to Armidale, Lismore, Coffs Harbour or Orange are, by these savings and transitional provisions, transferred to the appropriate successor institution.

An important objective in the preparation of this legislation has been the need to establish provisions that will foster co-operation between the various successor institutions in the event that unforeseen liabilities arise in the future and responsibility for those liabilities cannot clearly be attributed to any single successor institution.

It is incumbent upon the present University of New England to act quickly in finalising its activities in order to ensure that existing liabilities are met in time for the repeal of the University of New England Act 1989. The desirability of avoiding a situation where the new universities are required to pay for the liabilities of the old UNE has been acknowledged by all those involved.

Although I will continue to impress upon the interim councils of the new universities and the board of governors of the present UNE network the need to consult and co-operate with one another with a view to resolving such issues before the legislation commences and before involving the Government, certain clauses in the savings and transitional provisions establish an equitable means of mediating any differences which remain unresolved at the time the legislation is introduced.

Special provision has been made in schedule 3 to the principal bill for the Minister to determine any future disputes which may arise as to the obligations of the successor institutions in relation to staff, assets, property or liabilities. In particular, these clauses will provide a means for overcoming

any outstanding disputes as to the obligations of the successor institutions in relation to the central administrative staff of the present UNE network university, the ownership of assets or the arrangements made to ensure that students suffer no disadvantage.

With regard to the latter, the savings and transitional provisions allow for each of the transferred students, on completion of their courses with successor institutions, to have the choice of taking their degrees from the successor institution or from the "former" institution. The Government expects the new University of New England, the Southern Cross University and the University of Sydney to co-operate in the provision of courses of study to afford all students enrolled in the present UNE network the opportunity of completing their courses.

I understand that the three successor institutions have reached an accord this week on a mechanism for sharing, on an agreed basis, any liabilities that may arise in relation to possible redundancies of central administrative staff and on other administrative and planning issues. The remainder of the University of New England Bill, that is parts 4 and 5 and schedules 1 and 2, is identical to the 1989 universities legislation.

I turn now to the Southern Cross University Bill, establishing a new university on the New South Wales North Coast, which will incorporate the UNE centres at Lismore and Coffs Harbour. This bill differs in some respects from the 1989 universities legislation and I will address these differences for the information of members.

Southern Cross University is to be formally sponsored by the University of New South Wales as provided by clauses 7 and 10 of the bill. Clause 7 requires the Southern Cross University to collaborate with the University of New South Wales in the development of the academic programs to be offered by the university, until the Minister otherwise directs. Clause 10 provides for two nominees of the University of New South Wales to be represented on the governing council of the university.

The period of sponsorship is envisaged as three to five years, during which time the progress of the new university will be monitored regularly. A minor amendment of clause 10(4)(a) of the bill will be required to formally end the sponsorship arrangement but this will occur, however, only following consultations and agreement with both the Southern Cross and New South Wales universities. Additional consultations will also need to occur at the end of the sponsorship period, with the council of the Southern Cross University, concerning the issue of the longer-term structure of the council.

It is my view that the full extent of the relationship between the two universities cannot be encompassed within legislation. As the sponsoring institution, the University of New South Wales will assist with the development and endorsement of the research strategy of the new university and with the supervision of research postgraduate students. It will be involved also in senior academic and administrative appointments and will advise on staff development strategies in general. The participation of representatives of the University of New South Wales in the academic board of the Southern Cross University will equip the new university with a valuable source of advice in relation to admissions, curriculum and assessment issues.

The University of New South Wales is the most appropriate university to sponsor the Southern Cross University because of its large overseas student enrolment and strong commercial activity and funded research record. In most respects the membership of the governing council of the Southern Cross University is consistent with that of universities of a similar size and regional role. The only differences to be noted are first, as already mentioned, the inclusion of representatives of the sponsoring university and, second, the inclusion of six ministerial appointees as opposed to the usual four. This difference is accounted for by the fact that the Southern Cross University will not have a substantial group of graduates requiring representation on its governing council until some years after its establishment, and by the need to ensure that diverse populations and regional interests are represented on the council.

As with the University of New England Bill, this bill describes categories from which the Minister may appoint people to the governing bodies. These categories are intended to provide the broadest possible range of skilled and expert individuals from which the Minister of the day may select appropriately qualified personnel, able to meet the leadership needs of the universities or the economic needs of the communities they serve now or in the future.

An example of this is the possible need to appoint to the council of the Southern Cross University a person with appropriate experience or expertise in the delivery of technical and further education or a person with appropriate experience or expertise in the articulation of post-compulsory education services. It is the Government's intention that the categories listed here will be interpreted broadly. For example, "persons who are practising, or have practised, a profession" will encompass the broadest meaning of the word `profession' and would include groups such as teachers, engineers, accountants et cetera as well as the legal and various medical professions.

Of special interest in the Southern Cross University Bill is the provision authorising the university to enter into arrangements with the New South Wales TAFE Commission and the Director-General of School Education to provide integrated education, including university courses, technical and further education courses and senior secondary school courses at Coffs Harbour.

This innovative integrated facility will improve access and choice for students in Coffs Harbour and will create the opportunity to offer a more flexible and relevant range of education and training services. The breaking down of barriers between schools, vocational training providers and higher education and the development of flexible curricula will have a major impact on the way people study and learn. This joint facility will encourage the development of excellence in specific fields of study and will allow more focused funding for specialised equipment and resources.

The joint facility will function under an operational structure through which each of the educational sectors will be separately accountable. The university component will be accountable to the council of the Southern Cross University; the TAFE component to the New South Wales TAFE

Commission; and the senior secondary component to the Department of School Education. By this means, the integrity of the admissions processes, curriculum and assessment and the academic awards of each of the three sectors will be assured by the respective bodies.

At the same time, the joint facility will facilitate flexible pathways to enable students to pursue a range of study and training options and articulated course programs; and provide students with accelerated access opportunities to advanced levels of education across the educational spectrum and do so on a basis of sharing resources and facilities where appropriate.

Planning for curriculum arrangements on campus, and the development of the campus, is at present the responsibility of a joint steering committee consisting of representatives of the partner institutions, the community, the Ministry of Education and Youth Affairs and the Commonwealth Department of Employment, Education and Training. Planning is well under way and site works for the construction of the stage one building program has commenced.

The remaining provisions of the Southern Cross University Bill correspond with those of other university Acts, except for schedule 3 to the bill which contains savings and transitional provisions which complement those in schedule 3 to the University of New England Bill. It is essential for the orderly evolution of the present University of New England network into successor institutions, that the provisions in this bill dealing with the transfer of staff, assets, property, liabilities and students from the Northern Rivers campus and Coffs Harbour centre of the present UNE network to the Southern Cross University are consistent with complementary provisions in the University of New England Bill.

As in the University of New England Bill, special provision has been made in schedule 3 for the Minister to determine any disputes which may arise in the future as to the obligations of the successor institutions in relation to staff, assets, property or liabilities. These clauses, in combination with similar provisions in the University of New England Bill, will overcome any difficulties which remain unresolved as to the obligations of the Southern Cross University in relation to the central administrative staff of the present UNE network university, the ownership of assets or the arrangements made to ensure that students suffer no disadvantage.

From 1984, the Orange Agricultural College was an autonomous college of advanced education with its own council, until January 1990, when it became a college of the University of New England network. It is a small and specialised teaching institution with aspirations for greater involvement in research and development activities, and it has close links with national, State and regional agricultural organisations. The college has argued strongly that its longer-term strategic interests are best served by establishing links with a major metropolitan university with strengths in agriculture and commerce. The Government supports the college's preference for an affiliation with the University of Sydney, and the University of Sydney has expressed willingness to establish such an affiliation.

The Higher Education (Amalgamation) Amendment Bill will transfer the Orange Agricultural College from the University of New England to the University of Sydney. The bill will make consequential amendments to section 27 of the University of Sydney Act 1989 to enable Orange Agricultural College to be established as a college of the University of Sydney.

This incorporation of the Orange Agricultural College as an academic college of the University of Sydney is not of itself sufficient to provide for the transfer of the staff, assets, property, liabilities and students of the college to the University of Sydney. Schedule 1 of the bill sets out the specific amendments to the Higher Education (Amalgamation) Act 1989 which will ensure the smooth transition of the college from the UNE network to the University of Sydney. Special note should be taken that proposed section 17b(3) effectively passes to the University of Sydney the control and management of land that was formerly under the control and management of the University of New England in relation to the Orange Agricultural College.

Similar sections in each of the three bills transfer land to the successor institutions. Discussions with the universities involved have commenced and it is the Government's objective that actions to this end will be completed in the near future. The Government is conscious of the concerns of the universities involved and has accorded the matter a high priority.

I understand also that the interim council of the University of New England is anxious to clarify the title of the lands which are to be transferred from the present University of New England to the reconstituted University of New England. Discussions have already commenced between the interim council of the University of New England and officers of the Ministry of Education and Youth Affairs with the intention, if at all possible, of settling any outstanding land issues before the end of the year.

It is essential that these cognate bills come into effect from 1st January, 1994, in time for the start of the 1994 academic year, so that continuing students at Armidale, Lismore, Coffs Harbour and Orange suffer no disruption, and enrolments of new students in the University of New England and the Southern Cross University are guaranteed.

When passed, these bills will guarantee the future of higher education in the New England and North Coast regions and will ensure the continuing quality of course and research provision at the Orange Agricultural College. They are forward looking, and take into account the aspirations of these communities. The Government is confident that the arrangements now proposed will improve access to higher education in northern New South Wales and will be more responsive to the needs of local communities. These bills represent the outcome of a long period of discussion and consultation and, on behalf of the Government, I thank all those who have assisted in the development of the legislation.

I commend these bills to the House.

The Hon. FRANCA ARENA [11.35]: On behalf of the Opposition I support these bills. Amalgamation of tertiary institutions has been a success as a whole but, as they say, there is always an exception. What was very successful in places like Charles Sturt University and the University of Western Sydney did not work for the University of New England and the Northern Rivers College of Advanced Education. Distances between these places were too great and made consultation very difficult. One could say also that the geographical characteristics of the areas are too diverse. Restructuring has been inevitable. What we will have when these bills are passed is a new University of New England. The university is to consist of the staff and student bodies and educational facilities currently comprised in the existing University of New England campus at Armidale. The university is to be managed by a council that includes parliamentary, official and appointed elected members.

The Lismore and Coffs Harbour campuses of the existing University of New England are to become parts of the Southern Cross University. The Orange Agricultural College, which forms part of the existing University of New England, is to become an academic
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college of the University of Sydney. This seems a very sensible approach as the University of Sydney can offer wide and extensive facilities, which vary from agricultural science to veterinary science. The Southern Cross University will comprise the former University of New England, the Northern Rivers College of Advanced Education, and that university's campus at Coffs Harbour, known as the Coffs Harbour Centre, and will provide for the establishment of a joint educational facility at Coffs Harbour to provide university, TAFE and senior secondary school education. This is a new and exciting concept of sharing facilities - and, in many ways, aims and objectives - by schools, TAFE colleges and universities.

I am sure all honourable members will look at this development with great interest. I look forward to speaking about it to the local people in a few weeks time, when I will be travelling to the North Coast. I will be visiting Lismore and will take advantage of the opportunity to discuss this development, which is important not only because increasing numbers of people are moving into that particular area of the State but also because many people travel across the Queensland border to attend courses at the campus of what will now be the Southern Cross University. This is happening, I suppose, because of the high standards of our institutions, but also because of their accessibility. Reading the speeches made in the other place, I note that the honourable member for Lismore emphasised the importance for local people of having an accessible university. I agree with that point; it is one of the reasons why the University of Western Sydney has been such a huge success.

Before that university was established, kids from the western suburbs had little chance of attending the University of Sydney, the University of New South Wales or Macquarie University. Even with public transport, it would have taken students practically all day just to get to classes. The reality is that because this is a big country we need our institutions to be as devolved as possible. People are more mobile these days, and the number of people attending university is increasing all the time. That is how Australia can become a clever country. The statistics I was able to obtain from the Parliamentary Library clearly demonstrate increasing attendance numbers. I wish to thank the Parliamentary Library for being able, at the drop of a hat, to provide help so quickly.

The Hon. Virginia Chadwick: Do you not have your own research staff? What has happened to your staff?

The Hon. FRANCA ARENA: My staff member is excellent but she is a secretary, not a researcher. There is a big difference, and I do not say that in any derogatory way. She is a very talented girl and works very hard, but she does not do research. The numbers of New South Wales students enrolled in higher education are as follows: 126,513 in 1986; 132,979 in 1988; and 170,405 in 1992. The number of people attending university is increasing all the time. Some concern has been expressed by the

University of New England by way of a letter sent to all members, from which I will quote two paragraphs. The letter, dated 22nd October, is from the academic board of the University of New England in Armidale, and contains the following motions:

> That the Academic Board protests in the strongest terms about the insufficient elected academic representation on the Council of the reconstituted University of New England; and that it is of the strong view that the permanent Council should have at least three elected academic representatives.
>
> That the Standing Committee of the Academic Board be empowered to construct an appropriate response to the issue of the number of elected academic representatives on the Council of the reconstituted University of New England, as detailed in the University of New England Bill 1993, for transmission to all members of the Upper and Lower Houses of Parliament.

I have not examined the academic board's objection, but an examination of the make-up of university councils all over the State shows that the University of Technology, Sydney, the University of Western Sydney, University of Newcastle, University of Wollongong and Charles Sturt University each has two elected academic staff. I do not know why the University of New England at Armidale is asking for more; it has two but is asking for three.

The Hon. Dr B. P. V. Pezzutti: It wants four.

The Hon. FRANCA ARENA: The university wanted three but has two. In its letter it asked for three but has two, like most universities throughout the State, and should be happy with that. The councils are big enough. After discussions on the proposal with the shadow minister in the other place, the Opposition has decided after due consideration to leave that provision as it is. We must look at the composition of university councils throughout New South Wales. All councils have two elected academic staff, not three, as proposed by the academic board. The councils are large enough - in fact, larger in number than the Sydney Organising Committee for the Olympic Games. That committee has only 15 members who will oversee the expenditure of billions of dollars; yet the university has 19 members of the council and wants more. I hope there will be a better gender representation on the university council than on the Olympic committee. The constitution of the membership of the Olympic committee was a shameful slap in the face by the Premier to the women of this State. I wonder how Minister Chadwick who, until yesterday, was the Minister Assisting the Premier in women's affairs -

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the honourable member to address the bills before the House.

The Hon. FRANCA ARENA: I was speaking about gender representation on the council of the University of New England and hoping that it would not be as disadvantageous to women as has happened with the Sydney Olympic committee. I do not know how Minister Chadwick can sit in Cabinet and take it, I just do not know.

The Hon. D. F. Moppett: She has given up.

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The Hon. FRANCA ARENA: Yes, she has given up. Now, with her new tourist board job, she will travel around the State and forget about all the terrible things that happened to her in Cabinet. The Opposition supports these bills and wishes well to all the students who will study in these universities.

The Hon. Dr B. P. V. PEZZUTTI [11.41]: I congratulate the Minister on a very wise process of disamalgamation. It became perfectly obvious that the amalgamated university, which was in fact a network university, was never going to work. The Minister, with a great deal of grace and wisdom and after wide consultation has come up with a solution that is widely supported by the community and by this

Parliament. I welcome the new Southern Cross University as a member of the interim board appointed by the Minister to that position. That interim board has been working extremely well to ensure that the aspirations of the people on the North Coast will be well satisfied with the make-up of this university.

I speak also as a member of the board of the University of New South Wales, which is honoured to be selected by the Minister to be the appropriate sponsor for the new university. The University of New South Wales has a proud history of supporting new universities, in particular the University of Wollongong and the Charles Sturt University. This new university, which will be taking on the job in Lismore, is widely accepted and appreciated by the people on the North Coast, particularly as its sponsor, the University of New South Wales, is well recognised as the leading research and teaching university in Australia, which is evidenced by the grants that the university has achieved in the latest round of budgetary allocations.

The University of New South Wales is the second largest academic institution in Australia. The help it will offer the Southern Cross University is not managerial but aimed to ensure the development of courses and post-graduate research. The Minister has appointed to the academic board of the new university two people from the academic staff of the University of New South Wales. The Minister has made an appropriate choice of people representing the wide spectrum of interests and location on the North Coast. All the people that the Minister has appointed have been widely accepted as appropriate for membership of the academic board of that university. The Minister has included a generous selection of people from a wide range. Importantly, a large proportion of the very good appointees are women.

There is much more I could say about student access to universities. The Hon. Franca Arena was concerned about the University of Western Sydney and its students having access. I do not deny that there is a need for student access to the University of Western Sydney. However, the difference between travelling by train for one hour to get to university and travelling all over the North Coast of New South Wales makes the former pale into insignificance. I could say more about the university, its aspirations and its name, but time does not permit. I support this bill. I congratulate the Minister for the way in which the two new universities have been brought forward, for her co-operation with the community, and for the patience she has exhibited. I look forward to continuing support for the new university from the Minister and from the University of New South Wales.

The Hon. ELISABETH KIRKBY [11.45]: I welcome the University of New England Bill, the Southern Cross University Bill and the Higher Education (Amalgamation) Amendment Bill. These bills will dismantle the University of New England network and establish a University of New England at Armidale and a new Southern Cross University which will serve the North Coast areas of the State. It gives me very little pleasure to say "I told you so", but when the Higher Education (Amalgamation) Bill and cognate bills were debated during 1989 I expressed grave doubt as to the workability of the amalgamation of the University of New England and the Northern Rivers College of Advanced Education. In fact, on 10th February, 1989, I issued a press release entitled "No forced amalgamations" which stated in part:

> I have very grave concerns about the policy of amalgamation being promoted by the Minister for Education. The policy would see the strengths, successes and innovations of the college sector lost in the maw of universities. I agree that amalgamation as presently proposed simply allows a complete takeover of the colleges by the Universities.
>
> The geographical distance between the Northern Rivers CAE and the University of New England must be a significant consideration. Both institutions serve different regional needs and different regional populations . . . larger is not always better.

In the debate on this matter in this House on 9th May, 1989, I indicated that this amalgamation would be by far the most difficult to achieve. I called for an equal representation of staff, general staff and students on the interim council. I am pleased that the Government has now finally decided to listen to reason, following a State-Commonwealth advisory group inquiry, and has decided to dismantle the network.

However, a number of concerns have been expressed to me about the bill. These concerns revolve around the constitution of the council at the University of New England. The council will consist of a chancellor, two parliamentary members, six ministerial appointees, the vice-chancellor, the chair of the academic board, two persons elected by and from the academic staff, two elected by convocation, two by students - one undergraduate, one postgraduate - one by and from general staff and one co-opted member.

The representation of convocation, mainly the university's graduates, of academic staff and of general staff has been approximately halved, but the ministerial appointments have been increased. This is occurring at a time when there has been an erosion of academic input into the governance of the university and the increase of managerialism in it. Convocation representation will be reduced to less than half of what it is in any other university and less than half of what it was at the University of New England before
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the establishment of the network. I ask the Minister why the convocation's representation has been reduced. Convocation consists mainly of graduates of the university, including all full-time members of the academic staff and the past and present members of the university council. Those people understand the nature of the university, the values of education and the advancement of knowledge and critical appraisal. The members of convocation should have complete freedom to nominate and to elect those whom they regard as their best possible representatives. At least four people should be elected by convocation, but instead this bill provides for only two.

It must also be pointed out that if academic representation is reduced to two in addition to the chair of the academic board, the level of academic representation at this university will be the lowest of all New South Wales universities. The university council is the supreme authority in the control of the university. The constitution of the council reflects the philosophy and direction of a university, its function, what it is trying to do and the principles that should inform such an institution. I am sure the Minister is well aware that there is a very real concern that unless there is adequate academic staff representation on councils, universities will become merely managerial institutions with a short-term applied-market orientation. A university is, above all, an academic institution. The administration of a university, and matters of finance, policy and senior administration, cannot be divorced from academic priorities, given that the council frequently makes decisions on academic content and matters which impact on the university's academic life. In a letter that I received on 22nd October, the academic board of the University of New England at Armidale argued:

> We regard it as fundamental to the traditions of western universities, embodied already through the Acts that govern most other universities in the State, that community and other university council members have the benefit of sufficient academic advice in their deliberations. Academic representation is consistent with the long standing traditions of academic autonomy and in the twentieth century has only been eroded when democratic freedoms have themselves been under threat. Such a situation does not obtain now in this State, which makes the proposed composition in the current Bill even more questionable.

The letter continues:

> Our new institution is intent on healing the scars brought about by its recent history of an unsuccessful amalgamation. To cement the University's future, it is vital that those on whom the future of the new University will depend, namely its academic and general staff, have full confidence in its governing body. Only through increased academic representation can this be achieved.

Further on in the letter the academic board said:

> Desired changes and a reinvigoration of academia can only be brought about if university employees regard their governing bodies as legitimate and consistent with the recognition that

universities are primarily academic institutions, albeit with public responsibility. It is short-sighted of the Cabinet to propose in the Bill currently before you a composition for the new permanent governing Council which departs significantly from the advice given to the Minister by her own Interim Council. This advice was provided only after widespread community consultation, with participation from the various groups that comprise the current University.

It should be noted also that in general the university staff members of council are much more available than the other members to attend subcommittees, which are essential to the functioning of the council. I believe this point has great force in relation to a university that is located outside a major city. There should be at least four members of a 20-member council who are elected by and from full-time academic staff. I submit also that there should be at least two student representatives in each category and two representatives of general staff, because of the diversity within each of these constituencies. A second voice is also conducive to support and gender balance. I wonder what the gender balance will be when the new council is constituted.

The Armidale Students Union has argued that given the fact that of the university's 14,000 students - of which 5,000 are internal, 9,000 are external and only 1,000 are post-graduate - the students' representatives should represent internal and external students rather than graduates and post-graduates. I ask the Minister to respond to that. The number of ministerial appointees is excessive and should be reduced to three. Two co-opted members should elect a chancellor from outside the council, if necessary, or enable a Federal member of Parliament to be elected to the council.

The Hon. Dr B. P. V. Pezzutti: Why?

The Hon. ELISABETH KIRKBY: The Hon. Dr B. P. V. Pezzutti asks why. That is self-evident: a great deal of the funding comes from the Federal Government. Similar concerns have been raised with regard to staff representation on the Southern Cross University. There will be only one staff representative. A letter I received from the Academics Union of New South Wales about the Southern Cross University Bill and the provisions for staff representation reads:

> The union does not believe that the Southern Cross University should be treated differently to all other institutions. We do not believe that such an action by the State Government could be justified, considering circumstances elsewhere.
>
> I therefore ask you to seek to ensure that this new University's governing body provides for a minimum of two staff representative positions, so that its structure will resemble that of all other higher education institutions.

I ask the Minister to respond to these concerns. I am certain that in her response she will not use the word she has just used by way of interjection, because I do not suppose she wants that placed on the record. I will not repeat it, even at this time of night. I point out that many of the concerns about the original 1989 bills - and I brought those concerns to the attention of the House then - related to the composition and size of the university councils. It would now appear that although the university is to be split, we are still fighting about the composition of councils. That is not in the best interests of the two new bodies.

I am delighted that the Southern Cross University has now been established. In 1989 I said that I could see no reason for amalgamation at that

time, because I believed that with the population proliferation on the far North Coast the time would shortly come when the far North Coast would support a university in its own right. That has indeed happened. A gross amount of money has been wasted on first amalgamating the university and now on tearing it apart, at a time when students are being starved of facilities and books and are being charged for courses that were previously free of charge. The blame for that can be laid only at the feet of the then

Federal Minister for Education. Dawkins strikes again! Honourable members know what Dawkins did with this year's Budget and they have seen what he did, to put it in the vernacular, to stuff up the universities of Australia. It was wrong, and more public money will now be wasted.

That is not the fault of the Minister for Education, Training and Youth Affairs. It is the fault of the former Minister for Education, who, for reasons I will never understand, bent over backwards for an administration that belonged to a different political party, to fall in with Mr Dawkins' plans. He could have done what his counterparts in the Australian Capital Territory and Victoria did, and delayed the amalgamations. He did not. For that alone I will always condemn the former Minister, Dr Terry Metherell, who is no longer in this country. I believed the amalgamations were wrong, and I have been proved to be right. I support the bills. Because I have put the representations of certain academic lobbies on the record, I ask the Minister to reply to them. I will then be able to send the reply to them.

The Hon. D. F. MOPPETT [12 midnight]: Although the hour is late, I believe that a further contribution to the debate is warranted, if for no other reason than to cover what I regard as glaring omissions in the debate, although I dare say that the matters I shall refer to in that context are probably contained in the Minister's speech which was incorporated in *Hansard* earlier this evening. I shall refer to the change in administration at Orange Agricultural College - which has not been mentioned yet - and the establishment of the Southern Cross University. There has been little, if any, reference to the extension of the facilities at the Northern Rivers College of Advanced Education, which was originally part of the amalgamated university but which now will be extended into wonderful new facilities in Coffs Harbour.

This bill is extremely important. It is undoubtedly the dissolution of a very unhappy marriage. If I could extend that analogy at all, I would go so far as to say that the marriage was a shotgun marriage. The strength of the recent remarks of the Hon. Elisabeth Kirkby a few moments ago was thoroughly justified. I acknowledge - and I had intended to do so whether the honourable member spoke or not - that the honourable member was one of those who signalled the broad policies in higher education that were pursued at the time the Higher Education Amalgamation Bill and cognate bills, which had to do with the University of New England, were debated in 1989.

It is worth noting that, at the time, the Minister for Small Business and Minister for Regional Development also expressed his anxiety, although in slightly different terms. From memory, although there was an acceptance of the inevitability of the decision by the various parties at the University of New England and the Northern Rivers College of Advanced Education and a willingness to work with it, he expressed on their behalf grave concern about the proposed amalgamation. I believe one aspect is a generalisation that one might wistfully reflect on the progress of the bill because we are really dealing with something that reflects the evolution of higher education in this State and also in Australia.

It is interesting to reflect on some of the remarks made by the Hon. Franca Arena last night, which she acknowledged were the result of that wonderful research team in the Parliamentary Library. However, I suppose it goes to prove that, if the person commissioning the research does not have a clue what he or she is talking about, it is unlikely that the research will be adequate. That certainly came through in what the Hon. Franca Arena was saying. In her remarks about the University of Western Sydney, she postulated how important it was to meet the transport needs of students who otherwise would not have been able to attend university. It is interesting to reflect on the fact that the University of New England, which was the second university in New South Wales, was established in 1938. It was then only a college of Sydney University and obtained its independence only in 1954. Up until then, people who sought tertiary education, wherever they came from - and I include people such as Earle Page - had to come to Sydney. That was the only institution available to them. Honourable members have seen tremendous development and growth since then.

In my view, the answer is not to decentralise universities or disperse them around the countryside, but to provide institutions which have slightly different focuses. The reason for the failure had more to do with problems associated with the amalgamation of the University of New England and the Northern

Rivers College of Advanced Education than the issue of distance that was referred to by the Hon. Franca Arena. Honourable members need to recognise that in this evolution the point I referred to earlier, which I thought we might rather wistfully refer back to, was that at each of those stages - that is, when it was first of all proposed as a result of the Martin committee, which emphasised the need to provide other areas of tertiary education and reduce the emphasis on universities - everyone spoke on a bipartisan basis about what a wonderful idea it was to have the duality in tertiary education. In fact, it meant three streams because there was still technical education. Everyone spoke in glowing terms about the wonderful colleges of advanced education and universities.

Similarly, everyone, with the exception of the two speakers I have mentioned, spoke with high praise about higher education; they all thought it was a marvellous idea. It really is what I would describe as a wistful reflection on how public policy is

determined. If one were to seek an excuse or a rational reason for the failure to critically examine the changes from one thing to another, one would ascertain that it was because the whole policy of development of tertiary education was gradually being taken over by the Commonwealth Government.

The Hon. Elisabeth Kirkby was correct when she said that the amalgamation of the universities was not a development that had anything to do with academic excellence - although that came into the speeches that were made in the State parliaments at the time. It was a matter of financial expediency, which was being driven by the then Minister, who virtually said in an edict that any university with less than 2,000 students simply would not have access to Commonwealth funds. So far as the University of New England is concerned, it was simply a shotgun marriage. It was a case of either get married or miss out on the family inheritance altogether, so far as Federal Government assistance was concerned.

It is wrong to think that the only arrangement that followed the white paper of 1988 and the Dawkins plan that followed it was the University of New England. In my view, a lot of the arrangements have been the cause of a fair amount of indigestion, and I am not sure that we have seen the end of this rearrangement of universities. I am concentrating tonight on the University of New England. As I mentioned earlier, one of the very serious omissions to date was mention of the future of the Orange Agricultural College. Unlike what occurred at many establishments that came together to form these institutions - first of all, the colleges of advanced education, the old teachers' colleges, the specialist institutions that taught art, the nursing strand of vocational education - agricultural education was always a specific and separate stream for Orange Agricultural College.

Orange Agricultural College has been through what I deem a regrettable evolution. Initially it was under the auspices of the Department of Agriculture, and its specific aim was to train people interested in a career in agriculture, both as farmers and managers, and to give them the practical hands-on experience that the former agricultural colleges of Hawkesbury and Wagga Wagga had provided in the past. Sadly, as time went on - and I think the academic staff had quite a bit to do with it - the college wanted to take in more students, to aim for higher qualifications and to give the academic staff a higher prestige and, incidentally, higher salaries. At the end of the day it became an institution that did not know what it was doing. Under the Dawkins star wars fight it became a cinderella.

I am pleased that Orange Agricultural College is trying to re-establish itself, albeit under the patronage of the University of Sydney. That is not necessarily a good and proper association, because Sydney university has grown almost beyond the concept of efficient administration. Its student population is vast. I like to think it has retained its position as the core of academic excellence. To attach to it a college that is trying to get back to the basic and practical agricultural education of its students is probably again only a temporary holding position until the matter can be better resolved. There is a need for this specialised type of education within the post-secondary education network. I believe the University of New England has tremendous potential, but it has problems to overcome. It will not help the university to overcome those problems to listen to the pleas that the academic staff have conveyed to the House through a number of honourable members.

It is important to break the old concept that perhaps after seminal foundations, universities should operate almost like sovereign States, responsible only unto themselves, their academic staff and their concept of academic standard. It is important to change the balance on the board of governors. People from the region and from commerce will be introduced to the board to give a focus to the university that has been disturbed over these difficult periods. I congratulate the Northern Rivers and Coffs Harbour areas on achieving a university. Historically the participation of students in that region was unusually low. Once again, that had nothing to do with distance but, I remind the Hon. Franca Arena, was probably a matter of socioeconomic conditions in the Northern Rivers area.

An attempt was made to turn that around by establishing the Northern Rivers College of Advanced Education. However, in the Northern Rivers area of New South Wales the statistics suggest that local participation in university education has been significantly below the average across the State. It is important that potential students will have a facility to encourage them. I am pleased also that a campus will be established at Coffs Harbour. It will support the community and strengthen the concept of the Southern Cross University. I support the bills.

Reverend the Hon. F. J. NILE [12.14 a.m.]: The Call to Australia group supports the University of New England Bill, and its cognate bills, the Southern Cross University Bill and the Higher Education (Amalgamation) Amendment Bill. As a former student of Sydney University I am pleased that the legislation provides that the Orange Agricultural College is to be transferred from the University of New England to the University of Sydney. It will become an academic college of the University of Sydney. I am also pleased, as a former external student of the University of New England in 1960-61, that that university will become, through this bill, a new University of New England with a new burst of life and, I trust, direction, and that it will be based at Armidale. The legislation will establish the proposed Southern Cross University to be based at Lismore and Coffs Harbour. I am pleased also that the name Southern Cross has been chosen.

I have made quite a few references to the Southern Cross from a Christian aspect. God put the Southern Cross above Australia. It is a Christian cross that reminds us of the cross of Jesus Christ. I believe the shadow of that cross falls across our land as a mark of God's seal. The Southern Cross and the crosses of St George, St Patrick and St Andrew form

part of our Australian flag. The four crosses that form part of the Australian flag provide another good reason to retain the flag in its present form. I am pleased to support the bills.

The Hon. R. S. L. JONES [12.16 a.m.]: Because of the lateness of the hour, unfortunately I will not be able to speak as long as I would like to on the Southern Cross University Bill, which is very dear to my heart. The Southern Cross University is a mere 25 minutes from my home, and I have been pushing for some time now in the local media to have it established as a separate university. I believe it will be extremely successful. Some very bright people live in and around the Lismore and Coffs Harbour areas. I am sure that this will enable them to have a bright future. In regional development we are looking for a link between universities and local business. We hope to get a science park at Lismore or perhaps an incubator to develop wonderful new products for the North Coast and provide jobs for the unemployed. The Southern Cross University at both Lismore and Coffs Harbour will provide wonderful opportunities for the increasing number of people moving to that region. I welcome this legislation.

The Hon. BERYL EVANS [12.18 a.m.]: I am duty bound to speak to this debate. I am probably one of the few who feel sad about the legislation. I have been involved with the University of New England. My son and daughter-in-law both graduated with honours from that university and remained there tutoring while doing their masters degrees, and I graduated from the University of New England in 1981. I was delighted when the university amalgamated. To me it was unique. It offered the most amazingly diverse courses to students. Honourable members have spoken about distances, but they seem to have forgotten that most country universities were live-in universities. Students did not have to

travel. Students were delighted about the amalgamation. If anything, it was the academics who were unable to accept change.

I well remember the night we debated the bill in this House in 1989 when the Hon. Elisabeth Kirkby sought to move amendments. At the next meeting of the governors in Armidale I said, "I would love to know who the senior academics were who persuaded the Hon. Elisabeth Kirkby that we were not happy about it". Sitting beside me was an eminent professor who had not taught at the university for 17 years. He said to me, "Beryl, I'm afraid it was me". I said, "Whatever did you do that for?" He said, "Well, I'm afraid I don't like change". That was basically the problem with the set-up from the beginning.

When Orange joined New England it was a perfect set-up. An agricultural college came to New England and students were offered the choice of rural science and agricultural economics. The kids were thrilled. I have been absolutely distraught about this. The Minister for Education, Training and Youth Affairs knows very well that I fought very hard. The day that they made the decision to disamalgamate I said, "I will be very interested to hear how you feel in about six months".

Honourable members would be amazed to know how many senior academics have come to me since then and said, "Beryl, we think you were right; we think we made a ghastly mistake". I congratulate the Minister for the way she got around it all. I have expressed to her on so many occasions the things I have been told. I hope it will work. I wish them luck. I look forward to following the progress of the universities. I would hate to see them disintegrate and become gimmicky universities, which could happen very easily. I look forward to the future.

The Hon. VIRGINIA CHADWICK (Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier) [12.21 a.m.], in reply: I thank honourable members for their contributions to the debate and for their support of the legislation. I say that for several reasons. To the best of my knowledge, it is the first time that a Minister for Education has had to manage a most difficult legislative juggling act. The legislation disamalgamates a university and tries to create two other universities from the ashes of the disamalgamation. We had no models to follow.

In a sense, I have the same view as the Hon. Beryl Evans on this issue. I should like to think that very few Ministers for education have had to preside over the demise of a university, the disamalgamation of a university, and all the hopes and aspirations that represents. However, at least I have the joy and the hope of trying to create something to replace it. It has been a most interesting administrative and negotiating challenge, not just for me but for my colleagues in the ministry of education, particularly the higher education unit. In most difficult and, depending on one's viewpoint, tragic circumstances, the unit has worked valiantly to create something good and hopeful in educational terms out of something that is quite tragic.

One can easily talk about the forced Dawkins amalgamations. I have my own view of them. I realise that my Government supported them. It would be a cheap shot indeed not to say, as clearly was the case, that I supported my Government. However, it is quite irrelevant at the moment to talk about whether the Dawkins vision was or was not good. I hope that, in saying that, I have displayed a little more intellectual rigour and honesty than some members did in the debate this evening. I had the carriage of that legislation in the House at that time and I well recall the members opposite who enthusiastically supported John Dawkins and his amalgamation vision of the world.

Tonight I have equally noticed with some interest who supported the disamalgamation and separate universities. Their consciences may be clear, but those of us who care a little more about education and who perhaps have longer memories most certainly recall the hypocrisy of some people this evening. I do not think it does them as individuals, or their parties, any credit at all. This evening - and no one can walk

away from this - honourable members have seen the failure of legislation that they passed through this

Chamber.

The Hon. Franca Arena: There was only one failure.

The Hon. VIRGINIA CHADWICK: So one failure is nothing? One failure is one failure too many; one failure represents the failure of the hopes and aspirations of a number of people who have given their time and effort to try to make the University of New England work. It would be remiss of me if I did not place on the record that although the amalgamated UNE will be disamalgamated this evening, many people gave more than could be expected to make the amalgamation work. We would all fail this evening if we passed over this legislation and did not recognise the successes that the amalgamated UNE represented and simply highlighted some of the disadvantages and failures which have led to the disamalgamation. Many individuals have given their time - they know who they are - and given more than could normally be expected, either as representatives on the council or employees in various positions, to make this work. I thank them. It would be remiss of this House not to recognise their efforts.

I well remember the people, some with despair and some with a rush of blood to the head, who came to see me. They said, "The amalgamation will not work; we need to split. It is a simple matter". Some people this evening have likened the two new universities to Phoenix rising from the ashes. Some honourable members have drawn an analogy between the university and the relationship of a family and marriage. It is worth putting on the record that I said to a number of those people at the time that the difficulty with the marriage analogy these days is not the divorce - thanks to Lionel Murphy divorce is simple - but who gets the money, who gets the children and who carries the debt.

The legislation before the House this evening tries to make the best of a very sorry educational situation. I would be less than honest if I did not say that, like all divorces, there is still more to come. We need to deal with that as best we can. Coffs Harbour is a most exciting tertiary educational development for Australia. It is being increasingly recognised internationally as one of the most exciting things to happen. With that glimmer of optimism, I thank the tertiary education unit for doing something that is unique in legislative terms in Australia. Given that nobody likes to preside over a disamalgamation, I hope that for a long time it remains unique. To the best of our ability we have tried to build a structure that gives hope, optimism, stature, standards and credibility to the new institutions. I wish them well and commend the bills to the House.

Motion agreed to.

Bills read a second time and passed through remaining stages.

MARINE POLLUTION (PENALTIES) AMENDMENT BILL

Second Reading

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [12.33 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

It is with great pleasure that I introduce this legislation, which will update the existing penalty provisions of the State's marine pollution legislation and ensure that the public in general and mariners in particular are made aware of the high priority this Government places upon the protection of our marine environment. The object of the bill is to increase the level of penalties for offences in State

waters under the Marine Pollution Act 1987 so that the maximum penalty is increased from the current $250,000 to $1 million. This proposal will bring the maximum penalty into line with that provided in the New South Wales Environmental Offences and Penalties Act, which is also $1 million.

When the Marine Pollution Act was proclaimed in 1990 it was an important step towards reaffirming the State's commitment to protecting the marine environment. It was also a major milestone in that it achieved consistency with the international convention for the prevention of pollution from ships, which the Commonwealth had earlier ratified. Consequently, when the New South Wales Act came into force it was generally consistent with the Commonwealth's Protection of the Sea (Prevention of Pollution from Ships) Act 1983 and the maximum penalty under each Act was $250,000. Since that time, the community's awareness of the need to protect and preserve the marine environment has continued to increase, due in large measure to the spectacular and disastrous oil spills which continue to occur around the world from time to time.

In response to its obligations to the community in this area the Government has reviewed its marine pollution legislation to ensure it is capable of dealing with pollution offences firmly and effectively. During the review process the Government recognised that legislation of this nature must have two important elements. First, it must embody arrangements which ensure that the statutory authorities concerned are capable of responding appropriately to an act of pollution, and, second, it must have penalties set at a level which act as a deterrent to would-be polluters. It was determined that the provisions of the Marine Pollution Act already enable appropriate levels of control to be exercised so that the possibility of an incident is minimised to the greatest extent that is realistically possible.

However, the penalties needed to be increased to reflect the increased concern in the community and to act as a deterrent to potential polluters. Accordingly, this bill provides for greater penalties than were originally allowed for in 1987. At the same time, consistency will be achieved with the Commonwealth's marine pollution legislation, including its maximum penalty, which has also been increased to $1 million. It will also achieve consistency with comparable legislation of major maritime countries such as the United Kingdom and the United States of America. I must stress that a court would rarely be expected to impose the maximum penalty of $1 million. It would only do so if the pollution were caused by a reckless act.

In recent convictions obtained by the Maritime Services Board, the penalties imposed have been around the $70,000 level. These were for offences which, though potentially damaging to the environment, did not involve the discharge of very large quantities of oil. In setting a

maximum penalty of $1 million, the legislation provides the court with flexibility and a range within which it can impose a punishment appropriate to the offence after taking into consideration all the relevant factors and the expectations of the community in general. At this point I must stress that the proposed increase in penalties is separate and distinct from the costs associated with clean-up of an oil spill. The Act already provides for unlimited clean-up costs to be recovered from the polluter. Honourable members are aware that shipping is an international business and therefore the measures adopted must also reflect international attitudes.

The proposed legislation achieves this through the increases contained in this amending bill. It ensures that the legislative framework appropriately complements another important measure designed to protect the marine environment. I refer, of course, to the national plan to combat pollution of the sea by oil, which has recently been reviewed by the Commonwealth in consultation with the States, to ensure that the arrangements to combat oil pollution are up to date, effective and comprehensive. This plan would be activated following any incident which could involve a significant degree of oil pollution. Taken as a package, the Marine Pollution Act, the proposed amendment now before the House and the national plan provide a powerful deterrent against a polluter as well as an effective mechanism for response and clean-up.

Honourable members will agree with me when I say that New South Wales is the proud owner of some of the nation's most beautiful waterways and beaches and we all know that Sydney Harbour is renowned around the world as one of the finest, if not the finest, harbour in the world. It is our responsibility to spare no effort in the protection of these priceless assets. The public expects the Government to take whatever measures are necessary to ensure their preservation. This Government recognises that expectation and is firmly committed to protecting the ports and waterways of New South Wales from marine pollution. The bill before the House will serve to remind all who have an interest in our waterways that this Government places the highest value on its marine heritage and will ensure that a high price is exacted for any damage that may be caused to it.

I commend the bill to the House.

The Hon. B. H. VAUGHAN (Deputy Leader of the Opposition) [12.33 a.m.]: The Opposition supports the bill.

The Hon. R. S. L. JONES [12.33 a.m.]: I have pleasure in supporting the legislation and noting that the maximum penalties have been increased substantially. For example, for discharging oil or oily mixture from a ship the penalty for a body corporate will increase from $250,000 to $1 million. I am aware that some environmental organisations would like to see virtually unlimited penalties for doing this. Perhaps in the not too distant future an oil spill will deserve a penalty of far more than $1 million - maybe $10 million or $20 million. However, we have to be reasonable in legislation. Other penalties have been increased by a factor of two, some by a factor of five. We hope this will be a deterrent, particularly to foreign ships coming to our waters.

Some of the ships coming to Australia are rust buckets which should not be on the sea. We hope the penalties will provide a sufficient deterrent to overseas companies operating rust buckets allowing their ships to enter our waters and to pollute. I was the one who revealed that Caltex was the company that killed the fairy penguins. I went public and asked questions about that and finally Caltex was fined, I am very pleased to say. Caltex tried to cover the matter up. The fines did not bring back the fairy penguins but at least the company was penalised. We hope that companies which try to cover up their pollution, which Caltex tried assiduously to do, will no longer be able to operate in that way and, if they get caught, as Caltex was caught, they will be fined $1 million, which Caltex deserved to have been fined.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [12.35 a.m.], in reply: I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SOUTH EAST FORESTS PROTECTION BILL

Suspension of Standing and Sessional Orders

The Hon. J. H. JOBLING [12.35 a.m.]: I move:

That so much of the Standing and Sessional Orders be suspended as would preclude a motion being moved forthwith that the General Business Order of the Day relating to the South East Forests Protection Bill be called on forthwith.

The Hon. M. R. EGAN (Leader of the Opposition) [12.36 a.m.]: It is an absolute scandal that at 12.35 a.m. on Friday, 29th October the Government is attempting to bring on the discussion of this very

important legislation. If this matter was so urgent, the Government could have brought it on at any time this week. The Government is attempting to bring it on now by way of a contingent notice of motion which could have been activated at any time this week.

The Hon. J. H. Jobling: What is wrong with now?

The Hon. M. R. EGAN: Because it is 12.35 a.m., that is what is wrong with it. If the Government thinks that is a proper way to deal with important legislation it has no idea how a parliament should work or how a democracy should work. The Opposition will strenuously oppose this attempt to hijack the Parliament to deal with this very important legislation at quarter to one in the morning. It is an absolute disgrace.

The Hon. P. F. O'GRADY [12.39 a.m.]: I support the Leader of the Opposition in opposing this procedural motion this morning.

The Hon. J. H. Jobling: You are looking for preselection for Bligh.

The Hon. P. F. O'GRADY: I would worry about Bligh if I were you, because you have stuffed it up so abysmally. This piece of legislation has not been debated since 21st May. But now Government members are pulling a stunt to save the rednecks in the National Party. All the Ministers who have responsibility for land care and management are

National Party Ministers. They want to hijack this House and the Parliament - hijack the issue - and have the matter debated at 12.35 a.m. on a Friday morning. When the Government came to office in 1988 it told us that the Parliament would be run properly, that we would not be having late night sittings and the Parliament would not be hijacked. What did the Government Whip do this morning? He hijacked the Parliament because the greatest redneck of all, the honourable member for Monaro, is desperate to have this bill debated tonight so that he can claim a great victory on radio tomorrow morning. The Opposition will be fighting this motion.

The Hon. D. F. Moppett: You are assisting his re-election.

The Hon. P. F. O'GRADY: We will not be assisting his re-election; we will be assisting his defeat. The Opposition wants a total package on this issue. Those opposite want to go in and bulldoze the forests. The Government lets the Forestry Commission behave in the most despicable manner by not ensuring proper management of it or of forest issues. The Minister should be ashamed of himself in supporting the motion moved in this House by the Government Whip. The Minister is supposed to be the new warm, caring face of the National Party. However, we now know that he is in agreement with what has happened.

The Hon. R. J. Webster: Sit down.

The Hon. P. F. O'GRADY: We are not going to sit down. We are going to fight the motion, because the southeast forest is important in this State. We do not intend to allow this bill to be hijacked, as the Government has attempted to do tonight. Also in the gallery is the great Colin Dorber, the man from the forest industry who wants to ensure that there will be no resolution of these matters to the long-term benefit of the industry, but who wants to ensure that he continues to play politics as he has done for years on this issue. The Hon. E. P. Pickering is looking a little tired, but I suppose he has reason to look tired after going through the process of Government arm-twisting which we saw at question time today.

The Hon. E. P. Pickering: Members opposite should not talk about question time because they were asleep.

The Hon. P. F. O'GRADY: The Hon. E. P. Pickering looks tired, and we all know why.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member should return to addressing the motion before the House.

The Hon. P. F. O'GRADY: I shall do that with great delight, Mr Deputy-President. The motion seeks to hijack this House. The motion seeks to hijack the southeast forests. The motion seeks to ensure the destruction of some of the most beautiful forests in New South Wales. The National Party does not care because it wants to look after its developer mates.

The Hon. Jan Burnswoods: What about the Liberal Party?

The Hon. R. S. L. Jones: It is a short story.

The Hon. P. F. O'GRADY: It is a short story but we will deal with the Liberal Party later. The Government has not explained why this matter is of such urgency or why it should be brought back at this extraordinary hour for what could only be described as extraordinary sittings of Parliament this week. The train to take the Government to 25th March, 1995, but not beyond, is not far down the track. The people of New South Wales know that the Government is finished - finished with a capital F. This motion is just one of the stunts that will assist the Government's decline and defeat. I urge the House to reject the contingent notice of motion moved by the Government Whip and to defeat it in this House. If the Government wants to deal with this issue, it should bring it on at an appropriate time.

The Hon. J. H. Jobling: You would not know what an appropriate time was even if a clock fell on you.

The Hon. P. F. O'GRADY: I would. If that clock fell on me at 4.15 p.m. on Thursdays, I would know that is about the time we go home. But because the Government Whip cannot run his program and does not know what he is doing, he has to pull on a notice of motion to ram something through this House at quarter to one on a Friday morning. I urge the House to reject the motion and ensure that proper standards are upheld in this House - proper standards that people such as the Deputy-President often talk about. Members opposite always speak of the great traditions of the House, but when it suits them to bowl those traditions over and play bloody politics because of the demands of the rednecks sitting in the gallery, they will do it. The motion is not urgent at all. There is no requirement to bring on the bill in this fashion, at this time and in this place. I urge members to reject the motion.

The Hon. R. S. L. JONES [12.45 a.m.]: The Hon. J. H. Jobling mentioned $10 million. We have another letter from Ros Kelly which contradicts the one from Paul Keating about that $10 million. The motion is just a red herring. Why does the Government want to bring on this matter at quarter to one on a Friday morning? Members are supposed to be leaving this place in four or five hours to travel all over the country; some will be going overseas in a few hours but have not yet packed.

The Hon. D. F. Moppett: Will you be going too?

The Hon. R. S. L. JONES: I am not going overseas but many other members who are have not packed yet. What is the urgency for this motion? Over the past few days we have seen Col Dorber walking around and haunting this place. It looks like the Premier has had his orders from the forestry industry. We know that the order to bring this motion on and get rid of it tonight came from the Premier.

Peter Cochran, the honourable member for Monaro, is sitting in the gallery, smiling and saying to himself, "We are going to knock this over tonight". Why the rush? Why do it at a quarter to one in the morning? Why could it not wait until 10th or 11th November when the Parliament returns? The Opposition would like to know the reason for this big rush to have the matter brought on at this time of a Friday morning. There obviously is a hidden agenda that we do not know about. Maybe the Minister knows. And if the

Minister knows, for what reason has this matter been brought on so urgently?

Earlier I saw three Ministers discussing Paul Keating's letter as if something urgent was going to happen. In the past few weeks terrible destruction has occurred in the southeast forests, and there has been a hullabaloo about compartment 1402. Almost every Minister went down and looked at the perimeter of that compartment but did not go inside to inspect 400-year-old trees that had been knocked down. They did not want to; they turned their backs on it. They were invited to look at the stumps of 400-year-old trees but they turned their backs on them and did not want to see evidence of the destruction that is occurring in the southeast forest.

The voting out of this legislation will facilitate the destruction of that forest, except the hilly parts that cannot be reached and therefore will be saved. But they want the rest of it - and as quickly as possible. But why tonight and why at quarter to one in the morning? Why is Col Dorber sitting in the gallery at a quarter to one in the morning and not at home with his wife - though I do not know whether he has a wife. Clearly, Col Dorber has given his orders to the Premier, who has now given those orders to the Leader of the Government in this House. Some members here do not want this matter to come on tonight, particularly the Minister for Planning and Minister for Housing, who is very tired and would rather be home in bed. However, we may still be here until five o'clock in the morning - at dawn. We will see what happens then.

The Hon. R. J. WEBSTER (Minister for Planning, and Minister for Housing) [12.48 a.m.]: There are two compelling reasons that the bill should be brought on and dealt with tonight. The first is called jobs and security in the timber industry, something that the Labor Party, at least in New South Wales, has abandoned. The second is this letter from the Prime Minister, which states:

> Whilst my Government does not resile from the 1990 agreement, the volatility of the New South Wales Parliament remains a serious obstacle to its finalisation. Passage of the South East Forest Protection Bill would be viewed by my Government as a repudiation by New South Wales of the 1990 agreement.

That is the Greiner-Hawke agreement:

> In this event the restructuring package being negotiated between the Commonwealth and New South Wales would obviously need to be examined. As you may be aware, the Commonwealth had allocated up to $10 million for structural adjustment assistance under the 1990 agreement.

Honourable members opposite, members of the Australian Labor Party - those who purport to be the workers' friend - are standing up here tonight arguing against dealing with a bill that the Prime Minister, a member of the Australian Labor Party, has said in a letter must be dealt with. I have never in my life in this Parliament seen such absolutely hypocrisy. It is about time the Parliament dealt with this contingent motion and chucked this bill in the rubbish bin where it belongs.

Question - That standing and sessional orders be suspended - put.

The House divided.

Ayes, 16

Mr Bull	Mr Mutch
Mrs Chadwick	Mrs Nile
Mr Coleman	Revd F. J. Nile
Mrs Evans	Mr Pickering
Miss Gardiner	Mr Webster
Dr Goldsmith	

Mr Hannaford	*Tellers*,
Mr Jobling	Mrs Forsythe
Mr Moppett	Dr Pezzutti

Noes, 15

Mrs Arena	Miss Kirkby
Ms Burnswoods	Mr Macdonald
Mr Dyer	Mr Obeid
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr Jones
Mr Kaldis	Mr O'Grady

Pairs

Mr Ryan	Dr Burgmann
Mr Samios	Mrs Kite
Mrs Sham-Ho	Mr Manson
Mr Rowland Smith	Mr Shaw
Mr Willis	Mrs Walker

Question so resolved in the affirmative.

Motion for suspension of standing and sessional orders agreed to.

The Hon. J. H. JOBLING [12.57 a.m.]: I move:

That General Business Order of the Day No. 12 relating to the South East Forests Protection Bill be called on forthwith.

The Hon. M. R. EGAN (Leader of the Opposition) [12.58 a.m.]: I move:

That this debate be now adjourned to the next sitting day.

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Question put.

The House divided.

Ayes, 15

Mrs Arena	Mr Kaldis
Ms Burnswoods	Miss Kirkby
Mr Dyer	Mr O'Grady
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr MacDonald
Mr Jones	Mr Obeid

Noes, 16

Mr Bull	Mrs Nile
Mrs Chadwick	Revd F. J. Nile
Mrs Evans	Dr Pezzutti
Mrs Forsythe	Mr Pickering
Miss Gardiner	Mr Webster
Mr Hannaford	
Mr Jobling	*Tellers*,
Mr Moppett	Mr Coleman
Mr Mutch	Dr Goldsmith

Pairs

Dr Burgmann	Mr Ryan
Mrs Kite	Mr Samios
Mr Manson	Mrs Sham-Ho
Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

The Hon. P. F. O'GRADY [1.5 a.m.]: I move:

That this debate be now adjourned until a later hour of the sitting.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The Hon. P. F. O'Grady has moved that this debate be adjourned until a later hour of the sitting. I draw the honourable member's attention to page 333 of the twenty-first edition of Erskine May's *Parliamentary Practice* under the heading "Restrictions on motions for adjournment of the House or of debate". It states:

When a motion for the adjournment of the House or the debate has been negatived, it may not be proposed again without some intermediate proceeding.

As there has not been an intermediate proceeding I cannot accept the motion of the honourable member. The motion before the House is the motion moved by the Hon. J. H. Jobling.

The Hon. R. S. L. JONES [1.7 a.m.]: I oppose the motion. There is absolutely no need to debate this legislation at 1.10 on a Friday morning. As time gradually passes, honourable members are dropping off their seats with tiredness.

[*Interruption*]

I cannot hear myself think or speak. I will wait until the troops settle down a little. The Government has had the letter from Paul Keating since, I think, 23rd September, 1993. Cabinet has discussed the actual letter. I ask why it is necessary at 1.10 on a Friday morning, when some honourable members have to fly overseas in a few hours, for the Government to debate this bill?

[*Interruption*]

It really is very noisy here, even at this time of the morning. Despite the hour, some members are actually quite awake. But others are not quite so awake; some are nodding off. That letter has been with us for a month and has had coverage in the newspapers. Why then do we need to debate this bill

until perhaps 5 o'clock on a Friday morning when so many members are so tired? We have been sitting for almost 15 hours now. There may be some hidden agenda that we are not being told about. I see that a couple of rednecks are waiting in the wings for the legislation to be thrown out. Perhaps the Minister will tell us whether there is some hidden agenda. If there is no hidden agenda, why should the legislation be rushed out? After all, that is what they are trying to do in a deal with Reverend the Hon. F. J. Nile, who is in collusion with the rednecks. I suppose Reverend the Hon. F. J. Nile would now qualify as a redneck. Unfortunately, his dear lady wife could now perhaps also qualify as a redneck.

The DEPUTY-PRESIDENT: Order!

The Hon. R. S. L. JONES: The Chamber may very well sound noisy at 1.10 on a Friday morning. Honourable members should exercise a little common sense and delay the debate on this legislation until a proper time, perhaps 9th or 10th November. Why the rush? Why is the legislation being debated at quarter past one on a Friday morning? There is obviously a hidden agenda. The Australian Democrats clearly oppose the move to bring the legislation on forthwith.

The Hon. P. F. O'GRADY [1.10 a.m.]: I move:

That this debate be now adjourned until a later hour of the sitting.

Question put.

The House divided.

Ayes, 15

Mrs Arena	Miss Kirkby
Ms Burnswoods	Mr Macdonald
Mr Dyer	Mr Obeid
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr Jones
Mr Kaldis	Mr O'Grady

Noes, 16

Mr Bull	Mrs Nile
Mrs Chadwick	Revd F. J. Nile
Mr Coleman	Dr Pezzutti
Mrs Evans	Mr Pickering
Mrs Forsythe	Mr Webster
Miss Gardiner	
Dr Goldsmith	*Tellers*,
Mr Hannaford	Mr Moppett
Mr Jobling	Mr Mutch

Pairs

Dr Burgmann	Mr Ryan
Mrs Kite	Mr Samios
Mr Manson	Mrs Sham-Ho

Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

The Hon. P. F. O'GRADY [1.19 a.m.]: The Opposition clearly opposes this important legislation being dealt with in this fashion at this hour of the sitting. If the Government wanted to debate the bill, it had ample time to put it on the notice paper and to deal with it in the way bills are normally dealt with in this House. It should not have been dealt with in this way. The legislation has been dragged in at an extraordinary hour so that it can be bulldozed through the House.

We need to consider why the Government has introduced legislation at this hour. The Minister referred to members of the Australian Labor Party not being interested in jobs. We are interested in jobs. We are also interested in ensuring that this issue is dealt with properly. There is no urgency to deal with this matter tonight. There is no reason for the Government to have done what it has. If the Government believes that this bill should be dealt with, debate on it should occur in the normal and proper way. The Government has sought to ambush the Opposition on the issue of the southeast forests in an attempt to ensure that these issues are not dealt with properly. I urge the House to reject the motion and to ensure that debate on this bill is not proceeded with at this time.

Question - That the motion be agreed to - put.

The House divided.

Ayes, 16

Mr Bull	Revd F. J. Nile
Mrs Chadwick	Dr Pezzutti
Mr Coleman	Mr Pickering
Mrs Evans	Mr Samios
Dr Goldsmith	Mr Webster
Mr Hannaford	
Mr Jobling	*Tellers*,
Mr Moppett	Mrs Forsythe
Mrs Nile	Miss Gardiner

Noes, 15

Mrs Arena	Miss Kirkby
Ms Burnswoods	Mr Macdonald
Mr Dyer	Mr Obeid
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr Jones
Mr Kaldis	Mr O'Grady

Pairs

Mr Mutch	Dr Burgmann
Mr Ryan	Mrs Kite
Mrs Sham-Ho	Mr Manson
Mr Rowland Smith	Mr Shaw

Mr Willis Mrs Walker

Question so resolved in the affirmative.

Motion agreed to.

Second Reading

Debate resumed from 21st May.

The Hon. P. F. O'GRADY [1.27 a.m.]: I support the South East Forests Protection Bill.

[*Interruption*]

I remind the Hon. Dr B. P. V. Pezzutti that, although the Opposition did not want to debate this legislation, it has had to because the Government saw fit to use its numbers in a most undemocratic way - in a way that is not conducive to good public policy.

The Hon. R. S. L. Jones: Bully-boy tactics.

The Hon. P. F. O'GRADY: The Hon. R. S. L. Jones refers to it as bully-boy tactics. That is an appropriate comment, given that we are talking about the southeast forests and the bully-boy tactics of people such as the honourable member for Monaro and Colin Dorber throughout this whole campaign. The Opposition supports this private member's bill - a bill which originated in the other Chamber. Members of the Labor Party could spend some time addressing all the issues associated with this legislation. The 23 amendments are designed to ensure the preservation of timber areas in the southeast forests. This bill will ensure that no jobs are lost in the southeast forests and the timber industry.

It is true to say that there is some doubt about how we will manage the resources of our forests. By this bill and the amendments and the process we have gone through we have sought to ensure that the future of the forests is maintained, and maintained at great integrity. The Opposition has sought to resolve the conflict by establishing a process that incorporates four essential elements. Those elements need to be spelled out. First, there should be a full assessment of environmental values in the southeast forests. It is an extraordinary area, which I am sure many members of this House have visited to look at a variety of issues, whether with environmentalists or people in the timber industry or the Forestry

Commission. I have certainly spent a considerable period looking at different issues. I have been taken to different areas and discussed some of the many problems that must be confronted.

It is the Parliament's responsibility to confront the issues at hand. The first of those is a full assessment of the environmental values of the land. We have to create an adequate and comprehensive - and, of course, representative - system of conservation reserved over old-growth and wilderness forests. The Labor Party has put considerable effort into that representative system to ensure that that is done. I have to pay tribute to the parliamentary committee, which spent a great deal of time considering the issue. The second guarantee required is that the timber resources be far in excess of quota requirements during the period of assessment. I suppose one should emphasise the fact that the bill will guarantee timber resources and jobs and, therefore, the survival of the timber industry during the period of assessment - far in excess of quota requirements. The Opposition has talked to the industry, the unions and the Forestry Commission about timber requirements.

The third issue that the Opposition seeks to deal with is the agreement between the States and the Commonwealth on forestry policy. It is a significant and important matter that the Federal environment Minister, Ros Kelly, has addressed. Fourth, the Opposition recognises that employees in the timber

industry have a right to assistance in the event that a decision is made that would affect their livelihood. Undoubtedly, the issue raises a great deal of passion and conflict, and many untruths have been peddled around the southeast of the State. Those who have peddled the untruths are National Party members and their cohorts, who fundamentally have no regard for the forest or the importance of its resources, whereas the Opposition is always mindful of the importance of the forests.

There is no doubt that the issue has been debated over and over again for many years. I have no doubt of that the issue has caused a great deal of angst in the broader community. The Labor Party has always considered the four elements that I outlined. It did not support the bill in its original form but worked through the issues one by one and concluded that the southeast forests contained high conservation value and that there were compelling arguments for conservation. We had to ensure that the competing claims of industry and environmental groups were assessed and that the jobs issue was independently assessed. In the procedural debate the Minister tried to say that the Labor Party was not interested in the jobs issue. Of course, the Labor Party is interested in that issue. People such as Craig Knowles, the member for Moorebank, and Kim Yeadon, the member for Granville, have spent an extraordinary amount -

The Hon. R. J. Webster: Moorebank is a marginal seat.

The Hon. P. F. O'GRADY: Moorebank is a marginal seat, and the Labor Party has an excellent member. The Government will never win the seat from the Labor Party. Although it is a marginal seat the honourable member for Moorebank will continue to do a stunning job not only representing his constituents in Moorebank but also taking an interest in vital areas such as the southeast forests. He has shown great interest in the issue and has applied his intellect. That is why there are 23 amendments. But that is not where the process stops. The Government sought to bring the debate on tonight so that the issues could be worked through. As I said a few moments ago, we have balanced the competing claims of industry on one hand and environmental groups on the other, and any likely job losses will be assessed independently.

The Opposition has examined the proposed jobs package and has ascertained that the original proposal was not adequate. That is why I said we came up with 23 amendments. After some more work we recognised that we had not completed the process of amendment of the original bill. The Opposition made sure that the employment package, which would require substantial reworking and additional funding, was properly worked out. It is fair to say that, from the beginning of this process, the need to establish a successful resolution of the arguments had to be worked through. Those arguments have been going on for 20 years. That is an extraordinary event. For 20 years we have been haggling about how to take a new approach to the issues that confront us in the southeast forest, but there is no doubt that we have too many issues in forests right across New South Wales. All along it has been the industry that has sought to frustrate proper development of forestry resources. For far too long the Forestry Commission, the employers and the loggers have had a simple perspective - cut, slash and burn.

Their perspective has never been about how we manage these areas properly, how we ensure that we keep tabs on our resources and make sure that we use those resources in an adequate, proper and economically responsible fashion. But the industry has never been interested in that. The member for Monaro, Peter Cochran, and the great Colin Dorber have made the forests of New South Wales a political issue. They are being destroyed while we fail to address the long-term issues we so desperately need to address.

The Hon. R. S. L. Jones: He has been around the House for three days now.

The Hon. P. F. O'GRADY: He has indeed been around the House for three days. I thought originally he may have been here to support his mates from the Police Association. He certainly spent some time with them and was happy to associate with them in the Chamber after the disgraceful

behaviour about the running shoes, of which all members of this House would be aware. I am sure they would condemn the action of the Police Association in that regard. Colin Dorber has been here all week trying to drum up support for this legislation, which is being debated at a preposterous hour.

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The timber industry and its workers, as well as the environmental values of the area, are reflected in the bill the Opposition has drafted, amended and sought to perfect. Amendments are still being made to the bill. In moving their amendments to the original bill the Opposition has relied on existing Government legislation and has acceded to the agreements negotiated by the Premier and the Prime Minister. The bill reflects the National Forest Policy Statement signed by the Premier and the Prime Minister at the end of last year. The National Forest Policy Statement reflects a departure from the old forest policy in Australia. It contains significant clauses, and the crucial clause in this bill states that both Commonwealth and State governments agree that, conditional on satisfactory agreement on criteria by the Commonwealth and the States, a comprehensive, adequate, representative preservation system to protect old-growth forests and wilderness values will be in place by the end of 1995. That is one of the key issues that must be addressed.

The Commonwealth-State agreement sets out the Opposition's goals for old-growth forests. It allows some time for us to assess our needs in preserving and maintaining our extraordinary forests, particularly in the southeast of the State but also in other areas. It would have been necessary to introduce this bill at some stage. It is extraordinary that the Government is trying to ram the legislation through tonight rather than resolving the issues at hand. The Government has to deal with many challenging issues facing the southeast forests. Of the 23 amendments which were passed, 21 originated from the Australian Labor Party, and they fall into a variety of categories. The first category deals with conservation issues. The area originally outlined has been reduced from 110,000 hectares to 90,000 hectares. The National Forest Policy Statement required the National Parks and Wildlife Service to undertake an assessment to establish a system of adequate, comprehensive and representative conservation reserves by December 1995.

It also imposed a moratorium on logging during the period of assessment to conserve an area already identified as having high conservation value, and it ensured that nothing could compel the Government to gazette parks or reserves. The requirement of the bill concentrates on carrying out the assessment process in accordance with the National Forest Policy Statement. The bill will not force the creation of national parks, and members should bear that in mind when deciding how to vote. It will not carry out the necessary structural adjustments. No jobs will be lost - that is one of the great harping points of the Minister for Planning and Minister for Housing, who was in the Chamber earlier tonight and defended the Government's process. He spoke about job losses in the southeast timber industry. This legislation ensures that there will not be job losses because the approach we have taken deals with everything, lock, stock and barrel.

Our approach ensures that the industry has a future, that we have an investment in the industry, and that jobs in the industry will be maintained. The Minister is merely perpetuating the red herring that is often introduced by the honourable member for Monaro that jobs will be lost. This bill will ensure that jobs are not lost. The bill has gone through a long process involving many visits to the southeast forests area. Those meetings have been conducted with the Timber Workers Union, or, as it is now called, the CMFEU, the Australian Workers Union and the Transport Workers Union. They have also involved the New South Wales Trades and Labour Council.

The Hon. J. H. Jobling: The Trades and Labour Council asked Fred to vote against it.

The Hon. P. F. O'GRADY: I am speaking about the process in which we have been engaged to reach the position that has been reached - 21 amendments with a few more in the pot. Of course, they will not happen because the Government has bowled it on, and seeks to bowl it over tonight.

The Hon. J. H. Jobling: This morning.

The Hon. P. F. O'GRADY: Well, this morning.

The Hon. J. H. Jobling: Not tonight.

The Hon. P. F. O'GRADY: Given that it is the same sitting day as it was at 10.30 a.m. and 2 p.m., we are in the same sitting day.

The Hon. J. H. Jobling: But after midnight, the House continues to sit.

The Hon. P. F. O'GRADY: That is right; we are not in disagreement. The meetings took place during August, and included visits to the tablelands sawmills in Cooma and Bombala, the Boral sawmill in Eden and the chipmill in Eden. Forestry commission workers, including road crews, logging contractors and crews, logging truck owners and drivers, tiptruck owners and drivers and consultants to the timber industry attended the meetings at which, in general terms, the ALP was given a good hearing. Honourable members cannot dispute that we went into the lion's den, so to speak. We met a broad cross-section of people associated with the timber industry. The unions, of course, were involved in that process. One could not say there was strong support for our amendments but there was considerable agreement on a number of substantial issues. It must be emphasised that this issue has been going on for 20 years. It has generated enormous heat in the community, but by sitting down and working through the issues one by one we developed a package to ensure that the timber industry in the southeast can maintain its position, that there is no job loss, and that the industry is developed.

The fundamental concern of the people we spoke to was the need to end the uncertainty. The position of the ALP can be explained in the following terms. It was unable to support the Clover Moore bill because it dealt with conservation issues in isolation, ignored economic and employment impacts and failed to require long-term investment in the timber industry.

Anyone who has been to the southeast forests and has visited the timber mills would know there has been no investment in them, I suspect, since the war. These people have had resource guarantee. They have cut down the trees and done whatever they liked, but they failed absolutely to ensure modernisation or that value-added products are produced or that there is any long-term investment in the timber industry.

That is why the attitude and the actions taken by the honourable member for Monaro and Colin Dorber are absolutely despicable. They have not put the interests of the timber industry first. They have not said to the industry, "You must invest, as any business must invest. If a business does not invest money it cannot expect to make money, export products and earn money for the nation." The New South Wales forest industry has no concept of value adding. The forestry industry in Western Australia is progressing well. New South Wales, on the one hand, has an old, decaying industry, full of people who have an interest in making money but no interest in ensuring that the factories and mills are safe, modern and -

The Hon. Ann Symonds: Totally unimaginative.

The Hon. P. F. O'GRADY: They are, because they have not sought to put the long-term interests of this State and nation ahead of their own greed. This bill seeks to address the crucial issue of long-term investment, which the timber industry needs to deal with and understand. Consequently, the ALP amendments are a genuine attempt to consider all issues, whether they be conservation, economic impact, future investment or resource security. The ALP amendments complement the national forest policy statement. If funds are not available to deal with economic and employment aspects, the Labor Party will not support national parks. Simply put, the Labor Party places jobs ahead of the desire to

create 90,000 hectares of national park. We have sought to ensure that the industry and environmental concerns are dealt with in a comprehensive piece of legislation. This is the first time that such a comprehensive piece of legislation has been introduced into the Parliament of New South Wales to deal with the timber industry. I also express concern at the archaic contractual relationships between millowners, logging contractors, and log truckdrivers.

Most contractors' logging equipment costs in the order of $750,000 to $1 million. The average logging truck, which hoons down Forestry Commission roads - and honourable members know how big they are - costs somewhere between $250,000 and $300,000. The most extraordinary thing about these forms of investment is that often they are made on the strength of a handshake. The timber industry needs to come to terms with those issues. It is an important and expensive industry and we must ensure that it is run properly. This legislation seeks to do that. The industry needs to attract long-term investment. There is a need to formalise contractual arrangements to provide that security of investment.

Opposition members have expressed concern about the way in which the Forestry Commission issues licences to timber mills. In simple terms, the licence represents the right to access a public resource, whether the timber is on Crown land, whether royalties are paid or whether there is provision for value adding. The value adding issue is of vital importance. The forest and timber industries must value add. We need to take a leaf from the Western Australian experience of value adding. That State has done far better in managing its forests than New South Wales has. And the blame can be laid at the feet of the New South Wales Forestry Commission and the director, who has taken an incredibly short-term view of this industry - rip it out, rip it off and not put anything back. I make the point once again that, unfortunately, the Government's decision to bring this bill on tonight in this fashion has prohibited the Opposition from moving any further amendments.

It is essential that further amendments be made that will reflect the additional information that has been gathered, principally as a result of the efforts of the honourable member for Moorebank and the honourable member for Granville during their extensive discussions and visits to the southeast forests. The legislation is workable, though it requires refinement. That will be an ongoing process. The Labor Party has worked diligently on the legislation and will continue to do so. The issues that are causing confusion in interpretation must be clarified. Investment security and value adding requirements are further issues to be assessed by the structural adjustment committee that is proposed in the amendments. Representation on that structural adjustment committee must be broadened.

Job security, value adding and industry investments are crucial issues that will be the subject of further amendments. The Opposition is proud of the work that has gone into the preparation of the bill. This is the first time in New South Wales that it has been sought through legislation to deal comprehensively with these issues. No other legislation in regard to the forest industry of the State has sought to deal with the broad issues. The Minister for Planning spoke about the threat to jobs. Not one job is threatened in the southeast forests of the State - no threat exists. No crisis exists regarding the available resources. Jobs will be safe. This proposal will be a model for other areas of New South Wales.

The defeat of the legislation in this Chamber would not see the end of the issue. Rather, the Opposition will continue to refine the bill and to work on the amendments that are necessary. Those amendments relate to industry investment, value adding and job security. When the bill has been perfected it will be the model for dealing with forest issues in New South Wales. It is good legislation of which we are proud, and we will not back away from it. It must be said once again that it was disappointing that Reverend the Hon. F. J. Nile voted against the procedural resolutions. Only a few weeks

ago the House heard a long speech in which Reverend the Hon. F. J. Nile said he would not support Government legislation, that he would ensure that the Government paid the price because a senior

member, the Hon. E. P. Pickering, crossed the floor in a division on the anti-vilification legislation. Only an hour after Reverend the Hon. F. J. Nile made that speech he voted with the Government to prevent the introduction of the Government Cleaning Services Bill.

The Hon. E. P. Pickering: And properly so.

The Hon. P. F. O'GRADY: Not properly so. It was a procedural motion that had been used only once before in this House. The Government used that motion to ensure that thousands of decent Australians were put out of work.

The Hon. E. P. Pickering: On a point of order. The honourable member should be required to speak to the bill.

The Hon. P. F. O'Grady: On the point of order. It is accepted practice in this House that interjections are fair game. I responded to an interjection by the Hon. E. P. Pickering. I was commenting on the fact that this evening Reverend the Hon. F. J. Nile supported the Government in having the bill dealt with tonight. Only a few weeks ago, as the Hon. E. P. Pickering knows, Reverend the Hon. F. J. Nile said in this House that he would defeat Government legislation. He has not done so.

The DEPUTY-PRESIDENT (The Hon. Franca Arena): Order! No point of order is involved, but I ask the honourable member to return to the substance of the bill.

The Hon. P. F. O'GRADY: The subject of the bill is the attitude taken by Reverend the Hon. F. J. Nile in regard to the southeast forests. He has on the business paper a notice of motion for the introduction of a bill dealing with that forest. If the honourable member were sincere and honest about his intentions, he would not have made that outrageous speech. This bill should be supported because it deals with issues that are fundamental to the timber industry, including job security, investment and value adding. Those subjects are important to the forest industry, and if they are not dealt with there will be a further reduction in the number of jobs in that industry in New South Wales, as we will not have dealt with the overall picture.

The Labor Party takes a broad view of the southeast forests, as is evident from the work done in drafting the legislation and the amendments that were accepted in the other place. I urge the House to support the legislation because it deals with the issues at hand and will ensure that not one single job is lost in the southeast of New South Wales. The proposed legislation meets the principles, intention and guidelines of the National Forest Policy Statement and will ensure that, for once in our lives, we take a responsible attitude to the forest industry rather than leave it to people who have no long-term commitment to the industry, have not invested in it or put any creative thought into an industry for which they supposedly care. It is a disgrace that they have been allowed to get away with their failure to invest or to attempt to modernise their plants for the safety of their workers and the proper use of the resource.

When no investment is made in plant or mills the effect is that one does not get the maximum value for the product. If there is any industry from which it is essential to get maximum value, it is the forest industry in the southeast of this State. Old-growth forests cannot be replaced overnight. Thousands of cubic metres of timber are being wasted because of the vandalism of the Forestry Commission and the millers over a long period. I urge the House to support the bill. The Labor Party has put an enormous amount of work into it. It has come up with substantial amendments to refine the bill. Further issues will be considered. Because the Government has brought the bill on tonight, and dealt with it in the fashion it has, those further issues will not be considered. I urge the House to support the legislation to ensure that the forestry industry in the southeast of New South Wales is protected in the best interests of the people and forests of this State.

The Hon. ANN SYMONDS [2.11 a.m.]: I move:

That this debate be now adjourned to the next sitting day.

Question put.

The House divided.

Ayes, 14

Mrs Arena	Mr Kaldis
Ms Burnswoods	Miss Kirkby
Mr Dyer	Mr Macdonald
Mr Egan	Mr Vaughan
Mr Enderbury	
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr O'Grady
Mr Jones	Mrs Symonds

Noes, 16

Mr Bull	Mrs Nile
Mrs Chadwick	Revd F. J. Nile
Mr Coleman	Dr Pezzutti
Mrs Evans	Mr Pickering
Mrs Forsythe	Mr Webster
Miss Gardiner	
Dr Goldsmith	*Tellers*,
Mr Hannaford	Mr Moppett
Mr Jobling	Mr Mutch

Pairs

Dr Burgmann	Mr Ryan
Mrs Kite	Mr Samios
Mr Manson	Mrs Sham-Ho
Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

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The Hon. M. R. EGAN (Leader of the Opposition) [2.20 a.m.]: I congratulate the honourable member for Bligh, Ms Clover Moore, who introduced the South East Forests Protection Bill into the other place on 24th September, 1992. That bill sought to protect more than 100,000 hectares of land in southeast New South Wales by reserving or dedicating it as national parks and nature reserves. It expanded considerably upon the 50,000 hectare southeast forest agreement entered into by Prime Minister Hawke and Premier Greiner in 1990. Most honourable members will be aware that the bill was referred to a legislation committee for further consideration and was required to report to the Legislative Assembly on any proposed amendments by 17th November, 1992.

The two Labor Party members of that committee, the honourable member for Granville, Mr Kim Yeadon, and the honourable member for Moorebank, Mr Craig Knowles, who are sitting in the gallery at

20 past 2 this morning - and that is an indication of their commitment to the legislation - and Clover Moore tabled a dissenting committee report out of concern to accurately determine conservation values of the southeast forests and to properly consider the impact on the local and regional economy in relation to the proposal to dedicate national parks and reserves. During the course of the committee investigation considerable evidence was presented which demonstrated the high conservation values of the southeast forests. It was considered that the 1990 Hawke-Greiner agreement was a political compromise that did little to address conservation values.

The proposed parks under this agreement reflected areas of forests that were uneconomic for forestry activity and, therefore, of little interest to the Forestry Commission and the timber industry. Also, considerable conflict of opinion was received in submissions to the committee about the future of the hardwood timber industry. The dissenting report expressed the view that there was a need for further work to validate many of the assertions made by all sides of the debate concerning the future of the timber industry, resource security and value adding. It was noted that the environmental prescriptions developed by the Forestry Commission were the subject of continuing criticism by independent scientific agencies. As a result of the dissenting report of the committee, the Labor Party proposed a series of amendments to the bill in an attempt to enhance the legislation relating to conservation value assessment and reservation, timber industry and economic issues.

Fundamental concerns reflected in the amendments to the bill by the Labor Party were, first, the need to end the continuing uncertainty surrounding the southeast forests and, second, the need to take further account of the impact of park and reserve dedication on the timber industry and the regional economy. The ALP amendments that are now incorporated in the bill, and further amendments the Opposition has considered as a result of the continued examination of the matter over recent months - and which we will be moving when the bill goes into Committee - are a genuine attempt to ensure the proper consideration of all the issues in the one piece of legislation, that is, conservation values and their preservation, economic impact, future investment and resource security in the timber industry.

Though committed to the dedication of parks and reserves in the southeast, the Labor Party was unable to support the bill of the honourable member for Bligh in its original form because it dealt with conservation issues in isolation and ignored economic and employment impacts. It also failed to require any long-term investment in the timber industry. The Labor Party has continually held the position that if funds were not available to deal with employment and economic impact in the southeast, it would not support the creation of 90,000 hectares of national parks.

In order to ensure the integrity of legitimate competing interests, and to maintain a strong political and morale position in the debate over the southeast, the Labor Party moved to envelop the South East Forests Protection Bill within the National Forest Policy Statement, a policy simultaneously supported by both the Federal and New South Wales governments. A moratorium was proposed on the logging of the environmentally sensitive 90,000 hectares in the southeast until the end of 1995, in keeping with the provisions of the National Forest Policy Statement, to allow full assessment of the area by the National Parks and Wildlife Service.

During the moratorium period timber industry employment rights would be protected by guaranteed timber supplies outside the moratorium area. This would be achieved by lifting environmental impact statement and fauna impact statement requirements over non-moratorium areas. This approach again maintains the political strategy of adhering to the New South Wales Government's own regime being implemented under the Timber Industry (Interim Protection) Act. However, it must be said that further investigation of the Eden management area identified problems with maintaining work for some logging truckdrivers and Forestry Commission road crews as a result of the location of the non-moratorium areas. Simultaneously with conservation value assessment during the moratorium period, a structural adjustment committee established under the legislation, containing broad representation, would assess employment, economic and investment issues.

The committee's brief would include negotiation with the Federal Government about compensation in anticipation of the creation of national parks at the end of 1995. If funds were not made available through the Federal or New South Wales governments to deal with the economic and employment impact of creating national parks at the end of 1995, as far as the Labor Party is concerned no parks would be created. I would again make it clear that Labor's strategy in dealing with the southeast forests is firmly grounded within the national forests statement in legislation such as the Endangered Fauna (Interim Protection) Act and the Timber Industry (Interim Protection) Act. I think it is the most practical solution available for resolving

conflict over the southeast forests by giving consideration to all the legitimate competing interests involved. Its successful implementation would provide a model for application in other areas across the State.

As I have already mentioned, this bill recognises that the preservation of the southeast would have to be the most pressing conservation issue facing this State. The Opposition believes that the bill as amended is a genuine effort by the honourable member for Bligh and the conservation movement finally to bring an end to the long-running conflict in the southeast. Concerns about the adequacy of the reserve system in the southeast of New South Wales can be traced back as far as 1967 at least. On the most recent advice there is absolutely no dispute that the forests have significant values of regional, national and international importance.

Experts in the field of conservation have endorsed those sentiments without reservation. It is worth referring to the report of the legislation committee on this bill. I might add that the Minister for Conservation and Land Management in his contribution to the debate which took place in the Assembly during May made very little reference to the report - certainly not to the extent that he should have. The report was tabled in the lower House in November 1992. Dr Geoff Mosley, I think most members will appreciate, is an eminent environmental consultant. He was quoted in the legislation committee report as saying in relation to the southeast:

> Our conclusion is that this area definitely warrants inclusion on the National Heritage . . . In other words, in the future, as I see this area, it is one of the highest-valued conservation areas in the world. At the moment there are about 80 areas around the entire world. That is if an adequate reserve system can be secured.

Dr Mosley's comments are reinforced by Dr Tony Norton, who I think the Hon. E. P. Pickering would probably be well aware is a research fellow from the Australian National University. He told the legislation committee in the other place:

> We are here talking about the forest ecosystem, that is not just significant in terms of State and national perspective but it is quite clear now that we are talking about forests that have global importance. The second point is we are talking about forests which are in my view an endangered species . . .

That quote is included in the report of the legislation committee. I think it is fair to say that Dr Mosley and Dr Norton did not give those assessments to the committee lightly. Their assessments have been backed up by the fact that the area contains significant old-growth forest which is also regarded as important by the Australian Museum and by the Resource Assessment Commission. The commission recognised that the loss of old-growth forests represents the loss of an irreplaceable resource. That should be apparent to most members, with 90 to 95 per cent of our original growth forests now having been cleared. That is a frightening figure.

The Hon. D. F. Moppett: And an inaccurate one.

The Hon. M. R. EGAN: I am sure even the Hon. D. F. Moppett would agree that old-growth forests

foster a very diverse range of flora and fauna. Thirty per cent of the region's rare species are recognised as being of conservation importance. There are 52 species of mammals, 290 species of birds, 43 species of reptiles, 22 species of amphibians and as many as 23 fish species.

The Hon. I. M. Macdonald: Incredible.

The Hon. M. R. EGAN: It is incredible.

The Hon. I. M. Macdonald: Tell them again, Mike.

The Hon. M. R. EGAN: I certainly do not want to be tedious but I think it is worth pointing out that there are an enormous number of species of conservation importance. Forty-six species of the region's fauna are on endangered species lists. The area also has sites of historic and cultural significance to the Aboriginal people. For those reasons the Labor Party, since 1988 under the Unsworth Government, has supported an 80,000 hectare national park in the southeast to protect all of those values while protecting the rights of employees to compensation, retraining or other measures. We have always held dual concerns for conservation and employment.

The unfortunate defeat of the Unsworth Government and the election of the Greiner Government, which the people of this State have now come to regret, which supported a policy of logging sensitive old-growth areas, again placed the area's future in doubt. As a result, a joint scientific committee was established between the State and Commonwealth governments with a reporting date in 1990. The recommendations of the joint scientific committee formed the basis of the 1990 Hawke-Greiner agreement which supported the creation of a 50,000 hectare reserve - 50,000 hectares as against the 80,000 hectares national park which the Unsworth Government was proposing. Of course, the Hawke-Greiner agreement was very much a compromise. I suppose some compromises can be good but others are very inadequate indeed, and this one certainly falls into the latter category.

The parks proposed under this agreement reflect basically the scraps of the Forestry Commission. All the uneconomical logging areas were farcically recommended to be part of the so-called representative reserve system. Honourable members have probably read the comments of the former Minister for Conservation and Land Management, in the lower House, listing those areas. The Government and that Minister failed to mention that wilderness areas were deliberately left out of the reserves. I hope the Hon. D. F. Moppett will participate in this debate and explain why the wilderness areas were deliberately left out of the reserve because that really is a matter of concern to a large number of people in this State. Indeed, the Hon. D. F. Moppett acknowledges that importance and I believe, from the reaction to my comments, he is demonstrating some embarrassment at having to vote with his Government on this matter.

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The Hawke-Greiner agreement of 1990 was very much a political compromise; it was obviously inadequate to properly conserve the environmental values of the area. The political nature of that agreement has since been confirmed by quite a number of individuals and organisations that have attacked both the scientific committee and the 1990 agreement. They include Mr Keith from the National Parks and Wildlife Service, who is well known at least to some members of this House; Dr Margules from the Commonwealth Scientific and Industrial Research Organisation; the Australian Museum; the Australian National Parks and Wildlife Service; Dr Possingham; Dr Mosley; Dr Costin; the New South Wales National Parks and Wildlife Service; Professor Harry Recher; and Mr Jenkins of the CSIRO division of wild life and ecology, many of whom made submissions to the Legislation Committee upon the South East Forests Protection Bill.

It is not surprising that some three years down the track - I am talking about the time that the legislation was debated in the lower House earlier this year - not a single reserve had been created and

the 1990 agreement had not been ratified. All that has resulted is the Fahey Government's recent approval for logging of all the special protection areas in the southeast. I want to take a little time to inform the House that some of my colleagues at long last have found themselves in agreement with the honourable member for Monaro who, as chairman of the legislation committee examining the bill, concluded:

> The fate of forest workers' jobs and the forests will be ultimately decided on the floor of the Parliament, not through academic debate or further inquiries.

That is absolutely true. The Opposition wants to signal the beginning of the resolution of the crisis in the southeast. The South East Forests Protection Bill did require substantial amendment, which is what the Opposition did in the lower House. But as I mentioned a moment ago, we also acknowledge the need for additional amendments. We will be moving those amendments when the bill goes into the Committee stages. The Opposition has always made it quite clear that it would not support legislation to create national parks in the southeast unless workers can either be given alternative employment opportunities or compensation. Consistent with that approach, the Opposition moved almost 40 amendments in the lower House which, by and large, together with others that we propose to move -

The Hon. I. M. Macdonald: In Committee.

The Hon. M. R. EGAN: I was going to say today, but it may well be tomorrow.

The Hon. I. M. Macdonald: In a parliamentary sense.

The Hon. M. R. EGAN: Yes. Tomorrow, both in chronological order -

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! The honourable member will address the Chair.

The Hon. M. R. EGAN: Those amendments contained three main objectives. The first is to put an end to the conflict in the southeast. If they become law, they will preserve the area's environmental values. Second, the bill will act to protect employment rights of timber workers and their families. And, third, it will force the State and Commonwealth governments to adhere to their agreements on forestry policy. Other colleagues of mine will address each of these matters in more detail. This bill has now been in the Parliament for a long time.

[*Interruption*]

Perhaps too long, as indicated by the interjection from outside the House. One would think that the Minister, who is outside the House, would know that you do not sit outside the House and interject on a debate that is proceeding in the House. Of course, he behaves like all National Party leaders in the belief that he can treat this Parliament with absolute contempt. That is how the Government is treating this House with this legislation. This legislation, if the Government wanted it brought on at any time since May, could have been dealt with in a rational, considered way by this House. Instead, the Government has waited until 28th October -

The Hon. I. M. Macdonald: 29th October, actually.

The Hon. M. R. EGAN: It is now Friday, 29th October, at 2.47 a.m., and we have been forced to deal with this legislation now. The Opposition is quite happy to adjourn the debate on this bill now and come back on Monday next or Tuesday, or Wednesday, or Thursday, or Friday of next week, however long the Government wants to spend debating this bill. We will not wait until the House is scheduled to resume on 9th November.

The Hon. Franca Arena: They should think of Hansard.

The Hon. M. R. EGAN: As well as thinking of Hansard they should think of the forests and the workers in that area.

The DEPUTY-PRESIDENT: Order! I remind the Leader of the Opposition to address the Chair and direct that he return to the bill.

The Hon. M. R. EGAN: I certainly will address the bill; I thought I was doing that. It is an absolute travesty that we are being forced to discuss this bill at 2.45 a.m. in the morning when the Opposition has made a genuine offer to the Government to adjourn the debate and resume it on any day next week, or all of next week if needs be, to deal with the bill in a sensible way. The Government simply makes itself look very foolish, in this case, by trying to destroy this legislation at such a ridiculous hour of the night. On a previous occasion I have taken the Government to task for treating this House almost as though it were a brothel to keep these crazy all night hours. It really does demean the dignity of the Parliament. The course adopted by the

Government is demeaning the dignity of the Parliament, rendering it virtually impossible for members to give proper consideration to the bill that all legislation requires. The Hon. L. D. W. Coleman is dead to the world on the benches opposite, completely asleep.

The Hon. D. F. Moppett: No, it is a long blink.

The Hon. M. R. EGAN: The Hon. L. D. W. Coleman is still asleep, with his face resting on his hand. I do not say that in any derogatory way. The honourable member is a very diligent member of Parliament.

The Hon. R. J. Webster: On a point of order. The Leader of the Opposition, in addition to digressing from the bill and going on with a whole lot of nonsense, has now spent some time attacking a member of this House who is resting his eyes. I ask that the Leader of the Opposition be drawn back to address the scope of the bill.

The Hon. M. R. Egan: On the point of order. When members speak in this House they are entitled at least to have members opposite awake. It is most disconcerting to be speaking to members opposite who are asleep, and who remain asleep during a long debate on whether they are asleep or whether they should be referred to as being asleep.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! I give the member warning that he should return to the scope of the bill and continue the debate.

The Hon. M. R. EGAN: Certainly, Madam Deputy-President. I am simply making the point that this legislation can be dealt with by the Parliament in a sensible way, not at 2.50 a.m.

The Hon. R. J. Webster: It is being dealt with, now.

The Hon. M. R. EGAN: It could be dealt with, as I have suggested, next week, on Monday, Tuesday, Wednesday, Thursday and Friday. I am happy to stay here.

The DEPUTY-PRESIDENT: Order! I have instructed the Leader of the Opposition to return to the scope of the bill. I have not heard the honourable member mention anything about the bill.

The Hon. M. R. EGAN: Madam Deputy-President, I was answering an interjection from the Minister. It is getting very late, but we will certainly be here a lot later debating the bill. I make one final plea to the Minister. If he wants this legislation to be dealt with intelligently, he should adjourn the

debate. Otherwise - and I make this clear - we will be here in this House debating this legislation this time next week, without a break.

The Hon. FRANCA ARENA [2.53 a.m.]: I move:

That this debate be now adjourned to the next sitting day.

Question put.

The House divided.

Ayes, 15

Ms Burnswoods	Miss Kirkby
Mr Dyer	Mr Macdonald
Mr Egan	Mr O'Grady
Mr Enderbury	Mrs Symonds
Mrs Isaksen	Mr Vaughan
Mr Johnson	*Tellers*,
Mr Jones	Mrs Arena
Mr Kaldis	Mr Obeid

Noes, 16

Mr Bull	Mrs Nile
Mrs Chadwick	Revd F. J. Nile
Mrs Evans	Dr Pezzutti
Mrs Forsythe	Mr Pickering
Miss Gardiner	Mr Webster
Dr Goldsmith	
Mr Hannaford	*Tellers*,
Mr Jobling	Mr Coleman
Mr Moppett	Mr Mutch

Pairs

Ms Burgmann	Mr Ryan
Mrs Kite	Mr Samios
Mr Manson	Mrs Sham-Ho
Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

The Hon. ELAINE NILE [3.0 a.m.]: Call to Australia acknowledges that the 1990 Federal-State forest agreement must be urgently implemented in law. That is why we have prepared our own Call to Australia South East Forests Conservation Bill 1993, which will establish five national parks and other nature reserves, preserve the jobs of the timber workers, as well as save the local towns and families from economic hardship. Call to Australia has received two written requests from the Labor Council of New South Wales, one of which was dated 5th October from Mark Lennon, executive officer. Today a deputation of council representatives, led by Mr Lennon, urged Call to Australia to vote against Ms Clover Moore's South East Forests Protection Bill. Mr Lennon's letter states:

Dear Reverend Nile

Re: South-East Forest Protection Bill

As you are no doubt aware unions with members in the forestry industry have expressed a great deal of concern about the above-mentioned bill.

It is the belief of the relevant unions that should the bill pass through the Parliament then there will be enormous implications for the working people of the South-East.

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As the bill is presently before the upper house for your consideration I am writing to seek a meeting with you to discuss the unions concerns. We feel that such a meeting is important to allow you to get an understanding of the issues from the unions perspective at this crucial time.

The unions are readily available to meet with you at your convenience.

Yours faithfully

Mark Lennon
Executive Officer

We have also received a letter from Michael Easson, Secretary of the Labor Council of New South Wales. That letter bears yesterday's date, Thursday, 28th October, and urges Call to Australia to vote against the private member's bill passed by the Legislative Assembly. The letter states:

Dear Mr Nile,

I am writing about the South East Forest issue and to urge you to support the Hawke-Greiner 1990 agreement on this issue.

Accordingly I would seek - on behalf of the forest industry workers - that you i) vote against the private members Bill passed by the Legislative Assembly on this issue and ii) withdraw your own Bill as industry sources advise that it is best that the above-mentioned Accord be implemented and signed off by Federal and State Ministers.

I understand that you are meeting with a delegation of unions led by the Labor Council today. I trust that the meeting is productive and will clarify the unions stance on these issues.

Thanking you in anticipation.

Yours fraternally

Michael Easson
Secretary

The bill introduced by the honourable member for Bligh is a flawed bill. The fact it was hurriedly amended by the Australian Labor Party reveals its many weaknesses, with almost 40 Labor Party amendments. Ms Moore's bill is no solution. It is a two-year delaying tactic, a moratorium for two years during which they hope that the local timber industry will collapse and die - families will die and towns will die. As the honourable member for Bligh has an electorate that covers Kings Cross and Oxford Street, it is not surprising that her bill has confused local councils, local unions, local groups and local churches.

Reverend the Hon. F. J. Nile, M.L.C., has made three visits to the southeast forest region - once as a guest of Bega Council; once as a guest of Bombala Council; and once as guest of the South East Forest Protection Council, the environment movement. It is obvious that because of a lack of consultation and knowledge the Clover Moore bill has almost torpedoed the 1990 Hawke-Greiner Federal-State South East Forest Agreement. The Prime Minister, Mr Keating, supports the scrapping of this bill so that the 1990 Federal-State agreement can be rapidly implemented for all concerned. The bill is delaying progress and just solutions for the southeast forest region.

The House will defeat this bill today and eventually adopt the Call to Australia South East Forest Conservation Bill, which will bring about a positive and dramatic change for the good of all concerned in the southeast forest region. The defeat of Ms Moore's bill will provide certainty, confidence and hope. It will eliminate conflict, violence and uncertainty, fear and dismay. Its defeat will provide hope, peace and security for the future for all concerned - for the environmentalists as well as the timber workers, their families and surrounding townships.

The Hon. I. M. MACDONALD [3.6 a.m.]: It is interesting that at the beginning of the Minister's contribution he said the attitude being taken to this bill tonight was determined upon because he was about jobs. This is the same Minister who has already shed about 10,000 workers from the Water Board, yet tonight he was trying to convince us that he was worried about some jobs in the south of the State. What hypocrisy that on the one hand he is participating in the greatest massacre of a public service in this State's history - other than the efforts of Dr Metherell in the late 1980s - yet on the other he tries to pretend that his actions are clouded in some noble spirit of wanting to create or protect jobs. What a joke!

In my contribution tonight I want to put to rest the argument about the so-called threat to jobs and look deeply at adjustments that can be made in the southeast forests region. I intend to deal with that issue in depth. I want to refer to the issue the Hon. Elaine Nile raised when she referred to a letter from the Secretary of the Labor Council of New South Wales, Michael Easson. I must say that I do not, on all occasions, listen fully or enact the various statements made by the Labor Council in relation to the southeast forests issue. I recall participating years ago in a program with a number of staffers and Ministers during the Wran era to broaden the national parks, including the establishment of the Border Ranges National Park, the Terania Creek National Park and other national parks on the North Coast.

At that stage there was considerable opposition to our endeavours from elements within the Labor Council. Obviously that opposition reflects some nervousness among workers about future employment. I do not run away from that as a difficulty that must be overcome in the proper management of forests, the relocation of industry and the redevelopment of other industries to maintain and develop employment as national parks are created and established. In the early 1980s, when we took those historic steps to create the Border Ranges National Park, Nightcap National Park and other national parks in that region, the same types of letters were sent by some Labor councils, not all Labor councils, in an endeavour to ensure that we did not take the course which is now internationally recognised as the correct course: to create these national parks that one day would be incorporated within world heritage. On the South Coast of this State we have other national forests that are crying out to be incorporated within a national park system of world heritage value.

Although we respect the letter, it is for that reason that we do not believe it to be an accurate reflection of what is needed in the current debate. It is also interesting to note that on many other issues on which the Labor Council has communicated to Reverend the Hon. F. J. Nile and the Hon. Elaine Nile, they have chosen to take a different route in response. I do not criticise them for that; I hope they will give us the same latitude in consideration when we work out our own perspective in relation to the southeast forests. The background to this legislation was a bill introduced by the honourable member for

Bligh in another place, which was considerably amended in that Chamber.

Reverend the Hon. F. J. Nile: Did she discuss it with the ALP; did she discuss it with the Labor Council?

The Hon. I. M. MACDONALD: I am not going to make a definitive statement as to what the honourable member for Bligh said in relation to discussions she held. Suffice it to say that the Labor Party itself had considerable input into the revised legislation that has been tabled before this House. That would be sufficient for me to take this legislation seriously in terms of an agreed effort put up by the Labor Party.

Reverend the Hon. F. J. Nile: You tried to patch it up.

The Hon. I. M. MACDONALD: There are no problems with that. If the honourable member wants to talk about patching up legislation, in an earlier part of the sittings we talked for hours about patching up legislation introduced by the Attorney General on the Legal Profession Reform Bill. Patched up legislation! The Minister moved 60 amendments to his original bill. So let us not get too hung up about the concept of patching up legislation.

[*Interruption*]

I am not concerned about whose bill it is; I am concerned whether it has merit and whether it will help in the situation of implementing, and creating a process to implement, the national forest strategy. I believe that despite any flaws, the bill does set up a process that we can set about implementing to meet the guideline for 1995 set up under the national forest strategy. Before I deal with the bill in detail I will give honourable members some information in relation to alternatives to employment in the region. That is probably one of the more serious issues in this debate and there is no question that everyone, no matter what their feelings, is concerned about employment. I am certainly concerned about employment, unlike some National Party members who sit idly by and say nothing as Ministers announce huge job losses across the public sector. Some honourable members are prepared to allow Letona to go to the wall, thereby affecting 300 on-site workers and up to 800 growers in the region, who are absolutely disgusted at their local member, and also at the lack of support from the National Party for this rural based industry.

I am absolutely flabbergasted that honourable members can come in here tonight and start talking about jobs without in any real way evaluating or assessing the potential for other forms of employment in the area. Reverend the Hon. F. J. Nile has said he introduced a bill to defend Letona and I am very glad and happy that he did; it put the issue back on the agenda and got it running. I hope in the next few weeks we can succeed to have that bill passed through the Chamber.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the Hon. I. M. Macdonald to return to discussing the South East Forests Protection Bill. The Letona bill is not before the House now.

The Hon. I. M. MACDONALD: I respect your ruling Mr Deputy-President, but I do point out that I thought there was a tradition in this Chamber that one is able to reply to interjections. Reverend the Hon. F. J. Nile interjected in relation to Letona, and I was responding. In terms of the alternatives to employment there is a very good study that was released by John Formby in December 1991 entitled "Employment in South East New South Wales: a review and proposed employment package". I have had a good look at this document and I thought that some aspects of it would be useful for members in considering their response to this bill. This analysis shows very clearly the new forms of employment that can be created in the area. The analysis utilises the new industries and the comparative advantages that the southeast area has in terms of industrial development.

As all members know, there is quite a considerable structural change occurring in many areas of this

State. All regions need to look very carefully at aspects of their local economies that could be developed to create employment. There is no doubt that in 1989 the tourist infrastructure of the southeast forests region generated an estimated $157 million in the form of tourists visiting the region. From the Department of Planning report of 1991 the forest industry raked in a total of $66 million, very little of which actually stayed in the region. So we are looking at a situation whereby, in terms of industry and sectoral development, there is a very strong and growing tourism, and a timber industry that has remained static over the years.

There is no doubt that part of the tourist development occurring in the southeast forests region is predicated upon the unique and beautiful forests of that region. For many years I visited Bermagui and stayed with friends during the summer and had the opportunity of engaging in what one could call a very early form of ecotourism. Recently the Hon. Patricia Forsythe and I had an opportunity in the United States to look carefully at ecotourism, which is the booming sector of development, particularly in the tourist sector.

[*Interruption]*

In fact, as the Hon. R. S. L. Jones said, it is worth a lot more than woodchips. There is no doubt on the figures I pointed out, $157 million to $66

million, that the differential is clear-cut. I firmly believe that it is in the tourist sector that there is much scope for regional economic development in the southeast forests. There is no doubt that if one looks at the figures relating to tourist employment in that region, and in fact across the State, it is growing, it is permanent, and it will increasingly take up a larger sector of employment in this State. John Formby has a lot to say about these issues and says it in very clear-cut terms. I would hope that honourable members, who take this issue very seriously, will have the opportunity to look at it in more detail. Explaining it on page 1 of the document, he said:

> The new National Parks jointly agreed in the South-East region in 1991 (but not yet declared) by the Commonwealth and NSW State governments are inadequate. The SEFPB seeks to redress this by establishing a more representative area of National Parks in South-East NSW. The biological and ecological foundations for the Park proposals contained in the SEFPB are set out in detail in a separate report and will not be reviewed here . . .
>
> The SEFPB would prevent logging in a larger area than the National Estate. The precise extent of this area has not yet been finalised. It is not within the scope of this study to make a detailed analysis of the likely number of job losses additional to those estimated by the RAC which would arise from implementation of the SEFPB.
>
> Instead, given the RAC's estimate together with the approximate areas likely to be included in the SEFPB, it is assumed by this study that about 100 jobs may be lost in the hardwood timber industry following implementation of the SEFPB. To give some flexibility beyond that number, the study identifies sufficient suitable projects to create 120 jobs. It then estimates the cost of providing alternative employment and worker's compensation packages for either 100 or 120 displaced timber workers for two years.
>
> Beyond that period, it is shown that normal employment growth together with expected developments in the softwood timber industry should provide sufficient alternative employment opportunities.
>
> Throughout this study, unless otherwise stated, the region is defined for statistical purposes as the Bega Valley Shire and Bombala Shire.

Over the past seven years the population growth in the Bega Valley shire has averaged 3.17 per cent per

annum. This was considerably higher than the rate of 1.3 per cent for New South Wales as a whole in that period. Population in the much smaller Bombala shire, which is around 2,990 as against 26,310, declined by an average of 1.07 over the period. Those figures are from the Australian Bureau of Statistics.

The Hon. R. S. L. Jones: Do you know how that impacts on tourism?

The Hon. I. M. MACDONALD: I will get to that. I think it is important that I establish for members some of the parameters and major factors that affect employment, and that includes population.

[*Interruption*]

I am just about to get to that. It is a falsehood or a misrepresentation that the hardwood industry is a leading provider of employment. It is totally incorrect. The region shows a well-balanced distribution of employment across industries. Apart from the emphasis on agriculture rather than manufacturing, employment by industry sector does not differ markedly from that of New South Wales as a whole. Those figures are as follows: in agriculture -

The Hon. R. S. L. Jones: How old are those figures? What year?

The Hon. I. M. MACDONALD: It is between 1981 and 1986.

[*Interruption*]

It is quite clear here in the first figure because in 1981 it was 20.5 per cent, down to 19.8, but that included agriculture and fishing for their statistical purposes. Other major industries include wholesale and retail which, in 1981, were 15.2 per cent. By 1986 that had lifted to 17.1 per cent and indications are that it is going much higher than that. As we know, many sides of that particular industry are closely linked with the tourism industry. In other industries, construction increased from 7.6 per cent to 8.4 per cent; the all important community services increased from 10.9 per cent to 12.8 per cent; and recreational and personal services increased from 9.1 per cent to 10.3 per cent.

[*Interruption*]

I will come to that in a second. The report of the timber industry based regional consultative committee, the RCC, for 1991, with which I am sure the Minister would be acquainted as he is always so acquainted with the issues of jobs, is grossly misleading in citing the high percentage of direct employment in the primary industry sector as an indicator of the fundamental role of the timber industry in the region. In fact, only 6 per cent of jobs in the region are directly dependent on its hardwood resource. To show this, I will quote some figures from this area. In relation to sawmills employment was 105; chipmill, 134; logging and cartage, 225; Forestry Commission 135; totalling 599 employed and a percentage of regional employment of 6 per cent. This is the industry assessment at 1991.

Employment in the industry is likely to have declined since these figures were published with the closure of the Bega and Nimmitabel sawmills, but, as we know, the latter has been reopened at reduced output. Seven other industries are more important than the hardwood timber industry in providing regional employment. These are agriculture and fishing minus forestry - that makes a total of 16 per cent as distinct from just on 20 per cent - manufacturing, less timber processing 7 per cent; construction, 8 per cent; wholesale and retail trade 17 per cent; finance and property services, 7 per cent; community services, 13 per cent; and recreational personal services, 10 per cent.

The region's tourism industry is also a more important source of employment than the timber industry. Employment is generated by the tourism industry in most other sectors of the economy. The tourism industry is not shown separately in the ABS

statistics industry classifications. The New South Wales Tourism Commission estimated that tourism generated directly and indirectly about 2,000 jobs in the Bega Valley shire in 1986-87 or 23 per cent of the shire's employment. This compares with 10 per cent of direct and indirect employment generated by the hardwood timber industry in an estimate by Clark in 1989.

In taking the extraordinary step of moving this bill at approximately 12.45 a.m., after 14-odd hours of sitting, the Minister said "I am talking about jobs, jobs, jobs." He has obviously forgotten his record in his departments, which certainly is not about jobs, jobs, jobs; and he has also forgotten that in the southeast forests area the tourism industry greatly exceeds the hardwood forest industry. As a consequence, it does not take into account the needs of future ecotourism in that area by the continuance of a lot of logging of old-growth forests.

I visited the southeast forests in January. I happened to meet a very nice person who was the Director of the National Parks and Wildlife Service in Eden. I had a long discussion with him concerning forestry and logging activities and I recall very vividly that he had a number of those very accurate posters on his walls, depicting particular areas of logging in that region. I remember looking at them at first with a bit of bemusement, but later being quite horrified at the extent of the clearing. I had been under the impression, from many of the pieces of material that I receive regularly from the various timber industry lobby groups, that the extent of the damage to these old-growth forests was much less than I had ever thought.

The aerial photographs show little deep-green strips that follow the creeks. Those strips are referred to as water protection zones. The water cannot be polluted by runoff and erosion. From the appearance of the area I would have thought that it probably would be too difficult to chop down the trees. Some of the people working in that area would consider those areas fair game if they could remove the trees and get away with it. Beyond those little strips of dark green on the aerial photographs is an enormous area, which has been almost totally clear felled. I was horrified when I saw these large aerial photographs. I asked him was he happy with the situation. He said, "Well, we are doing the best we can". He said that there was a considerable degree of disagreement in the region about how certain areas are being worked. As I have said, at some stage Government members should take the opportunity to go beyond the material they receive on their desks each week. They receive photographs of glossy little forests with six-inch thick trees. The photographs bear captions saying, "Isn't this hunky dory? What a great job we are doing!'

The Hon. Jan Burnswoods: I wonder how much those glossy publications cost?

The Hon. I. M. MACDONALD: Indeed, how much do they spend on this propaganda? They forget to show what the forest was like before they got their hands on it. Much of that forest probably consisted of substantial trees with a diverse habitat and many animals. Many studies have shown that in these almost-cleared areas, both plant and fauna species have been altered dramatically.

The Hon. R. S. L. Jones: And invertebrates.

The Hon. I. M. MACDONALD: And invertebrates. They have all been altered dramatically because of the actions of the Forestry Commission. The photographs clearly demonstrated to me the problems involved in endeavouring to work out a rational solution to the conflicting needs of the timber industry and the tourists.

The Hon. Jan Burnswoods: Those photographs only showed the good side.

The Hon. I. M. MACDONALD: Yes.

The Hon. R. S. L. Jones: You do not see photographs taken during the harvesting of dying trees.

The Hon. I. M. MACDONALD: Yes. Again the Hon. R. S. L. Jones has extended my comment. I concur with him that many factors are not shown in relation to the felling of trees in the southeast forests. Employment in the Bega Valley shire from 1976 to 1986 increased by 24 per cent. Between 1981 and 1986 the increase was 5.8 per cent. Bombala shire provides only 15 per cent of employment in the region. Its population and employment have undergone a long-term decline because of the decreasing farm population and the centralisation of services to Cooma and Bega. The most recent data available for the region shows that the rate of unemployment is 10.8 per cent. That is not much higher than the New South Wales figure of 10.1 per cent. The labour force participation rate in the Bega Valley shire is 57 per cent compared with the New South Wales rate of 59.6 per cent.

Officials of the Commonwealth Employment Service in the Bega region assess the current level of unemployment in the region as similar to the overall New South Wales level. The region's level of unemployment compares favourably with other coastal areas, for example, the New South Wales mid North Coast, where unemployment is currently 14 per cent. It is clear that the reason the figure has remained stable and relatively high for the southeast forest region, or the Bega-Bombala shire, is that the region has a diverse economy. It is not dependent on one industry. It is broader than the forest industry and a number of other industries. That factor needs to be taken into account when developing a new strategy for that region.

I want to return to that subject in a moment because honourable members need to be aware of the fact that the legislation addresses that very question. The legislation does not seek to establish any new national parks. It seems to be the frantic view of members opposite that it does. The bill deals with the process of establishing national parks, the development of new industry alternatives and the

assistance packages necessary to be able to implement any adjustments that need to be made. This legislation fits sensibly within the context of endeavouring to find new solutions to regional problems. I know that recently the Minister made a speech at Bathurst, and I have had an opportunity to read that speech.

The Hon. Jan Burnswoods: He is in Bathurst a lot.

The Hon. I. M. MACDONALD: There is no doubt that the Minister has a special affection for Bathurst, as he has mentioned quite often. Having read that speech, I understood that he has concerns about regional development. I share those concerns. He has some concepts for the future, which I also share. The regional development strategy that is inherent in the legislation has not been considered. The issue has been looked at in a blinkered and emotional way. The legislation provides a process to enable any necessary readjustments to be made in sorting out the extent of the national park system in the region and any possible further future inclusions in terms of world heritage. It provides for the necessary changes to ensure that employment is high. I return to employment issues. Undoubtedly the sawlog component of the hardwood timber industry is in long-term decline, as it is elsewhere in Australia.

The Hon. R. S. L. Jones: Is that Judy Clark's paper?

The Hon. I. M. MACDONALD: No. I am reading parts of a paper by John Formby.

The Hon. R. S. L. Jones: What is the title of the document?

The Hon. I. M. MACDONALD: The title is, "Employment in South East New South Wales - A Review and Proposed Employment Package". There is ongoing substitution of softwood for hardwood in the sawn timber market, as the Minister would be aware. Softwood sawlogs had captured 61 per cent of the Australian sawn timber market by 1990, and are projected to take 72 per cent by the year 2000.

The Hon. R. S. L. Jones: The hardwood industry is actually dying.

The Hon. I. M. MACDONALD: I have stated that in the figures I have just quoted. The rate of substitution in some uses is dramatic. For instance, in 1983 in Victoria, as all honourable members would be aware, four times as much hardwood as softwood was used in house wall frames.

The Hon. R. S. L. Jones: Is that in South Australia?

The Hon. I. M. MACDONALD: I am talking about Victoria. By 1990 twice as much softwood than hardwood was used. So the decline is dramatic. The production and consumption of hardwood sawn timber has been declining in recent years because of competition from softwood. It is believed that this decline will worsen as maturing softwood plantations double over the next decade. This decline will be accompanied by the construction of additional softwood sawmills, which will be able to process up to 300,000 cubic metres of timber a year offering economies of scale well in excess of hardwood sawmills. For instance, Duncan sawmill at Eden, the largest sawmill in the region, processes about 30,000 cubic metres of timber each year.

That production level demonstrates the need for industry to move beyond inefficient, old industries, which are declining, to more effective, efficient industries, which will maintain its competitive advantage in the future. There could be short-term recoveries on the hardwood side. However, the decline in employment will continue due to competition from softwoods and the effects of overcutting. About 90 per cent of the volume of hardwood logs are exported from the region as woodchips. I have always been concerned about Australia exporting hardwood timber for woodchips, as it is an inefficient, ineffective misuse of this resource. Australia's share of the Japanese market declined from 67 per cent in 1986 to 45 per cent in 1990. Large areas of eucalypt plantations, which have been brought on stream in recent years in Brazil, South Africa, Portugal and Spain, will come into production in the next decade.

Australia's current level of woodchip exports from native forests is only about 5 per cent of projected annual pulpwood supplies from overseas eucalypt plantations. Plantation grown eucalypts generally produce better quality pulpwood than native forests. So again there are constraints and difficulties for the long-term future of the hardwood woodchip industry. The model of the Resource Assessment Commission for future timber availability shows that, with no logging in any national estate areas and the cutting out of old-growth forests, by the year 2012 regrowth will generate 590,000 tonnes of pulpwood annually under integrated logging. This is well above the long-term annual commitment of 504,000 tonnes to Harris-Daishowa. As I have said, the Commonwealth Government has adopted a policy of phasing out woodchip exports by the year 2000. I will deal with that in more detail later when I discuss the National Forest Policy Statement.

The Hon. R. S. L. Jones: That target might not be reached.

The Hon. I. M. MACDONALD: As the Hon. R. S. L. Jones has pointed out, that target might not be reached.

The Hon. R. S. L. Jones: It will not last that long.

The Hon. I. M. MACDONALD: No, it will not last that long. Another issue which would be of interest to honourable members is the question of subsidies. In recent years I have heard many debates by honourable members in this Chamber who have been concerned about government involvement in industry development. On many occasions I have had to endure speeches made by the Hon. Dr B. P. V. Pezzutti, for instance, that the Government

should have no role in industry development. Other Government members also have strict views on this subject, although that might not be true of National Party members.

The Hon. R. S. L. Jones: They are agrarian socialists.

The Hon. I. M. MACDONALD: As the Hon. R. S. L. Jones has said, they have often been described as agrarian socialists. The Hon. D. J. Gay described himself as a green socialist. I applaud some aspects of that. Members of the National Party have never had any difficulty with the concept of a level playing field. They have argued forcibly on many occasions for industry subsidies when it has suited them politically. Employment in the native forest-based hardwood timber industry is heavily subsidised. The New South Wales Forestry Commission pays no resource rental on the forests which it exploits commercially, nor does it pay local government rates. The New South Wales Forestry Commission receives further subsidies through the Forestry (Amendment) Act, which provides relief from interest for debts in excess of $100 million. The intention was to replace interest payments with dividends, but in 1987-88 and 1988-89 no dividends were paid to Treasury. That is ironic! The Minister for dividends, the Minister for Planning and Minister for Housing, cannot get his grubby hands off the Water Board's money, but he says that we cannot hit the Forestry Commission for a dollar or two.

The Hon. R. S. L. Jones: The Government gets a bit now.

The Hon. I. M. MACDONALD: It does get a bit now, but for a few years under this Government the Forestry Commission was not paying a cent. The Minister is so concerned about jobs that he has sacked 10,000 of his own public servants. The timber industry's use of public roads is subsidised. What goes on in those areas? I can remember in the early 1980s the struggle to create those fabulous national parks on the North Coast of New South Wales. I vividly remember checking out some of the activities of the Forestry Commission.

The Hon. E. P. Pickering: In Bob Carr's helicopter?

The Hon. I. M. MACDONALD: I do not recall going there in a helicopter; certainly not Bob Carr's. If Bob Carr had offered me a little ride in a helicopter I would have been only too pleased to take it. I recall driving to that area and driving through the forests. There is no doubt that the New South Wales Forestry Commission is pouring millions into the timber industry. In the early 1980s members of the Liberal Party desperately tried to prevent us from establishing national parks on the North Coast. Every national park proposal that we put up was resisted from go to whoa. The same arguments were used year in and year out. When I visited the big scrub up north I discovered an unsealed freeway that had been built for a few logging trucks.

The Hon. E. P. Pickering: Did it help?

The Hon. I. M. MACDONALD: It certainly made my journey through the area more rapid. The cost to the Forestry Commission and to the taxpayers of New South Wales of the establishment of these roads would be enormous. That is another direct subsidy to industry which the Minister does not take into account when evaluating the true economic benefit of this industry.

The Hon. R. S. L. Jones: Who pays for the roads to be maintained after the logs are gone?

The Hon. I. M. MACDONALD: The Hon. R. S. L. Jones has raised an interesting point. Who does maintain the roads? It certainly would not be the logging companies. The Forestry Commission, and therefore the taxpayers, would maintain the roads. It is a disgrace. These factors should be taken into account when the Minister is evaluating the economic benefit of this industry.

The Hon. E. P. Pickering: The beef farmers would have made use of that road as well.

The Hon. I. M. MACDONALD: What did you say?

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! I remind the Hon. I. M. Macdonald that he must use the proper forms of address for members in this House.

The Hon. I. M. MACDONALD: What did the Hon. E. P. Pickering say?

The DEPUTY-PRESIDENT: Order! I remind the Hon. I. M. Macdonald that he should address the Chair.

The Hon. I. M. MACDONALD: Madam Deputy-President, I was just trying to pick up on one of the more intelligent interjections by the Hon. E. P. Pickering. As I have said, the timber industry's use of public roads is subsidised - a matter that is acknowledged by the Hon. E. P. Pickering. Dr P. G. Laird of the University of Wollongong has estimated that, in 1985-86, this subsidy was $1.56 million for truck traffic relating to the Harris-Daishowa woodchip export operation on one road alone. The State put in $1.56 million to maintain that road. In general terms, I do not have great difficulty with subsidies to assist new industries develop in this State, but what is happening is a continual handout for this industry. It would cost the Government $7 million or $8 million to get the Letona factory going and it cannot be done, yet on the roads down in the southeast forests millions of dollars are spent annually subsidising road needs and uses of the forestry industry.

The Hon. D. F. Moppett: What about the royalties they are paying?

The Hon. I. M. MACDONALD: I will come to that shortly. The future employment rate is important in determining how we evaluate the comparative industries and the industries that should be developed - the clusters we need to create within the southeast region.

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The Hon. R. S. L. Jones: And jobs.

The Hon. I. M. MACDONALD: And jobs, as the Hon. R. S. L. Jones says; long-term sustainable jobs.

The Hon. R. S. L. Jones: Not short-term woodchipping jobs.

The Hon. I. M. MACDONALD: The main prospects for employment growth in the region will be outside the hardwood timber industry. Softwood sawmilling and related activities will expand rapidly over the next 20 years. It is in the softwood area that the expansion will be greatest. The anticipated growth by industry sector in the region is in tourism, retirement-related industries, services and, of course, construction.

The Hon. D. F. Moppett: We will have to get rid of the roads, though, will we? Will we have to get rid of the roads there, for tourism? The honourable member was worried about the roads.

The Hon. I. M. MACDONALD: The Hon. D. F. Moppett is again talking about roads. I would think that one would not have to get rid of every road that has already, unfortunately, been put through some of these areas.

The Hon. D. F. Moppett: The honourable member thinks there is another benefit as well as forestry? I am glad he acknowledges that.

The Hon. I. M. MACDONALD: We would not have to get rid of them, not per se. The Hon. D. F. Moppett -

The Hon. Jan Burnswoods: Should we spend taxpayers' money covering up roads?

The Hon. D. F. Moppett: I wanted the honourable member to acknowledge that they had a use

other than forestry.

The Hon. I. M. MACDONALD: In the long term, hopefully, if we can keep an area relatively intact by having a properly evaluated national park, which it is proposed this bill will lead into, some of the roads will be useful tourist roads. There is no doubt about that. But many of the roads go straight through areas in which they have cut down every tree in sight.

The Hon. R. S. L. Jones: Absolutely!

The Hon. I. M. MACDONALD: Absolutely, as the Hon. R. S. L. Jones said. There are many other sides to the timber industry that lead me to the conclusion that the hardwood side in particular is not in the long-term equation for the area after all. As a contrast, I want to look at the industries that need to be developed within the southeast forest region. I will start off with tourism because, in considering this bill and where we go with industry development within the area, we have to look at tourism very carefully. As I said before, tourism and the felling of these old-growth forests are incompatible activities. The tourist industry in the region is large and growing rapidly and the bill is directed towards that, offset against the national estate. It is directed towards future readjustments and tourism is a very important consideration within the context of what it is envisaged the bill will achieve.

The tourist industry in the region is large and growing rapidly, and has major potential for future growth. As previously noted, in 1989-90 the number of visitors to the region grew by 4 per cent and visitor nights by 15 per cent. Continued growth will be assisted by the increasing tendency of Australians to take their holidays within Australia. That has been a very encouraging development in recent years. In 1988-89, tourists spent $157 million in the Bega Valley shire alone. That can be compared with a turnover of $66 million for the timber industry in the region, only 62 per cent of which is returned to the local economy - as noted in the Department of Planning assessment for 1991. Tourism generates 2½ times as much turnover in direct and indirect employment as the timber industry.

The Hon. R. S. L. Jones: And there is more net profit.

The Hon. I. M. MACDONALD: The Hon. R. S. L. Jones, who every member in this Chamber would acknowledge is a fine businessman with a good eye for profit, points out that not only is the industry 2½ times the size in gross dollar terms, but for every dollar earned there is a higher percentage of profit within that dollar, and it stays in the region. A very fine document released by the New South Wales Tourism Commission in 1990 entitled "The Regional Tourism Strategy" regards the region as an uncut jewel with a tourism potential which has only been partially realised. As I said, for years I visited Bermagui over the summer and stayed with some very good friends who happened to be artists in the area. They produced a lot of their art of the local area, Mumbula Mountain and through the region. They did beautiful paintings of landscapes in the region. It pains me to think that some of them have already been logged. One could appreciate the array of natural beauty and the potential for tourism as an income generating replacement for a declining timber industry. If we continue to log old-growth forests, some important areas that would attract tourism to that area and generate income, and thereby create jobs, would be jeopardised.

I turn now to the issue I have touched on several times, that is, the conflict between tourism and logging. Obviously, they are incompatible activities. Given the much larger economic contribution and growth potential of the tourist industry, and the declining and subsidised nature of the hardwood timber industry, it would seem a reasonable presumption that any conflict between the two which would seriously damage the future of the tourist industry should be resolved in favour of the latter. That is the first essential point that we have to grapple with as we deal with this bill.

That is, if we believe that there is a rapidly expanding industry with competitive advantages, and if we believe that the region has an advantage over

other regions because of this competitive advantage, why are we not assisting the development of the developing industry? The key to such conflict is the ongoing logging of old-growth forests, as has been pointed out several times, and as the Hon. R. S. L. Jones has made clear in his contribution earlier in the year. The matter has been raised in numerous questions in the five years he has been in this Chamber.

The Hon. R. S. L. Jones: It is a national tragedy.

The Hon. I. M. MACDONALD: As the Hon. R. S. L. Jones said, it is a national tragedy. The key to such conflict is the ongoing logging of old-growth forests not included in the present inadequate national park system in that area. It has been acknowledged by almost everyone who has made an assessment of that region that the national park system within that region is currently inadequate. As well as having ecological value, the old-growth forests have spectacular watercourses and scenery and contain important existing and potential visitor destinations. That is part of the reason the New South Wales Tourism Commission concluded that the region is the uncut jewel of tourism in New South Wales.

The Hon. R. S. L. Jones: It is a cut jewel now. It is cut right down the middle.

The Hon. I. M. MACDONALD: Very much a cut jewel. If logging continues in the region it will undermine the future potential for tourism, employment and income. Further conflict between tourism and logging occurs in relation to water supply and water quality. I have already referred to my horror at the extent of logging occurring near watercourses. The coastal tourist towns of Merimbula and Pambula depend on water from the Tantawangalo catchment. In 1982 Tantawangalo Creek stopped running in drought conditions for three months, causing water shortages in those towns. As coastal towns expand, water supply will become even more critical. Tourism industry development within the region will create more demand for good quality water supply. While the magnitude of its effects varies between locations, logging affects both the quality and quantity of runoff. It also causes downstream siltation, as was mentioned by the Hon. R. S. L. Jones.

The Hon. D. F. Moppett: In Papua New Guinea or some of those other countries where you are going to force those other industries.

The Hon. I. M. MACDONALD: The Hon. D. F. Moppett raised a very good issue that should be dealt with later in the debate. I will make a note of that. I think I have given a fairly comprehensive analysis of the tourism industry in the region -

The Hon. Patricia Forsythe: You have a lot more to say about that, surely.

The Hon. I. M. MACDONALD: I could, and I will. The question of developing tourism has exercised the mind of the Hon. Patricia Forsythe on many occasions as chairperson of the Standing Committee on State Development. The regional tourist strategy has identified a number of tourist-related development opportunities in the region. The strategy has identified a few critical examples. For instance, action needs to be taken to improve the inadequate road and air travel access to the region; the transport infrastructure of the region needs to be improved; improved or additional coastal facilities need to be provided in heavily used areas, for example, recreational fishing wharves - The Hon. Jennifer Gardiner would not have any difficulty with that; packaging of tourist activities based on such things as sightseeing, adventure, sport, culture, nature, ecotourist development; development of a year-round calendar of events to attract visitors - again the Hon. Patricia Forsythe would be keen to see this developed in the area; and offsetting the need to constantly scramble over every piece of pulp and growth hardwood timber available in the area to be chopped down and exported for wood chips; development of a detailed database on the types of visitors and their needs, and identification of gaps and needs in their related facilities; improved information and access to key recreational areas inside national parks - again, this is a vital area because it has the potential for growth but can be so easily compromised by further logging of old-growth forests; and, finally, assuring that original planning and development enhances the natural attributes of the region.

I feel that the case I put forward in relation to tourism is compelling. It is the growth industry in the region and it is the industry that is most compromised by the continual logging of old-growth forests. In other words, this Government is subsidising a disincentive to the economic development of the region. It is promoting an industry which, in broad terms, is undercutting - in the way it is structured at the moment - the major growth area for employment and income generation in the southeast forest region. A number of other areas - for instance, the retirement industry - have potential for employment and jobs development growth in the region even greater than the hardwood log industry.

The number of people aged 65 and over in the Canberra and southeast region is currently 7.3 per cent but is expected to increase by 85 per cent by the year 2000. It has many aspects similar to the growth of a larger sector of over 65s on the North Coast and Central Coast regions of New South Wales. These people move to those areas because of the unspoilt nature of the region. They do not move there because they want to see the region spoilt. That is why many of them are leading activists in the campaign for a decent national park system to be created in that area. They realise that the quality of life is jeopardised by logging of old-growth forests. The construction industry is again dependent to some extent on the previous two industry sectors I raised. It relates very closely to the development of more tourist facilities in the region and the development of retirement villages and homes for people over 65.

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In general terms that will impact on the future of industries, in particular the hardwood industry in that area. Business development in the location of the Canberra-Melbourne-Sydney corridor provides opportunity for high value added and technology-based enterprises with markets in all three cities. Location in major cities is no longer essential for many such businesses with improvements to information transfer through facsimile transmissions and computer link-ups. The expansion of these communication systems to the regional areas of New South Wales, and particularly the southeast forest region, is important to future development. I turn now to the region's future employment growth in broad terms. Employment in the Bega Valley shire increased by 24 per cent in the decade 1976 to 1986. It grew by 5.8 per cent from 1981 to 1986. This is a very complex area so I will deal with it a little more slowly than I have in hammering through other issues, in the belief that honourable members might be able to comprehend the points I am making.

If growth in unemployment for the region is 1.5 per cent, it is estimated that about 150 new jobs will be created each year, or 750 jobs in five years. The proportion of labourers and other workers in the regional work force is 18 per cent. Another 9 per cent are employed as plant and machine operators. Both these categories are relevant to forest workers seeking alternative employment. However, assuming conservatively that only 20 per cent of new jobs created are relevant to timber industry workers, an increase of about 150 such jobs should occur over the next five years. That is an important aspect for projections of how any future adjustment package will work out in terms of relocation and re-employment of people in the area. Given that the expansion of the region's softwood industry proceeds as scheduled, and I have already noted tentatively that there has been considerable expansion, sufficient new job opportunities will be created for displaced timber workers in two years' time. However, there may be a shortage of suitable employment in the period between the passing of the SEFPB and the planned development. I turn to the potential fall of the viable employment package that could be the result of the assessment process as defined in the bill.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! It would be refreshing if the honourable member did turn to the bill.

The Hon. I. M. MACDONALD: The honourable member has been dealing with the bill in some detail, in particular relating to part 5, which deals with relief measures, the role of various committees and so forth. The proposed assessments under the Act will look at all of the factors I have been talking about, both the national park factors - what should be created and what should be included in the national forest

statement - and also the relief measures that will be necessary to offset any employment decline in the hardwood industry. A potential package for the future is absolutely vital in making this bill work, not only for the National Estate but also for any readjustment programs for the work force in the region. This study assumes that approximately 100 jobs in the timber industry will be lost as a consequence of implementing the SEFPB.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! If the Hon. Jan Burnswoods wishes to contribute to the debate she should enter the Chamber. If she does not wish to do so, she should desist from making comments.

The Hon. I. M. MACDONALD: In the battle of the letters being fought in the Chamber tonight with Reverend the Hon. F. J. Nile's contribution of a letter from the Labor Council, I also have a letter that I intend to give the House of the benefit of. It reads:

Mr Bruce Dover,
Convenor,
Forest Campaign Group,
Australian Conservation Foundation,
First Floor,
8 George Street,
Sydney

Dear Mr Dover,

I refer to your letter to the Prime Minister of 7 April 1993 concerning the New South Wales South East Forest Protection Bill. The Prime Minister has asked me to respond on his behalf.

As you are aware, the agreement was reached in 1990 between the Commonwealth and State Governments concerning revised national parks for the NSW south east forests. If the proposed NSW South East Forest Protection Bill is passed by the NSW Parliament, the 1990 agreement and restructuring package would obviously need to be re-examined by the Commonwealth and NSW Governments to ensure that the package adequately reflected the extent of the dislocation to the industry and employees.

Under the 1990 agreement, $10 million has been allocated for structural adjustment. Any further assistance would be a matter for negotiation and dependent upon the size of the parks enacted under the Bill. Such funds would need to be administered by the Commonwealth.

Yours sincerely,

Frank Walker
Special Minister of State.

The letter contains three important facts or features. First, it provides a qualitative objective, "to ensure that the package adequately reflected the extent of the dislocation to the industry and employees". So we are going to do something to ensure that the impact -

The Hon. Dr B. P. V. Pezzutti: Is it possible to table that letter?

The Hon. I. M. MACDONALD: I do not mind. Do you want me to table it?

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

The Hon. I. M. MACDONALD: I seek the leave of the House to table the letter from the Special

Minister of State, which I will continue to refer to.

Leave granted.

In fact, if I may, I would like to have it incorporated in *Hansard*.

The DEPUTY-PRESIDENT: Depending on the capacity of Hansard to incorporate it.

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The Hon. I. M. MACDONALD: It is very short. In fact, it is not necessary to incorporate it as I have read it out. Second, the use of the word further means in addition. There is now a clear baseline for consideration of this structural assistance package. Third, it retains a Commonwealth administrative role in the program. I should say that honourable members might be a little confused about how the bill arose and the Australian Labor Party was able to amend it in the other House.

The Hon. Dr B. P. V. Pezzutti: There were about 40 amendments.

The Hon. I. M. MACDONALD: Some of them could be regarded as inconsequential.

The DEPUTY-PRESIDENT: Order! I remind the Hon. Jan Burnswoods that she should not interject from the gallery. If she wishes to interject, she must come into the House. The Hon. I. M. Macdonald may continue.

The Hon. I. M. MACDONALD: The Australian Labor Party was able to amend the bill substantially in the other place. The alterations are significant in the context of my remarks. In clause 3 the objects are set out:

(a) to provide for a moratorium on roading and logging in certain high conservation value forests; and

(b) to provide for the establishment of a system of adequate, comprehensive and representative conservation reserves over old growth and wilderness forests; and

(c) to provide for extensive timber supplies during the moratorium period; and

(d) to produce a worker and industry assistance package in the event of new national parks and nature reserves; and

(e) to resolve the conflict over the south east forests.

They were laudable initiatives of the Australian Labor Party in the other place. The great mistake in the approach taken by the National Party to this bill is that it believes that the bill provides for new national parks. It does not. It puts in place a process for determining scientifically what new national parks need to be created in the region. In paragraphs (d) and (e) reference is made to an industry package in the event of new national parks and nature reserves. The Australian Labor Party in the other place introduced a provision for an employment-related package so that a process for the parks was established and a way to develop those parks and also that package was put in place. That was the first of the amendments.

The Hon. Dr B. P. V. Pezzutti: People as well as parks.

The Hon. I. M. MACDONALD: People and parks was the slogan that those fine people who worked on the bill used.

The Hon. D. F. Moppett: As a result of your prolixity we have had to establish a temporary morgue next door.

The Hon. I. M. MACDONALD: I thought the National Party had been in a morgue for years. I should have thought it would need a permanent morgue. Object (d) defines a new industry policy and package. The original bill did not have any specific objects, but the Labor Party ensured that five new objects were included in the bill to clearly define the purposes of the legislation. The first two objects are directly compatible with the National Forest Policy Statement that was signed by the New South Wales Government. They provide for a moratorium over high conservation value forests, another point that seems to have been lost in this debate. An agreement has been signed to protect those high conservation value forests, yet the Government cannot quickly enough get rid of this bill, which provides for a process to establish scientifically the areas that need to be addressed in a survey. The agreement, signed by both parties, provides for a moratorium. The objects will provide also for the establishment of a system of adequate, comprehensive and representative conservation reserves over old growth and wilderness forests.

The next two objects address the need for economic responsibility, having regard to the effects of the moratorium on high conservation value forests and the need for worker and industry assistance in the event of new national parks. The final objective is one that the New South Wales Government should have addressed when it signed the 1990 southeast forests deal with the Commonwealth Government, that is, to resolve the conflict in the region. The 1990 deal did not do that. This bill is a genuine attempt to bring peace to the southeast forests. In other words, it is intended to establish a process of conflict resolution rather than the process adopted by the Minister of ramming the bill through the Chamber and getting rid of it.

In the other place the Labor Party made amendments to allow the attachment to the bill of a new map of the region. That map has finer detail than was included in the original map and is the result of compromises following discussions with interested parties. When the concept of the bill was launched it was proposed that 140,000 hectares of forest would be protected. When the bill was introduced it provided protection for 110,000 hectares. The new map allows for protection of about 90,000 hectares. Thus there has been a compromise in respect of 50,000 hectares. What could be fairer than that? This Government wants to reduce that area by half. It wants to get rid of a bill that will provide a process for determination of the issues.

The Labor Party amended the bill, introduced by the honourable member for Bligh, to bring it further into line with the National Forest Policy Statement. It required that the land described in schedule 1 to the bill was to be investigated by the Director of National Parks and Wildlife by June 1995 - a critical point. That will allow ample time to carry out the type of research that is necessary and was recommended in the 1992 National Forest Policy Statement and in the 1991 study by the Australian National Museum.

Those eminent organisations recognised the need to protect these forests. The National Parks and Wildlife Service is the appropriate body, as it is the prime conservation agency in New South Wales and already has significant data on the southeast forests, having funded a special team in the region over the past year or so. It is also a recognition that the 1990 joint scientific committee report, on which the 1990 New South Wales-Commonwealth forest decision was based, was inadequate - a conclusion reached by many independent agencies and scientists. The committee was also criticised by the legislation committee into the bill.

The Australian Labor Party in another place made a number of other amendments to the original bill. The proposed amendment that provides a process, if you like, of how investigations into the forests are to proceed describes the establishment of a steering committee to oversee the research and assist the National Parks and Wildlife Service in its assessment of the region. Only scientists are represented. It deliberately avoids nominating interest groups, whether from industry or the environment movement. The Forestry Commission is also absent, as it is predominantly interested in timber-getting and is a

proponent of this activity in the environmental impact statement. Clause 7(1)(b) details what environmental values should be assessed. It states that the director shall:

(b) examine, under the guidance of the Steering Committee, the following environmental attributes in the region enclosed by the Victorian border in the south, Bermagui in the north, west of Bermagui to Wadbilliga National Park and south of the southern boundary of Wadbilliga National Park to the western edge of Bondi State Forest:

(i) vegetation.

A number of other items are listed. This comprises a more thorough assessment than that undertaken by the joint scientific committee. It also describes the region in which this research will be undertaken. I am advised that this is the appropriate scientific region. Clause 7(2) outlines the processes by which the research will be undertaken, including public comment and co-operation with the Commonwealth. I understand - I am sure that the Minister for Planning and Minister for Housing would concur - that the Commonwealth has already offered funding to the New South Wales Government for such a study. Perhaps the Minister in his right of reply will provide an answer.

The Hon. R. S. L. Jones: He does not have a right of reply.

The Hon. I. M. MACDONALD: No, he does not. However, I can see that he is enthusiastic. I am sure that in his contribution to the debate he will feel compelled to answer some of the questions raised tonight. The Commonwealth is to be represented on the steering committee. Further amendment was made to the original bill which instructs the director of the National Parks and Wildlife Service to propose new national parks and nature reserves in June 1995 and to prepare appropriate descriptions for their gazettal. It should be noted that such a proposal will be under the direction of the Government of the day, as the director is under the jurisdiction of the Minister for the Environment. The bill, therefore, does not oblige gazettal of the mapped areas. Gazettal of new parks must take place by 31st December, 1995 - there is roughly a six-month gap. That would mark the end of procedures under the bill and, I expect, would formalise the end of the conflict in the southeast forests.

The Hon. R. S. L. Jones: That is the point: to end the conflict - otherwise there will be conflict, after conflict, after conflict until 1995.

The Hon. I. M. MACDONALD: There is no doubt that this issue will not go away, as the Hon. R. S. L. Jones has pointed out. Unless we grapple with this issue and try to resolve it now, it will be a bugbear to the political and social processes not only here but in the southeast forests. I imagine that if the conflict is not resolved there will be increasing disputation in the forests over the years. The State would then have to give another indirect subsidy to the timber industry by endeavouring to arrest individuals protesting in the forests. Instead, we should work out a compromise along the lines raised here. For example, 90,000 or 100,000 hectares could be allocated for a new national park. The park should be viable, not just little bits of green stuck on a map with strips separated from each other and no corridors.

There are a number of provisions relating to compensation. Those provisions are equitable and just treatment of the workers. The Australian Labor Party, in assessing its attitude to this issue, has not forgotten the work force of the region. It believes that, if there has to be some relocation of industry or closure of certain parts of industry, the workers should not be forgotten and should be redeployed, retrained and encouraged to enter into the new industries generating in the area. They should be compensated for that. At present there are several long-term agreements between the Forestry Commission and the mills, including Harris-Daishowa. Under certain circumstances they provide opportunities for claims of compensation by the mills in the event of loss of timber resources.

While only one timber mill will be affected, as will a small proportion of Daishowa's input, the agreements have the potential to completely distort the assistance package. The amendment moved by

my colleagues in another place puts workers and the industry on a level playing field. Industry should receive some assistance, but not at the expense of the workers; nor should it be compensation for a lost resource, it should be assistance to generate long-term income. Another amendment moved in the other Chamber by the Labor Party allowed, in schedules 1 and 2, for three months of logging in a forest but only with the consent of the director of the National Parks and Wildlife Service.

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The logging recognises that the wind-down will be necessary as some crews will be operating in the scheduled lands at the time of assent to the Act. That is clearly catered for in the bill. It is intended to guard against a liquidation of logging action. The director may consent to the logging only so that the environmental integrity of the land is protected to the fullest possible extent. A special schedule has been prepared, schedule 6, to which the director is to have regard in deciding on applications to log in a moratorium area.

[*Interruption*]

The Leader of the Opposition has worked hard to stop the mob opposite from riding roughshod over democracy. He is entitled to have an extended blink. A further amendment relates to wilderness, an important concept which seems to be lost on National Party members in this Chamber. It changes the intent to automatically declare a wilderness and instead requires the director to investigate such a declaration under the National Parks and Wildlife Act.

As some honourable members well know, the great Coolangubra wilderness has been progressively roaded and logged over the past few years. The amendment allows for the director to investigate the restoration of the area; this would, in fact, be a marvellous employment project. There is no doubt that this wilderness has the potential to be part of the development of the uncut jewel. Another amendment moved by the Opposition in another place looked at efforts consequential to investigations of the wilderness. They require the director to provide for accurate descriptions of the lands to be found in the wilderness or wilderness restoration quality by 31st December, 1995. Amendment No. 13 has been incorporated in the bill and is a further consequential amendment to amendment No. 12. It provides for the procedure for gazettal of wilderness. The next amendment incorporated in the Act is very important so I shall take more time on it to provide some of the reasoning why my colleagues in the other place altered the bill of the honourable member for Bligh quite considerably. I shall read this measure in the bill, page 6 clause 16 as printed, which states:

Omit words on those lines. Insert instead:

16. (1) Notwithstanding any consent granted by the director under section 11, logging and roading operations on land described in Schedules 1 and 2 may only be engaged in for a period of 3 months after the date of assent to this Act and thenceforth shall be suspended until 31st December 1995.

(2) The Forestry Commission must, in view of the reduction in the supply of timber resulting from the enactment of this Act, and despite the provisions for the timetable of logging in any management plan or environmental impact statement determined prior to the date of assent to this Act, supply timber from other State forests within the Eden Management Area, consistent with annual quotas fixed by it for 1992, to the holders of licences or other agreements adversely affected by the operation of section 16(1) until 31st December, 1995.

(3) Land made available for the supply of timber under the preceding subsection (other than land described in Schedules 1 and 2) may be logged, burnt or roaded as if the requirements of Part 5 of the Environmental Planning and Assessment Act 1979 had been complied with by the Forestry Commission in respect of that logging, burning or roading.

The rationale for this amendment is as follows. It provides for the moratorium that will exist over the land shown on the map which defines the area to be utilised. It prevents logging and roading until the end of December 1995 except for an initial three months when logging will be allowed subject to the consent of the director. During the moratorium period the land will be kept intact and subject to the investigations described earlier in the debate. This provision for a moratorium is directly replicated in the National Forest Policy Statement. It is intended that our research be carried out so that a system of adequate, comprehensive and representative reserves over old growth and wilderness forest can be provided by the end of 1995 as required in the forest policy.

The amendment to part 2 ensures the supply of extensive alternative timber supplies to the end of December 1995. It obliges the Forestry Commission to provide the timber. I expect that the commission will co-operate and prevent any disruption to industry and employment. I should note that if there is a problem, any person, for example a timber worker, can take the commission to the Land and Environment Court under third party rights in the bill. The commission will not have to prepare an environmental impact statement under part 5 of the Environmental Planning and Assessment Act 1979. This means that the alternative timber will become immediately available. It is the same process as in the Timber Industry (Interim Protection) Act.

The allocation of timber in such areas was endorsed by the Australian Museum in its 1991 southeast study, one that even the most rednecked National Party members opposite would have difficulty in rejecting. They said that even if it meant the logging of alternate coups earlier than planned, it was worth it if the further study in reservation and large old-growth forest areas could be achieved. When we deal with this area it must be remembered that in coming to its conclusions in 1991 the Australian Museum took into account the depletion of the flora and fauna reserves of this area.

I shall give you an idea of the impact so far. It has been pointed out that a large number of species are endangered by continued logging in the region. These include koalas, potoroos, the powerful owl, cockatoos, pigmy possums, gliders, bats and many others. We must be careful to ensure that there is no further depletion of our fauna and flora in the area, as the honourable candidate for Bathurst opposite would be only too well aware. This bill provides that moratorium to ensure that those species that are endangered in the area can be saved. I shall give a more detailed analysis of endangered species of flora and fauna in the region. A further amendment provides that the Director-General of the Environment Protection Authority and the Commissioner of the Soil Conservation Service must, as expeditiously as possible, amend relevant licences held by, or issue

new licences to, the Forestry Commission to include additional environmental protection measures to protect wildlife, water quality and soil if logging operations referred to in this section take place in an area adjoining a coup that has been logged in the past 12 years.

The Director-General of the Environment Protection Authority, the Commissioner of the Soil Conservation Service and the Forestry Commission shall jointly issue a public report every three months detailing each licence and any conditions, and proposed logging and roading for the following six months with reasons. Ten copies of the report shall be made available for purchase by members of the public at the head office and Eden regional offices of the four agencies involved. The agencies responsible for the report may receive public comments. If an authority under the Act to take or kill protected fauna is required to enable the logging operations referred to in this section to proceed, an application must be made to the director, who may grant an authority for the purpose under section 171 of the Act. No appeal lies against the director's decision on an application for an authority under this section.

Further, to avoid doubt, the director is not a determining authority for the purposes of part 5 of the Environmental Planning and Assessment Act 1979 when granting an authority pursuant to section 171 of the Act. Further amendments to section 16 require the Forestry Commission to prepare and exhibit an environmental impact statement on logging to be undertaken by 31st December, 1995. The Minister for Planning will determine the EIS once he receives a report from the director of planning. This is the same

program as is in the Timber Industry (Interim Protection) Act. Also in conformity with the TIIP Act, the current licensing process for endangered fauna by the New South Wales National Parks and Wildlife Service and pollution control licences by the Environment Protection Authority continue during the moratorium period. However, the need to exhibit fauna impact statements and appeal provisions do not apply to endangered fauna licences from the authority under section 171 of the National Parks and Wildlife Act.

I turn to the difficulties with wildlife. A number of very detailed studies - weighty scientific documents - deal with the problems facing species in the region. The first study I refer to was done by the Commonwealth Scientific and Industrial Research Organisation division of wildlife and ecology entitled "Comment on the Report of the Joint Scientific Committee on Biological Conservation of the Southeast Forests". It is dated 30th August, 1990. Another 1990 document is the background paper on aspects of the value and role of invertebrates in the eucalypt forest of southeast New South Wales. The paper was provided to the Joint Scientific Committee on Southeast Forests by the Conservation Committee of the Australian Entomological Society. Another report has a critique of aspects of papers on the biological conservation of the southeast forests. I know the Hon. E. P. Pickering has a conscience. He must be very concerned about the impact on flora and fauna of continued logging of old-growth forest. A number of animals in the region have specific management needs. Over the past five years the long-footed potoroo has received considerable attention in this Chamber. Many questions have been directed at Ministers not only by the Hon. R. S. L. Jones but also by members of the Opposition.

The Hon. R. S. L. Jones: What about koalas?

The Hon. I. M. MACDONALD: There is no doubt that koalas are under stress not only in the southeast forests but also in many other areas in which extensive logging is taking place. We have heard of the problems at Wedderburn in the Campbelltown region and around Coffs Harbour, which the Hon. R. S. L. Jones and I looked at in detail on our journeys during the expert inquiry. The corridor management programs that have been adopted are very unsatisfactory indeed. There is a so-called wildlife corridor region on a reserve not far from my property in the Southern Highlands which is an absolute disgrace because of the conflict between crossing wombats and koalas and four-wheel drives.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Not by any stretch of the imagination could Bowral be considered in the southeast forests. I ask the honourable member to return to the bill.

The Hon. I. M. MACDONALD: I was digressing only briefly to explain the difficulties which wildlife corridors pose to the survival of wildlife. In the southeast forests they face the same problems. Animals and vehicles are incompatible and many wildlife are killed moving from one part of their habitat to another. In many ways the corridors are an inadequate management tool for endangered species. At page 13 of the report from the Conservation Committee of the Australian Entomological Society to the Joint Scientific Committee on Southeast Forests the difficulties of endangered species are dealt with. The committee looked at the impact of forestry on invertebrates. The report states:

> The experiment at Wog Wog has not yet been running long enough to produce much data on the effect of forest fragmentation on invertebrate abundance and diversity. However, there are some indications that abundances may be reduced on the smallest plots. Numbers of Amphipoda are showing consistently lower densities but these data have yet to be analysed.

The potential impact of forestry activity on invertebrates could be seen at the beginning. In dealing with aquatic invertebrates the report states:

> The principal effects of logging on aquatic biotopes are:

(a) the increased availability of light, resulting in increased algal growth;

(b) increased solar radiation, resulting in higher summer water temperatures;

(c) increased sedimentation through runoff from the soil, resulting in deposition of silt in pools and between rocks on riffles;

(d) altered flow regimes for alteration in water table through changes in vegetative transpiration.

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The results of the above physiochemical changes in the South-East Forests will include:

(a) loss of southern warmth intolerant (cold stenothermic) invertebrates;

(b) the loss of many silt-intolerant species and gain of few silt-tolerant species;

The Hon. D. F. Moppett: Wow!

The Hon. I. M. MACDONALD: The Hon. D. F. Moppett said, "Wow!" Anything that is smaller than a sheep he could not care about. He should take the debate seriously. The report continues:

(c) general loss of specialist species and their replacement by cosmopolitan, colonising taxa. In the present context this means loss of ancient gondwanan elements of the fauna and their replacement by ubiquitous taxa.

The report goes on to say:

Conclusions to be drawn from this work which is relevant to the South-East Forests are as follows. Since 57 species were collected using one sampling method and at one season, this must represent only a small part of the total Collembolan fauna of the site which is likely to be in the region of 150 species or more. The models predict reduced populations and probable loss of species if bark and log cover is reduced. There are different faunas characteristic of creek lines and slopes, hence if only vegetation of creek lines is retained after logging, a large portion of the original fauna could be lost.

In the study by the joint scientific committee it is quite clear that a large colony of invertebrates has been adversely impacted upon by the activities of forestry going on in the southeast forests now. The report continues:

Sorting some of the earlier samples from Wog Wog plots and material from a few hand collections made from the plots in January 1986 -

There is nothing much left of Wog Wog -

- has yielded 74 ant species in 28 genera. A cumulative plot of species against sample units suggests a minimum ant fauna on the plots of [approximately] 130 species.

Unquestionably there are more genera and many more species in the whole South-East Forest area. Even on the basis of 74-130 ant species this is a rich fauna in global terms.

Of the 74 recorded species, specific names can be attached to only eight, and all of these are in genera that require revision.

In other words, many of the invertebrates are not even described in these areas where the logging is taking place. The report goes on:

All the species are definitely endemic to Australia and the fauna is essentially of southern origin. It includes primitive genera.

About a quarter of the species are cryptic. These species are particularly vulnerable to disturbance, especially any that opens or removes the tree canopy.

Of the nameable species, a few are quite widespread in southeastern Australia, the rest more localised, but in no case do we have detailed information on their geographical distributions. It is highly probably that a number of the species so far recorded from the Wog Wog plots, and many others from the general area, have limited ranges within the South-East Forests.

Given the functional importance of ants, and the importance of preserving biological diversity (mainly contributed by insects) it is clear that we need an ecological-faunistic survey of the ants of the South-East Forests. At the moment, the lack of material support, work on identifying even the existing Wog Wog ant samples is in abeyance.

It is quite clear that the ramifications for endangered invertebrate species alone is severe indeed. The reduction in canopy, the siltation of water and rising temperature are all potentially destructive of these vital creatures within the Australian bush landscape. A number of other studies have been carried out that further illustrate the problem in relation to beetles. Beetles in the area have been collected four times a year since 1985, again from Wog Wog, and have been sorted and identified. Collections from pitfalls and litter extracts have been included. The report states further:

To date (January 1990) 495 species have been distinguished belonging to 53 families. There are 113 families known from Australia so this represents very nearly half the known families. Of the 495 species, about half of them have not been described as far as can be estimated at present.

Again, in relation to beetles, even the description of these particular creatures is insufficiently examined within the southeast forests region. As has been pointed out, the Wog Wog forest has been heavily logged over recent years. The report continues:

Even assuming that all the uniques taken at Wog Wog are above ground species, it is likely that the beetle fauna of a small patch of forest can consist of over 650 species.

There are a number of other invertebrates again analysed in this document that I draw to the attention of honourable members opposite. I hope over the next few weeks they might, at some stage, get the opportunity to learn a little more about the southeast forests and the impact upon small animals, such as invertebrates, of logging in these old-growth forests. I turn to the more general endangered species area. The Commonwealth Scientific and Industrial Research Organization has produced a detailed report into the various species within the area. Again it is a very complex study. In dealing with mammal density and the role of mammals with regard to the eucalypt, the correlation of biona with environmental domains, the report, when commenting on another report, noted:

The report devotes considerable attention to determining whether the flora and fauna of each domain has been sampled by the collated species data base. This is done for various growth forms of plants and taxonomic groups of animals. The fundamental assumptions made are:

(1) species plot data are representative of the domains i.e. the set of plots are an unbiased sample, and do not come from any one geographical area of the domain or from any one topographic position.

The report further stated, in paragraph (2) and paragraph (3), that the surveys recorded the same species, identified them to the same taxonomic level, and had the same intensity of sampling, particularly for fauna. The domains are uniform and homogenous with respect to the occurrence of flora and fauna.

The report then assessed the general methodology in more detail and concluded that some special problems in relation to the area and particular genera and species need further analysis. The information I have

detailed in relation to endangered species relates to one sector or species. I have not attempted to go beyond that - though I may at a later hour - to deal with mammals, kangaroos and other fauna. Suffice it to say that the evidence I have presented tonight backs up the point I made about the reason the Opposition made certain changes to the bill moved by the honourable member for Bligh in another place. This has been an important alteration to cover endangered flora and fauna. The final part of the amendment that I was dealing with previously - although not the final amendment moved by the Opposition - ensures public information about logging and roads in the non-EIS areas and licences that will be granted.

The four agencies involved are directed to issue a joint report four times a year. In order to truly assess what could be described as full accountability, I do not think any stricture greater than that could be arrived at. That is a very strong and powerful statement of the sort of information we want several times a year relating to environmental issues in the area. While public comment may be received, there is no determination process as with environmental impact statements prepared under part 5 of the Environmental Planning Assessment Act. It should be remembered that the Opposition has made provision for section 171 licences to take or kill endangered fauna. Such licences do not need a fauna impact statement or the accompanying exhibition or submission process, as in the Endangered Fauna (Interim Protection) Act.

The last proposed amendment, clause 16(13), will ensure consistency with the avoidance in the bill of environmental impact statements during the period ending 31st December, 1995. Thus the director of the National Parks and Wildlife Service does not need to do an environmental impact statement when granting an authority under the previous subsection. A large number of further amendments were made to the bill. The task of the Southeast Regional Employment and Timber Industry Adjustment Committee is important. Though it is true that new national parks would withdraw timber from industry, it is also correct that the timber industry is not sustainable and has spent few funds on value adding in the past 20 years. A new direction is needed, and the committee will address this issue. The amendment will change relevant reporting dates in this section so that they align with environmental and environmental impact statement requirements.

The Hon. R. S. L. Jones: On a point of order. I cannot hear the member's speech because of interruptions by the Hon. Dr B. P. V. Pezzutti. I ask that the honourable member be requested to desist from interjecting so loudly.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! The honourable member has heard the comments. The interjections have lessened somewhat.

The Hon. Dr B. P. V. Pezzutti: He does not really care about these matters.

The Hon. I. M. MACDONALD: I care enough about it to try to stop the lot opposite from throwing out this bill that is so important for the southeast forests region. That duty is important but onerous. However, I am willing to elucidate in full the details of the tragedy the Government is inflicting upon the people of New South Wales and the southeast forests region, especially upon jobs in that area. The Hon. Dr B. P. V. Pezzutti should not come into this Chamber and make such assertions.

The DEPUTY-PRESIDENT: Order! Members should not conduct conversations across the table.

The Hon. I. M. MACDONALD: The Hon. Dr B. P. V. Pezzutti, in raising that sort of comment about regional development and endeavouring to have a go at me, has forgotten that the bill is about regional development but viable, sustainable regional development, and not propping up an old industry as he

wants to do with his National Party mates. A new direction is needed, and the committee will address that issue. The amendment will change relevant reporting dates in this section so that they align with environmental and EIS processes in other parts of the bill. By the end of 1995 the Government of the day will have, as the basis for a proper decision on the future of the forests and the timber industry, an environmental study, new environmental impact statements, and the report from the employment committee. Certain additions to the notice to be considered by the committee have been made after discussions with the unions. The question was asked whether we consulted with the unions. We consulted with the unions. The amendment ensures that the workers are properly represented on that committee. That was the purpose of that amendment, to ensure that the work force in the region involved in the hardwood industry had a role on the committee that would make the decisions about future readjustments that need to be made in that area.

The Hon. R. S. L. Jones: They do not have a future.

The Hon. I. M. MACDONALD: They have a future under this bill. They do not have a future under this non-action by the Government of throwing out a bill that attempts to get all parties to a situation where by 1995 the structure of the region would have been redefined in a more viable and positive way. Schedule 1 to the bill defines the areas that are to be taken up in this assessment process for the purpose of determining the park as well as determining the consequent adjustments that may need to be done. It includes a number of parts of State forests in the region. I will not list them here; honourable members might easily check them up by reading the schedules at the end of the Act. Suffice it to say that they include such important areas as Bondi State Forest.

The Hon. J. R. Johnson: And Nalbaugh?

The Hon. I. M. MACDONALD: They certainly do. They include Glenbog, Bemboka, Tanja, Nullica and Mumbulla, which I referred to earlier in my contribution to this most important
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debate. Mumbulla is the area I am most familiar with in that region. I have visited the area extensively over the years. I always believed that great national parks could be created in that part of the world. Looking at that list of inclusions, it is a compromise proposal for proposed reservation areas covered by the bill. Schedule 1 is amended by omitting certain forests contained in the original bill proposed by the honourable member for Bligh.

The Hon. R. S. L. Jones: That is about 30,000 hectares.

The Hon. I. M. MACDONALD: Yes, it is about 30,000 hectares. I have dealt with that in detail.

The Hon. L. D. W. Coleman: You would not have a clue what you have dealt with. You are a little parrot reading.

The Hon. I. M. MACDONALD: I find the comments of the Hon. L. D. W. Coleman to be quite offensive and I ask that he be directed to withdraw them.

The Hon. L. D. W. Coleman: I withdraw the remarks.

The Hon. I. M. MACDONALD: In schedule 2 reference is made to the land comprised in certain parts of the State forests, shown in black on a map. It relates to Nadgee State Forest and part of Bondi State Forest. Another section deals with other land. All of it outlines the compromise arrived at in this overwriting of the original bill.

The Hon. R. S. L. Jones: And it is connected up as contiguous forest.

The Hon. I. M. MACDONALD: It is to give unity to the region.

The Hon. R. S. L. Jones: Have you seen the proposal of Reverend the Hon. F. J. Nile, where it is all broken up into little bits all over the place?

The Hon. I. M. MACDONALD: Yes. I recall the debate years ago about a national park for the region. The subject was part of the policy-making decisions of the former Labor Government. One of the proposals put up by the Forestry Commission - and the Forestry Commission has remained the same for many years - was for a national park in the region of about 40,000 hectares. It was essentially spiders' legs running all over the map - little gullies or hilltops where it was difficult to get. It was the most appalling concept for a national park in that region that I have ever seen. Unfortunately the honourable member's proposal for a national park bears a lot of resemblance to that Forestry Commission proposal of 1986 or 1987. That was resoundingly defeated in the Cabinet at the time. That is why the Labor Government, towards the end of its term in office, put forward a proposal for an 80,000 hectare forest, that is, 100 per cent greater than the proposal put forward by the Forestry Commission. Old tricksters do not die easily. Obviously the sorts of plans that Reverend the Hon. F. J. Nile put forward bear a lot of resemblance to those plans to which I have referred.

I may be able to find a copy of the old Forestry Commission plan. I would like to incorporate it in *Hansard* but I will certainly send a copy of it to the honourable member because I believe it could bear a lot of resemblance to his proposal. Schedule 3 was amended to remove some forests from investigation for wilderness, following advice received as to their inappropriateness as wilderness areas or, in the case of the Nungatta National Park, because they had already been declared wilderness. There was compromise on the wilderness determination. Another of the 20 amendments moved dealt with page 15 of the bill, to change the number of members that represent a quorum on the adjustment committee, in view of the new and lower specification of membership on the committee.

Several other important matters concern changes put forward in another place. Their importance cannot be overemphasised. The amendments to schedule 6 to the bill relate to the general guidelines that the director must take. For instance, the director must take all efforts to avoid issuing consents for compartments containing a significant proportion of old-growth forest, compartments of relatively high habitat value, compartments known to contain populations of threatened or endangered species, compartments which lie within areas which are relatively unfragmented by roads or integrated harvesting, or compartments which, if harvested, would compromise corridor values. But if the director decides to issue a consent for such a compartment, the director must, where practicable, require the Forestry Commission to place harvesting of the area concerned at the end of the logging timetable for the period concerned in section 11. It goes on to deal with wildlife corridors - an issue I have dealt with obliquely and which I will now deal with in greater detail. Wildlife corridors in Nalbaugh and Cathcart special prescription areas are shown on the maps prepared by the Forestry Commission. Regional scale wildlife corridors must have a minimum width of 700 metres.

The Hon. Jennifer Gardiner: Minimum?

The Hon. I. M. MACDONALD: Does the honourable member think it is too much?

The Hon. Jennifer Gardiner: It should be N^3.

The Hon. I. M. MACDONALD: Come on! In addition, these wildlife corridors must be chosen primarily for their high conservation value. They must, if possible, be a contiguous area of forest and should not contain roads or tracks. Boundaries should be adjusted with the aim of minimising the ratio of boundary edge to area and should follow major watershed boundaries - compartment boundaries, existing tracks or major breaks in slopes. No roads or tracks should be constructed within a wildlife corridor. Fire control lines should not be constructed within a wildlife corridor. No fuel reduction burns are to be carried out in a wildlife corridor. They are very significant regulations in relation to wildlife

corridors.

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The Hon. L. D. W. Coleman: Why?

The Hon. I. M. MACDONALD: Because I think they give the animals a chance to survive within their habitat without all the great dangers that are attendant upon a more reduced area of wildlife corridor. This has been scientifically based and drafted. It has been appraised over some time to try to give endangered species within the area a chance of survival by enabling them to move from habitat to habitat. Indeed, the width gives them a chance. A contiguous area of forest should not contain roads or tracks. It means that vehicles, particularly off-road vehicles, are not able to travel through these corridors, thereby giving the animals a chance. No roads or tracks should be constructed within the wildlife area.

Fire control lines should not be constructed. As the Hon. R. S. L. Jones has pointed out, fire has been a great problem for the survival of species in the area, particularly as the habitat is now being reduced by continuous logging. No fuel reduction burns are to be carried out in the wildlife corridor. That is important in relation to the study on invertebrates that I related to the Chamber in that with the reduction of litter in an area there is a reduction in the number of species of invertebrates in that area. It is very important that no fuel reduction burns are carried out there. Clause 3 reads:

Tree retention

3. For the purposes of this Schedule:

(a) habitat trees, with the largest tree having a minimum diameter of 60cm dbh (variable with forest type) should be retained in evenly spaced clusters, with a minimum of 5 trees per cluster; and

(b) each cluster must contain at least one retained tree with hollows; and

(c) 3 clusters per hectare on average, together with associated understorey vegetation, should be retained unless varied by written consent of the Director; and

(d) the clusters and their canopies must not be damaged during harvesting operations.

Again, this change to the original bill provides a habitat for the survival of endangered species.

The Hon. L. D. W. Coleman: Species such as?

The Hon. I. M. MACDONALD: The long-footed potoroo. Has the honourable member not been listening? In fact a minimum of five trees per cluster creates microhabitats that within the overall environment ensure that the canopy is retained so that many of the species that in their life-cycle are dependent on the role of canopies are given a chance to survive.

The Hon. L. D. W. Coleman: Can you give an example?

The Hon. I. M. MACDONALD: I have. I told honourable members about the beetles before but the Hon. L. D. W. Coleman was not listening. I will go back over the beetles. Beetles collected four times a year since 1985 from Wog Wog plots have been sorted and identified. Both collections from pitfalls and litter extracts have been included.

The Hon. J. P. Hannaford: On a point of order. The material the honourable member is reading on this occasion is repetitious. He has put the material before the House previously. I urge you to

uphold the standing order concerning tedious and repetitious material.

The Hon. R. S. L. Jones: On the point of order. I do not believe this matter is repetitious at all. The honourable member mentioned litter on one previous occasion and mentioned invertebrates. There are hundreds of species of invertebrates living in this forest, all of which are endangered by the logging and burning regimes currently taking place. This bill is attempting to save some of the species that will be lost unless this bill passes. What the honourable member is talking about this morning - now at 5.35 - is extremely important stuff. From my careful listening to his speech over the last short while, I do not believe he has been at all repetitious. I ask you to rule that this is not out of order.

The Hon. I. M. Macdonald: On the point of order. I have not been repetitious in one instance in this whole speech. So far I have covered a broad area, and I have many other areas to cover. It is a big area down there. I had intended to move on and deal with matters I had not raised in relation to beetles.

The DEPUTY-PRESIDENT (The Hon. Beryl Evans): Order! I have heard sufficient. I distinctly heard the member say, "I have read this in some detail". I ask the member not to be repetitious and to return to the bill. At the same time members should keep tempting chats from the benches to a minimum.

The Hon. I. M. MACDONALD: Madam Deputy-President, I happily abide by your ruling. With clusters the bill does provide a means whereby the endangered species in the area can at least have some ability to survive. Creating clusters in that scientifically assessed and judged way gives them a bit of a chance. The environmental prescriptions in schedule 6 contain details about filter strips. They read:

(a) filter strips must be a minimum of 50m on either side of a stream or where the fall into a drainage line is more than 18 degrees, and 20m on either side of a drainage line where the fall is not more than 18 degrees; and

(b) filter strips must connect areas of riparian vegetation to unlogged forests on ridges; and

(c) trees must not be felled into filter strips; and

(d) post logging fires must not damage filter strips.

So again the bill and its schedules provide a means to ensure that we have adequate, proper and sustainable filter strips within these areas.

The Hon. R. S. L. Jones: It is scientifically worked out.

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The Hon. I. M. MACDONALD: Yes, scientifically worked out, again to ensure that we give endangered species within the area a chance against the rapacious activity of the more overworked loggers some of whom do not abide strictly by the guidelines. I have seen that. The environmental prescriptions continue:

General prescriptions

5. The Director should ensure that:

(a) fires lit to promote regeneration of logged areas must not damage or destroy adjacent unharvested areas; and

(b) only temporary logging tracks may be constructed; and

(c) no primary, secondary or feeder roads, (class 1, 2 or 3 roads) will be constructed; and

(d) logging debris is moved away from retained clusters of trees to protect them from regeneration burns.

In summary, in relation to this particular amendment this schedule has been prepared to assist the director in his decisions about logging that may take place in the moratorium area. It is partly based on the independent scientific report on proposed logging in the Nalbaugh special prescription area prepared by scientists for the National Parks and Wildlife Service.

The Hon. R. S. L. Jones: 1402.

The Hon. I. M. MACDONALD: Yes, 1402, as the Hon. R. S. L. Jones points out. It is a disgraceful action on the part of the Forestry Commission to allow that to occur. The sensible recommendations of this report were resisted by the Forestry Commission to the extent that the main special prescription area became a farce and, as the Hon. R. S. L. Jones pointed out with 1402, that has cut into an area that should have been maintained. I am indebted to the Hon. R. S. L. Jones for some information that backs up my statement in relation to my point on the special prescription areas relating to compartment 1402, harvesting plant, compartment details. Going down to the estimated pulp, head-butt salvage and reject trees, the reject trees that will be woodchipped contain the hollows that endangered fauna depend upon for shelter. They are to be knocked out for pulp.

This is the very thing that we are endeavouring to cover within the schedules to the Act that I have been rendering in some detail. The types of trees to be taken include swamp, silvertop ash, messmate, messmate-gum, brown barrel, brown barrel-gum, brown barrel-messmate-ash and white ash. Brown barrel, as the Hon. R. S. L. Jones has pointed out, are in the order of 300 to 400 years old. They are very precious trees and should be preserved. I recall vividly as a child living near the Strzelecki Ranges in Victoria where one of the most magnificent forests was decimated by a rapacious forestry industry in the early part of this century. In fact in that particular forest at a place called Hawkesdale were trees probably as big, if not bigger than, the American redwood. I have seen the photographs of those trees and the height of those trees down the only path left of that forest through the whole Strzelecki Ranges -

The Hon. D. F. Moppett: Mount Nash.

The Hon. I. M. MACDONALD: Yes, I am talking about Victoria now. Those forests were totally decimated to the point where only the Tara Valley forest is left, a national park of extraordinarily small proportions. The rest of the Strzeleckis are virtually treeless, except for willows growing along river courses and a few other European trees around the houses of former dairyfarms. The structure of the Strzelecki Ranges has been totally altered.

The Hon. L. D. W. Coleman: Is it dairyfarming country?

The Hon. I. M. MACDONALD: It was one of the most magnificent forests in the country. It was first opened up for the taking of timber, but the timber was stripped. Nothing was left standing. The land was then converted to dairyfarms. Now it is more general beef farming with some dairyfarming. The brown barrel, as the Hon. R. S. L. Jones has pointed out, is in the order of 400 years old. That tree has been pulled out of the old-growth forests in the southeast forests. It has to stop. The bill contains general prescriptions to ensure that will occur:

(a) fires lit to promote regeneration of logged areas must not damage or destroy adjacent unharvested areas; and

In other words fires cannot be lit in old-growth forests for burning off:

(b) only temporary logging tracks may be constructed; and

(c) no primary, secondary or feeder roads (class 1, 2 or 3 roads) will be constructed; and

(d) logging debris is moved away from retained clusters of trees to protect them from regeneration burns.

Again, another very sensible prescription that can be added to this endeavour to save the national forests of southeast New South Wales. These prescriptions have been based upon a study that gives detailed recommendations that can be applied by scientists to these areas for the National Parks and Wildlife Service. The sensible recommendations of this report were resisted by the Forestry Commission to the extent that the main special prescription area became a farce, as was pointed out by the Hon. R. S. L. Jones in relation to compartment 1402. I recognise that some interim logging may be necessary, but the Parliament cannot condone a liquidation logging exercise, and the director's close attention to the schedule will prevent such an event. It brings the National Parks and Wildlife Service more within the actual play that is occurring in these forest areas in an endeavour to ensure that they are not destroyed in the way that this Government is proposing to allow, by its act in throwing out overnight the southeast forests bill.

I know that throughout the presentations by the Hon. P. F. O'Grady, the Leader of the Opposition and myself, members opposite have exercised a lot of scepticism. That scepticism is based upon a misconception about forested areas of southeast New South Wales. It is also based upon a miscalculation about both the economic import and the future
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directions for economic development in the region. One should survey what are, in effect, world heritage values and, therefore, the need to protect the forests in the far southeast of New South Wales. I do not think anyone can turn to two more noted authorities in this area than Geoff Mosley and Alec Costin in terms of assessing the southeast forests for their inclusion in the national forest. In relation to this area the authors, in providing us with an executive summary, come to the following conclusions:

The Hon. R. S. L. Jones: What is the paper called?

The Hon. I. M. MACDONALD: "World Heritage Values and Their Protection in Far South East New South Wales", by Geoff Mosley and Alex Costin. The conclusion states:

1. An assessment of the natural environments of the Far South East of New South Wales against world heritage criteria for natural properties shows that these merit inclusion in a world heritage nomination focused on the eucalypt dominated sclerophyll open forests of South Eastern Australia (currently termed the 'Australian Alps' proposal).

These two experts, straight off, believe that these forests should be included in world heritage and that they have the properties necessary to achieve such.

2. The inclusion in the world heritage nomination of the natural areas of the Far South East is needed to add otherwise unrepresented land systems, plant species, vegetation communities, a significant natural feature of the wider region - the Great Escarpment, a major coastal wilderness shared with Victoria and significant habitats of characteristic, rare and threatened plants and animals. It would also make possible the inclusion of a continuous series of reserves from the Tableland to the sea, sampling ecological and biological variations which reflect rock types, soils, and slope as well as differences in temperature and rainfall related to altitude and aspect. It would add 'megatherm' plant elements to the vegetation represented in the world heritage nomination.

3. The Far South East of New South Wales is a diverse part of a region (South Eastern Australia)

which is itself the most diverse of the Australian areas (and hence the world's) dominated by sclerophyll forest vegetation. The moist eucalypt forests of the region are amongst the more diverse, temperate mesic forests in the world and have a rich marsupial fauna. These and the dry grassy eucalypt woodlands and forests have a high species diversity compared to open forests around the world . The Far South East has one of the richest bird faunas of any Australian region.

4. The identification of the world heritage qualities of the Far South East shows that because of their distinctiveness they are not dispensable. To provide a level of protection appropriate for world heritage values a conservation reserve system is proposed which extends the existing network of reserves and establishes a large interconnected system with two east-west corridors linking the more or less continuous coastal series and the continuous escarpment park. The main features of the proposal are shown in a sketch at the end of this summary. By conserving the key coastal and escarpment environments and samples of species and communities throughout their geographical and ecological ranges this is adequate to protect all major world heritage values.

5. The natural areas of the Far South East will not fully sample the conditions of integrity necessary for inscription on the world heritage list unless the conservation reserve system is extended to include all the features of value. Apart from contributing distinctive attributes to the nomination their inclusion will through the increase in size and variety of the protected areas, the replication of features and the protection of potential wilderness areas, improve the integrity and evolutionary flexibility of the wider nomination.

6. The utilisation of forests for wood production cannot be made compatible with the on-site protection of world heritage values but adverse impacts on world heritage values in adjacent conservation reserves where world heritage values have been secured can be minimized by management.

7. The commitment of the major part of the region's forest to pulpwood in 1970 was made in the absence of the full realization of its conservation values. The world heritage values of the South East Forests and the wider region were not recognised. This is the first time the world heritage values of the region have been considered in detail.

The Hon. R. S. L. Jones: Far too late.

The Hon. I. M. MACDONALD: Yes, that is absolutely right. It is certainly far too late for compartment 1402. The forest I saw was absolutely decimated by heavy felling. The paper continues:

Neither the Joint Scientific Committee nor the Resources Assessment Commission considered the conservation requirements for the protection of potential world heritage areas. Since the international criteria are different and more stringent than for the protection of national or regional conservation values neither of these two bodies offered useful guidelines for world heritage identification. A review of the conservation reserve system is needed in the light of the new information.

8. While the world heritage qualities identified in this report are being considered by Government it is desirable that there be no logging or further logging in any of the proposed conservation reserves suggested as being necessary for protection of world heritage values.

9. A decision on the world heritage values identified in this report is urgent. Logging of the undisturbed or relatively undisturbed forest in the first integrated logging cycle has almost reached the halfway mark. Further logging will systematically remove the world heritage qualities and too much of its value could be lost to justify inscription on the world heritage List.

[*Interruption*]

Yes. Those wise words by Mosley and Costin have obviously gone over the heads of members opposite. They do not realise the integration that is necessary to fully protect the habitat. They think areas here and there can be attacked. They do not look at it in an integrated way to ascertain how these areas interrelate to the various species and tree types within that environment and how necessary they are for a broad range of creatures. The only way to overcome these difficulties is to make sure that there are broad national parks and wilderness areas where old-growth forests, in particular, are protected from the ravages of the saw. I turn to another issue that is of considerable importance in this debate. A large number of other issues are also important in the consideration of this bill. What do some of the local people think of the need for a bill to protect the southeast forests?

The Hon. D. F. Moppett: They are practical people who want a sensible compromise.

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The Hon. I. M. MACDONALD: The honourable Doug Moffitt says people want a sensible compromise.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member's name is Moppett, not Moffitt or Muffett.

The Hon. P. F. O'Grady: On a point of order. It is an early hour of the morning, and it is a little unfair to pick on my colleague for the mispronunciation of another member's name. I ask you to show some lenience to the honourable member.

The DEPUTY-PRESIDENT: Order! No point of order is involved. When the Hon. I. M. Macdonald started his contribution he was mispronouncing the Hon. D. F. Moppett's name.

The Hon. I. M. MACDONALD: The honourable member opposite has referred to a sensible compromise. I do not think he has looked sufficiently at the issue. He is going along with Peter Cochran, the fellow from the area. Peter Cochran has obviously nailed the plan, because he is not in the slightest bit interested in the region; he is only interested in forests around Bathurst. The honourable member opposite has not had a detailed look at the compromises that were involved in the formulation of this bill. The area suggested for nomination has been greatly reduced. Many activities that were not in the original proposal will be permitted. A number of sensible proposals have been made to save these old-growth forests.

The Hon. R. S. L. Jones: Why do they not plant their own resource?

The Hon. I. M. MACDONALD: The Hon. R. S. L. Jones asks why they do not plant their own resource. Why do they not farm on a sustainable basis? Only in the past few years has the Forestry Commission finally realised that it had better grow some more trees somewhere. Up until then people were allowed to take trees out on a non-sustainable basis and not replace them. That is why this continent has the greatest reduction in forest cover of any continent. It is more than 100 per cent. The honourable member opposite should be careful when making an assessment about what the bill contains. I do not think he has had a look at it.

The Hon. D. F. Moppett: I have certainly had a look at it.

The Hon. I. M. MACDONALD: You have not had a detailed look at it. That is obvious from the many comments you have thrown across the Chamber. After I have finished you can tell us what you think is wrong with the bill. I want to hear it. I am sure the people of New South Wales will want to hear it. The point is that you have not given any cogent reasons why this bill should not be passed. You have only slung a few slogans across the Chamber every now and again. It is incumbent upon you and the Minister to give a comprehensive review at a later stage in the sitting today of why you want to throw

out an important piece of legislation that is an honest and decent attempt to try to find a compromise to offset the conflicts occurring in the southeast.

As I pointed out before, those conflicts must be resolved before they escalate, because if logging of old-growth forests continues, disputation and conflict between the various parties will increase. That will mean that the police Minister will use his helicopter to fly down to the southeast forests and direct the arrest of every young person who wishes to protest about 400-year-old trees being knocked over. I believe that my approach is the correct one and that the honourable member's approach of throwing out the bill is the wrong one. The Government does not intend to honour the agreement signed in 1990 by Mr Greiner and the then Prime Minister Mr Hawke. The Government has no proposals of its own to solve this conflict. It just wants to get rid of the problem.

The Hon. D. F. Moppett: What is the Federal Government saying about your proposals?

The Hon. I. M. MACDONALD: I have read out the proposals of the Labor Party. The Federal Government supports them. That is clear and indisputable.

The Hon. D. F. Moppett: That is not how I see it.

The Hon. I. M. MACDONALD: I am sure that that is not how the Hon. D. F. Moppett sees it. I wish to refer to some of the specific comments that have been made by local people in relation to logging in this area. Many organisations and individuals are of the view that logging should not be allowed to proceed. These people have a genuine commitment to saving an important industry. The Hon. Ann Symonds has drawn to my attention the fact that I have failed to refer to the possums and marsupials in the area. I will deal with that later. Concern has been expressed by people in the local area. A few years ago, Kameruka Estates Limited, in a letter to Senator Cook -

The Hon. Jennifer Gardiner: How many years ago?

The Hon. I. M. MACDONALD: The letter was written on 22th November, 1988. Kameruka Estates referred in this letter to the Tantawangalo forest catchment and stated:

> As a company we do not become involved in writing letters on public issues. However we are so moved by this issue that we have supported the study already undertaken and continue to support the group in their ongoing efforts to maintain the current position of no logging in the Tantawangalo catchment.
>
> Our company has operated on the Tantawangalo for 155 years and today with all the town supplies around we still rely totally on fresh water from the Tanta creek for all stock, domestic and irrigation demands. There are no town supplies available to us as an alternative hence the 100 residents and the operation have no choice but to continue to use the creek water.

The Hon. L. D. W. Coleman: But has that company not closed down?

The Hon. I. M. MACDONALD: Yes, but these are the sorts of views that have been expressed by people in this area. The letter continues:

> We have watched with interest the siltation buildup in the Bemboka River as a result of the logging in the catchment of that river. With the Cochrane dam catching large volumes of the silt the buildup is significant.
>
> No doubt others have highlighted the concerns of the townspeople on the Tantawangalo water

scheme. From our point of view we believe we are not asking for any special favours, we are simply asking to be treated the same as others with their water catchment areas. Like so many other areas we also have no alternative but to continue to rely on the creek for our total water needs. Recent drought conditions prompted us to search for underground supplies. This was to no avail as our best result was 201/minute - insufficient for one dairy for dairy and domestic use and was of a lesser quality.

We would ask that you exclude the catchment of the Tantawangalo from any logging leases or permits given in the forest of our area.

This letter demonstrates that farmers are concerned about the impact that extensive logging in the southeast forests is having on their water supplies.

The Hon. L. D. W. Coleman: Those were the old techniques.

The Hon. I. M. MACDONALD: They have changed, but not sufficiently.

The Hon. L. D. W. Coleman: They have changed completely.

The Hon. I. M. MACDONALD: Not sufficiently.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The Hon. I. M. Macdonald will complete his contribution more quickly if he does not respond to every interjection.

The Hon. I. M. MACDONALD: A lot of concern has been expressed about koalas in the Tantawangalo area. I have information which refers to the fact that koalas are experiencing difficulties in surviving in those areas where there has been extensive logging. I have at least 50 articles from local newspapers which refer to this problem.

The Hon. L. D. W. Coleman: They actually fare better where it has been logged.

The Hon. I. M. MACDONALD: The Hon. L. D. W. Coleman would not know. The Hon. R. S. L. Jones has referred to this issue on many occasions. On 23rd April, 1991, he referred to the problems of logging at Devils Creek, which threatened the survival of koalas, and said in his press release:

The recent discovery of more koalas in the Devils Creek Catchment region of the Tantawangalo forest, together with the clear intention in the 1991 EIS to log the area, show that the Forestry Commission of New South Wales has no respect for endangered species.

The Forestry Commission has consistently attempted to cover up the existence of koalas at Devils Creek, and is now determined to log the area even after receiving indisputable proof of koala habitation.

The Hon. L. D. W. Coleman: What about the date?

The Hon. I. M. MACDONALD: There is no secret about the date. The press release was issued on 23rd April, 1991. The discovery of this koala colony in the Tantawangalo Forest has led to more studies taking place.

The Hon. L. D. W. Coleman: I thought we had killed them all.

The Hon. I. M. MACDONALD: You tried to kill them.

The Hon. L. D. W. Coleman: But they have come back.

The Hon. I. M. MACDONALD: You are trying to eliminate them with your logging. Get it right. In 1991 a grant of $20,000 was received from the National Estates Grants program for the purposes of studying koalas within the Tantawangalo Forest. A number of other grants were made including $9,000 to the Tantawangalo Catchment Protection Association for a koala habitat study at Devils Creek - and the Hon. R. S. L. Jones played a part in initiating some public scrutiny in terms of the survival of the koalas in the region. That study was to be undertaken in conjunction with the New South Wales National Parks and Wildlife Service.

Of a total grant to New South Wales of $694,000, almost $40,000 was allocated to the study of koalas, such was the concern for the koalas in view of the impact of logging in the area. Honourable members will gain some idea of the disputation from an article that appeared in the *Bega Daily News* of 1st November, 1991. The article is illustrative of the wide differences between a number of people in the area concerning the impact of logging on koalas. It is that disputation that is creating the type of conflict situations down there that must be addressed with a proper management solution. It also highlights the need for further scientific research prior to the logging of those areas. I read from an article, headed "Unresolved Differences":

> The Assistant Commissioner for Forests, Mr Gary Bacon, said on Wednesday that he would not stop the logging of potential koala habitat in Tantawangalo State Forest.
>
> Mr Bacon was meeting with representatives of the Tantawangalo Catchment Protection Association, (TCPA), to discuss his views on koala management in the South East Forests.
>
> Spokesperson for the TCPA, Mr Chris Allen, said the meeting with Mr Bacon failed to resolve major differences between the TCPA and the Forestry Commission on koala research in the area
>
> He said during the meeting the expertise of TCPA's scientific advisers and the dedication of the group's research team was impressed upon the Assistant Commissioner.
>
> "However, Mr Bacon appears to have accepted that the Commission's individual logging coupe surveys are an adequate tool to determine koala requirements in the area, and that koala populations are able to withstand the intrusion of integrated logging into the habitat," Mr Allen said.
>
> . . .
>
> Mr Allen said Mr Bacon was given evidence that koalas in Tantawangalo State Forest are widespread but at a low density which requires special management. "Despite

this evidence, Mr Bacon said that the Forestry Commission would not compromise its obligations to the timber industry," Mr Allen said.

> "We believe this to be folly, as scientific evidence indicates that koala populations are affected by logging operations."

I think that even the Hon. L. D. W. Coleman would have to come to that conclusion, given the relationship between koalas and eucalypts. One has to heed scientific advice and take community concerns into account, and logging and road making in the Tantawangalo forest must cease.

The Hon. L. D. W. Coleman: Have you ever been there?

The Hon. I. M. MACDONALD: I have been right through the area, several times. In January of this year, in fact.

The Hon. L. D. W. Coleman: Have you not seen the good job that the forestry is doing?

The Hon. I. M. MACDONALD: The honourable member would be the type of farmer who would not have one tree on his property. He would have a clear fell and a salination problem going through the roof.

The Hon. L. D. W. Coleman: That shows the little knowledge that the honourable member has of my background.

The Hon. I. M. MACDONALD: I know all about the honourable member's background. I was saying "if" he were a farmer. The honourable member is a great businessman. I know all about it.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member will return to the ambit of the bill.

The Hon. L. D. W. Coleman: I hope the honourable member has planted as many trees as I have planted on my farm.

The Hon. I. M. MACDONALD: With your indulgence, Mr Deputy-President, I inform the honourable member that I do not have to plant any more trees because I have a very large number of trees on my grazing property.

The Hon. D. F. Moppett: That is why the honourable member cannot see the wood for the trees.

The Hon. I. M. MACDONALD: I can see trees, woods and forests. It is not a problem. I turn now to an agreement signed by the Commonwealth and State governments in 1990 which is at the heart of the problem. It is a lengthy document and I hope honourable members will bear with me as I detail many important aspects of it. There is a statement on page 11 of the agreement which I think is apposite to what we have been trying to achieve in relation to this bill, and that reflects on why -

The DEPUTY-PRESIDENT: Order! Will the honourable member identify the document from which he is quoting?

The Hon. I. M. MACDONALD: I have done that already. I said it is the agreement signed between the State and Federal governments. It is the National Forest Policy Statement that I have referred to constantly throughout the course of my contribution. I refer to the following matter of importance:

> The Governments agree that, conditional on satisfactory agreement on criteria by the Commonwealth and the States, comprehensive, adequate and representative reservation system to protect old-growth forest and wilderness values will be in place by the end of 1995.

This is the crux of the matter. The agreement is predicated upon getting to a situation by the end of 1995 where there will be a representative reservation system to protect old-growth forests and wilderness values. I submit the only way that that can be achieved is by the implementation of the type of study and assessment program outlined in the bill. This is the only way it can be sensibly achieved. The program will be monitored to ensure that whatever adjustment is made is handled within a comprehensive format. I should indicate to the House the seriousness of the general policy statement in relation to what the Opposition is attempting to achieve, and in relation to what the Government is throwing out the window by moving to kill this bill. Under current Government proposals the practical achievement of the program by 1995 will be very difficult. The National Forest Policy Statement stems from the necessity to arrive at some form of resolution of problems in the southeast. This agreement was signed by Paul Keating, John Fahey, Jeff Kennett, Wayne Goss, Dr Carmen Lawrence, Lyn Arnold, Rosemary Follet, and Marshal Perron. It was an endeavour to find a comprehensive national strategy relating to forest policy. It represented a big step forward from the previous ad hoc States-based programs in relation to forest management.

I want to put on record some of the more important aspects, because honourable members will start to draw threads together about why we have been here all night and why the Opposition is angered by the action of the Government commencing this bill at 12.45 this morning. In the introduction to the National Forest Policy Statement the various heads of government who signed it make it clear that in developing the statement the Commonwealth, State and Territory governments have been mindful of the many values of Australia's forests, the forests' role in the full suite of ecological processes that sustain life on this continent, their function as a habitat for a diverse range of flora and fauna, and the contribution made by forest-based activities to the national economy and regional and local employment.

Australia's forest estate comprises a range of forest types. It is often characterised by marked regional differences, reflecting different forest values and opportunities for different uses. These differences may necessitate different management approaches. Managing Australia's forests in a sustainable manner calls for policies by both governments and landowners that can be adapted to accommodate change. Pressures for change may result from new information about forest ecology and

community attitudes, new management strategies and techniques - such as those that incorporate land care and integrated catchment management principles - and new commercial and non-commercial opportunities for forest use. These pressures may affect the forests themselves.

Importantly, from those introductory remarks, the document then talks about a vision. This vision relates to how we set about achieving a sustainable forest cover in this country to achieve the balances that are necessary in the ecology to ensure the survival of endangered species and provision of wilderness areas and national parks to ensure that there is opportunity for the development of other industries, such as ecotourism, which this bill is all about. Referring to the vision, the governments share a vision of ecologically sustainable management of Australia's forests. This vision has a number of important characteristics. Under the heading "The Vision", the document reads:

> The unique character of the Australian forested landscape and the integrity and biological diversity of its associated environment is retained.
>
> There is a "holistic" approach to managing forests for all their values and uses so as to optimise benefits to the community.
>
> Private forests are managed in an ecologically sustainable manner and in close cooperation with public forest managers, to complement the conservation and commercial objectives of public forests.
>
> A range of sustainable forest-based industries, founded on excellence and innovation, will be expanding to contribute further to regional and national economic and employment growth.
>
> Forests and their resources are used in an efficient, environmentally sensitive and sustainable manner.
>
> Forest management is effective and responsive to the community.
>
> The Australian community will have a sound understanding of the values of forests and sustainable forest management, and will participate in decision-making processes relating to forest use and management.

In keeping with this vision of a national forest strategy, the report then outlines a number of goals for the achievement of this vision in reality. The national goals are summarised as follows:

> *Conservation.* The goals are to maintain an extensive and permanent native forest estate in Australia and to manage that estate in an ecologically sustainable manner so as to conserve the full

suite of values that forests can provide for current and future generations. These values include biological diversity, and heritage, Aboriginal and other cultural values.

Wood production and industry development. The goal is for Australia to develop internationally competitive and ecologically sustainable wood production and wood products industries. Efficient industries based on maximising value-adding opportunities and efficient use of wood resources will provide the basis for expansion in wood products manufacturing, which in turn will provide national and regional economic benefits.

Integrated and coordinated decision making and management. The goals are to reduce fragmentation and duplication in the land use decision-making process between the States and the Commonwealth and to improve interaction between forest management agencies . . .

Private native forests are very important, and are of considerable concern because in this country, even though we have halved our forest cover, we are in many areas - particularly in private areas - still cutting down our native forests. The document continues:

The goal is to ensure that private native forests are maintained and managed in an ecologically sustainable manner, as part of the permanent native forest estate, as a resource in their own right, and to complement the commercial and nature conservation values of public native forests.

Plantations. One goal is to expand Australia's commercial plantations of softwoods and hardwoods so as to provide an additional, economically viable, reliable and high-quality wood resource for industry. Other goals are to increase plantings to rehabilitate cleared agricultural land, to improve water quality, and to meet other environmental, economic or aesthetic objectives.

Other objectives, national goals relating to water supply and catchment, tourism - with which I dealt in some detail earlier in my contribution - employment, work force, education and training, public awareness, education and involvement, and research and development - the all important continual search to try to understand the various inter-relationships in our forests, particularly in the old-growth forests, and international responsibilities. That brings me back to a point that one of the members opposite asked me 2½ hours ago. I believe that we can avert the problem of overutilisation of resources from Third World countries, if we can develop sustainable replacement plantations and concentrate on areas outside our national parks and also outside our old-growth forests that are not within that regime. I believe that is a viable and realistic objective. Extensive logging of old-growth forests and their attendant areas encourages companies to take out one-off resources - 300 or 400-year-old trees - without any realistic prospect of replacement. It is time for companies in the industry to start growing extensive plantations. I hope that within 10 years New South Wales will have a sustainable hardwood industry. Logging of old-growth forests should be terminated.

The Hon. D. F. Moppett: What would you know about it? You are talking a load of rubbish.

The Hon. I. M. MACDONALD: Everything I have said tonight has been based on a wide range of scientific reports from the CSIRO and Monash University. None of what I have said -

The Hon. D. F. Moppett: Nothing of what you have said impinges on the central issue of the bill either.

The Hon. I. M. MACDONALD: Everything I have stated in this debate has been predicated on scientific concerns about the impact of further logging of old-growth forests. As a consequence, those concerns are mentioned in the documents I have in my possession, which cover virtually every area within the ambit of the forestry industry in the southeast. I turn to the problem that the Hon. Ann Symonds brought to my attention: the problem with marsupials, possums and gliders within the region. Again, many studies reveal that in the mountain ash forests, which

are under threat because of the value of their timber, many of the small marsupials that are reliant on these trees are endangered. I will not deal with the matter in detail other than to say that a number of possums such as leadbeaters possum, gliders such as the sugar glider and the yellow bellied glider, the mountain bushtail possum, the feathertail glider, common ringtail possum, the greater glider and other animals are affected by the removal of mountain ash trees. Studies which would probably satisfy the Hon. Dr Marlene Goldsmith as to there veracity reveal that that is an area of concern.

I turn now to the Australian Conservation Foundation's contribution to the South East Forest Protection Bill, which highlights a number of important issues. Some of the reasons for the profound concern of the destruction of old-growth forests can be summarised in the following ways. Two hundred years ago Australia had approximately 10 per cent of forest cover. Now it has only 5 per cent cover - Australian Bureau Statistics Australia's Environment Issues and Facts, 1992; old-growth forest in Australia has been dramatically reduced and is poorly represented in reserve systems - Resource Assessment Commission, 1992; the definition of old growth is "forests containing a high proportion of ecologically mature trees and high structural diversity, that is in many different growth forms and forests that have been relatively undisturbed" - draft national forest statement, 1992; estimates indicate that of our remaining eucalypt forests, less than 10 per cent is old growth - Kirkpatrick 1990; Jenkins and Recher 1990; in the southeast of New South Wales, old growth is significant and is found in areas including Coolangubra, Tantawangalo, Murrabrine, Bemboka, Cathcart, Nullica, Towamba and parts of Nalbaugh Glenbog and Bondi - Jenkins and Recher 1990; Pyke and O'Connor; Australian Museum 1991.

The eucalypt forests in southeast Australia are the most extensive of their kind and are amongst the more diverse temperate mesic forests in the world and are rich in marsupial and bird fauna - Mosley and Costin 1992. There are over 40 endangered fauna species in the southeast. Many of these are old growth dependent and as the forest is converted to regrowth through logging many will face extinction. Some old growth dependent species are unable to breed in forests less than 100 years old - Australian Biological Research Group 1984. Tree hollows needed for some species may not develop until the forest is 150 to 200 years old - Mackowski 1984. A report to the Earth Foundation Australia Limited has assessed the world heritage values of the forests and found that they meet the criteria necessary to have world heritage nomination - Mosley and Costin 1992. It is not feasible to log old-growth forests and yet retain their full complement of old growth attributes and values - final report of the Resources Assessment Commission 1992.

Logging of old-growth forests will, without doubt, destroy national estate and world heritage values. The quality of wild and scenic rivers, soil and water are best maintained if old-growth forests are protected. Spiritual and aesthetic values and cultural sites present in unlogged old-growth forests are of unquantifiable value as an Australian heritage. These forests provide a source of low-key recreation and spiritual rejuvenation for future generations. Old-growth forests are essential to maintain species diversity and retain aesthetic beauty. The southeast forests are especially important as they offer such a unique, rich and diverse example of old sclerophyll forest to the world. Current logging operations have a catastrophic effect on all aspects of forest life as it causes a fundamental change to the forest structure. Only 30 per cent of the southeast forests are reserved in national parks and nature reserves. According to some members opposite one would have thought it was well in excess of 50 or 60 per cent. Scientific opinion is that the current reserves and reserves proposed by the joint scientific committee report 1990 to which I have referred do not adequately protect the different land systems, wildlife and wilderness because they are too small, fragmented and unrepresentative - National Parks and Wildlife Service 1991.

The Hon. D. F. Moppett: That was selective quoting.

The Hon. I. M. MACDONALD: That was not selective quoting in any way. Each of the studies I quoted is an important contribution to the assessment of this region for inclusion in the national estate, all of them by highly qualified people with long backgrounds in assessing ecological viability and the role of national parks and maintaining diverse habitats. I do not believe that the glib comment from the

honourable member should detract from the efficacy of those statements by a wide range of eminent scientific persons and various members of committees who have thought long and hard about this range of issues.

The Hon. Dr B. P. V. Pezzutti: The honourable member has stopped speaking and has completed his contribution.

The Hon. Ann Symonds: He had not completed his contribution.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member had not completed his contribution.

The Hon. I. M. MACDONALD: Over the years the Parliament has received a great deal of information about the southeast forests. The public still has considerable concern and disquiet about the actions - or I should say the inaction - of governments in relation to the national estate in the southeast. In the north of the State, by and large because of the establishment of a decent national parks system in that region, the level of disputation is much lower in comparison with the conflict in the southeast. Unquestionably there are fire spots in the north, but in the southeast there is continuous virtual war between the various parties over the efforts to establish a decent national parks system. At 12.45 this morning the Government tried to stop this

endeavour to reach an end to the conflict by providing a process for the assessment of national parks and a system for change where necessary. The adjustment of jobs in the region is a disgrace and is an attack on the people in the south of the State who want to build up a decent national estate so that in future years the value of the only spiralling industry in the area - tourism - would be able to develop.

The Government has bowed to the wishes of a few National Party heavies who dominate all of the environmental and land use areas of the State, so that we cannot have a proper national park or meet the criteria of the 1990 agreement between the heads of State. By doing so the Government is frustrating the scientific community that has analysed carefully the various problems of old forest logging in the southeast of New South Wales. I implore the Minister to reconsider this matter and to take the reasonable action of giving more time for debate that will allow for determining an open method to achieve a resolution of the conflict in the south.

The Hon. R. S. L. JONES [6.45 a.m.]: In order to give Hansard a bit of a break and to give members a bit of a break, I move:

That this debate be now adjourned until 8 a.m. this day.

Question put.

The House divided.

Ayes, 15

Mrs Arena	Miss Kirkby
Ms Burnswoods	Mr Obeid
Mr Dyer	Mr O'Grady
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr Jones
Mr Kaldis	Mr Macdonald

Noes, 16

Mr Bull	Revd F. J. Nile
Mr Coleman	Dr Pezzutti
Mrs Evans	Mr Pickering
Miss Gardiner	Mr Samios
Dr Goldsmith	Mr Webster
Mr Hannaford	
Mr Jobling	*Tellers*,
Mr Moppett	Mr Mutch
Mrs Nile	Mr Ryan

Pairs

Dr Burgmann	Mrs Chadwick
Mrs Kite	Mrs Forsythe
Mr Manson	Mrs Sham-Ho
Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

The Hon. R. S. L. JONES [6.53 a.m.], in reply: It is with great pleasure that I speak in reply to the South East Forests Protection Bill. This legislation is not just about saving forests; it is also about saving jobs. I believe in saving jobs as much as anyone else. I have employed hundreds of people in my time. I know what it is about. It is not just about employing people for short-term jobs, but employing people for long-term, sustainable jobs. Regrettably, because of the corruption that has been going on for the last 20 years, these are not long-term jobs. People in the industry, such as Harris-Daishowa, know that these are not long-term jobs.

Harris-Daishowa had a financial crisis last year; it had to reduce its debt by something like $1.5 billion. Right now at Taree there is a gigantic mountain of woodchips that cannot be sold. Boral has taken the woodchips out of an old-growth forest up Taree way. It is very worried about whether it will be able to sell the pile; it has not been able to sell it so far. Boral is concerned that the woodchip pile will ferment. That fermentation will be the future of our woodchip industry. If those forests had not been woodchipped, there would be a greater resource available and the timbers would be of greater value.

I have friends who live the southeast forests area and I have friends in the timber industry. They have told me that they have seen trucks going by with logs on them, logs that could be used for building houses, making furniture and things of high value, not just woodchips. It is high value timber. My friends have seen these trucks, unlike Reverend the Hon. F. J. Nile, who lives at Gerroa. These people live in the forests area and see the logs going past. They have seen the devastation. When woodchipping first started in the early 1970s they were in favour of the industry; they thought it was a good idea. It created jobs for the area. Now they are devastated, as are the forests. They have been devastated to see how the forests have been ruined. They are very sad to see what has happened to them. Woodchipping is about the lowest possible value we can give to our forests; it is virtually giving them away.

Reverend the Hon. F. J. Nile: That is rubbish.

The Hon. R. S. L. JONES: Obviously Reverend the Hon. F. J. Nile went to the forests very briefly but still has no understanding of what it is about. He has made ridiculous comments. He has no idea

what goes in to a woodchip mill; he has obviously never seen what goes on down there; he has probably never walked amongst the forests that are being destroyed. I have. I was arrested at one point for walking into the old-growth forest, but they arrested me incorrectly, as usual. I was released and they dropped the charges because it was under the wrong section of the Act. I was with Jenny Kee at that time. There was a large number of people there.

Jenny Kee and I linked arms and walked across the road and were arrested and taken to the Eden lockup in a paddy wagon. The lockup was filthy, by the way. There were faeces all over the walls. It was the most disgusting place I have ever been in. I

could not imagine prisoners being in there. We were there for a little while. It was a most disgusting place. I am sure that if the Hon. E. P. Pickering were the Minister today, it would not be like that. It would be a clean, honourable and decent place. We were fingerprinted and taken away. That was all part of the charade of arresting the people who were trying to save the forests. The police, regrettably, at that time were on the wrong side - as they have been in so many of these forest disputes.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the Hon. R. S. L. Jones to address the bill before the House.

The Hon. R. S. L. JONES: I certainly will do that, Mr Deputy-President. I will not talk for as long as my colleagues have on this bill, because much of the information I wished to put on the record is already on the record. I have a working paper from the Australian National University. It is an extremely important document. I alluded to this in an interjection when my colleague the Hon. I. M. Macdonald was talking. It is from the Centre for Resource and Environmental Studies.

The report, entitled "The future for native forest logging in Australia", is by Judy Clark. It is a fascinating document. All members who have a remote interest in the southeast forests should read the report. They would find out for themselves the future of the woodchip industry in Australia. The future is devastating. It is quite clear from this report that we are losing our share of the market quite rapidly. The Japanese are moving into plantations in Brazil, Chile and Spain. They prefer the wood from these plantations because it is cleaner and cheaper. They do not like our old-growth forest woodchips; they prefer the nice clean plantation timbers. We have been saying for more years than I can possibly remember - it must be at least 20 or 25 years - that if they had planted these plantations in New South Wales, we could be using that resource, which the Japanese, Harris-Daishowa for the Daishowa Paper Corporation, prefer. We could be competing with South America, but as it is now we are going backwards at a fast rate of knots. It is regrettable in one way that these jobs will be going down the tubes in the next two, three, four or five years. These plantations will come en masse in about 1995. Page 7 of the document from the Centre for Resource and Environmental Studies states:

> The situation of extraordinary profits and high volumes of Australian native forest chip exports is likely to be short lived. There will be a large increase in world supply of hardwood chips and pulp over the next five to ten years as eucalypt plantations (seven million hectares) mainly in Brazil, South Africa, Portugal and Spain come fully into production (Brett 1990, NAFI Forest Facts No. 8 (*Eucalypt Plantations*). The projected capacity of eucalypt pulp processing facilities in these countries could be about eight million tonnes by the early 1990s (Phillips 1988). The production of eight million tonnes of chemical pulp requires an estimated 24 to 28 million cubic metres of wood per annum, maybe less because of the relatively high pulp yields that some plantation grown trees are providing. Whilst the countries above are the main producers of eucalypt pulp traded on the world market, eucalypt plantations are also being established in Argentina, South East Asia and China.

As honourable members know, the eucalypt tree is the most ubiquitous of all trees in the world, and probably our biggest export. I have been to 55 countries, and virtually everywhere I have been I have seen gum-trees growing, whether it be in the desert of North Africa, India, Sri Lanka, China, throughout the Middle East in Libya, Syria, Israel and many other places. We are being overtaken by plantations

overseas because we have not got into plantations. In the 5½ years I have been in this Chamber, and before, I have been saying, as have others, "If only they had listened".

This year the Minister for Land and Water Conservation, the Hon. George Souris - who I believe will prove to be a much better Minister than previous Ministers - made the grand announcement about a $2 million hardwood plantation. I hope some of this will be in the southeast forest, because that area is in need of those plantations - planting trees for a future resource will create jobs. The jobs in the Harris-Daishowa mill will not last much longer. We have wasted the southeast forests. I was particularly incensed by the destruction of coupes 1 and 2 in compartment 1402 in the Nalbaugh special prescription area. I heard from within the National Parks and Wildlife Service that there was pressure on that service to allow logging in that area. Messages were sent to us asking for support because it was needed. If the former director-general had been there instead of at the zoo, he would not have allowed that logging to go ahead. I suspect that was one of the reasons why he was moved sideways. It is very sad.

We have lost one of our most precious gems in the southeast forests with the loss of those two coupes. Mention has been made of a 700-metre strip - that is nothing compared to what we have lost. I invited the Minister for Land and Water Conservation, along with the Minister for the Environment, to visit the area. The Minister was invited also by the Wilderness Society to view the area. He asked where the 300-year-old to 400-year-old trees were and was told that he would be shown them. Unfortunately, he did not have time to see them. If only he had taken the trouble to walk 800 metres into the forest he would have seen the stumps of the 300-year-old to 400-year-old brown-barrel trees. Some people have seen those trees, while others have seen photographs. They are magnificent relics. The knocking down of these magnificent trees is rather similar to knocking down the Opera House just for the marble and shipping the marble off to Japan for use as a road base. That is how I regard it.

The trees have a pre-white history; they go back two hundred years before white people colonised this country, and it is a gross tragedy that we are knocking them down. We have already knocked down enough. The time has come to say, "Enough is enough". We have to realise that genuine old-growth forests should remain sacrosanct. We have to switch swiftly to softwood plantations, which are coming on stream. Thank goodness they were planted. In South Australia, 91 per cent of softwood is used, virtually

replacing hardwood altogether. The softwood industry is taking over. Prices are rising because of the American forest closures. The product from New Zealand is going up in price and the Japanese are buying all over the place.

The Japanese would like to buy our pine forests. I hope they will not be given the opportunity, because I have heard rumours that the pine forests will be privatised. Those pine forests should be retained in Australian hands for the Australian timber industry, not shipped off to Japan for a cheap price and the profits transferred to Japan instead of remaining in the country. We must resist any move in that direction. In the meantime we have resources with our regrowth forests and remaining plantation forests. In 1972 a blackbutt forest was planted at Myall Lakes. This is just coming on stream; the trees are almost mature. Some hardwood forests are ready for logging, and regrowth areas are available for logging, as well as areas with a lower ecological value. Those degraded areas could be logged, but we unequivocally should not be logging our magnificent old-growth forests in the southeast. It should be stipulated that only softwood, pine plantations, trimmings or regrowth should be used. The logging of these old-growth forests has been a national tragedy.

When one enters the forest and walks amongst the old trees, it is similar to walking in a cathedral at Reims, for example. It is overawing and inspiring. Tourists to New South Wales would also experience this. European countries have lost their forests, and very few remain in North America. The Europeans have logged their forests many times and now do not have any old-growth forests. Japan has been through its forests several times. Australia still has some original forests left unlogged, and these are

worth retaining, if only for tourism. I should refer to the biological storehouse in them and the invertebrates that live within the forests, the lichens and other small life forms that live in there. Some of those life forms have not even been described yet. I spoke to a scientist from Macquarie University, who had discovered an invertebrate that he said was found only within a certain area in the southeast forest and lived on fallen trees. He was concerned that it would become extinct. I am sure some invertebrates have become extinct already in the southeast forests because of this misguided policy of woodchipping and burning.

Selective logging in low value areas is one thing; clearfelling and woodchipping is totally different. I want the southeast forests to have long-term sustainable tourist jobs and jobs based on new plantations and pine plantations. My views are well known. My heart is in these forests but, unfortunately, my heart has been broken by what has happened down there. I am disgusted that the Government has not lifted a finger to do anything about stopping the destruction of the magnificent high-value old-growth areas. I know some Government members would like that woodchipping to stop. Even some National Party members agree, and the National Party is renowned for its redneckism. Some of those members understand that forests have more value than merely the value in the trees to be sold to Japan. They have value as living items and value as part of the irreplaceable, undisturbed ecology.

We can keep the jobs in the southeast, we can create new jobs, but the woodchipping jobs are going. The South East Forests Protection Bill unfortunately may well be voted out thanks to Reverend the Hon. F. J. Nile and his wife, the Hon. Elaine Nile, who are misguided and who have been conned by the rednecks once more. If this bill were to pass we would have both jobs and sufficient intact forest for future generations; not just for humans to enjoy - and foreigners and Australians for tourism - but also the myriad life forms that live within the forests.

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

The House divided.

Ayes, 15

Mrs Arena	Miss Kirkby
Ms Burnswoods	Mr Obeid
Mr Dyer	Mr O'Grady
Mr Egan	Mrs Symonds
Mr Enderbury	Mr Vaughan
Mrs Isaksen	*Tellers*,
Mr Johnson	Mr Jones
Mr Kaldis	Mr Macdonald

Noes, 16

Mr Bull	Dr Pezzutti
Mrs Evans	Mr Pickering
Miss Gardiner	Mr Ryan
Dr Goldsmith	Mr Samios
Mr Hannaford	Mr Webster
Mr Jobling	
Mr Moppett	*Tellers*,
Mrs Nile	Mr Coleman
Revd F. J. Nile	Mr Mutch

Pairs

Dr Burgmann	Mrs Chadwick
Mrs Kite	Mrs Forsythe
Mr Manson	Mrs Sham-Ho
Mr Shaw	Mr Rowland Smith
Mrs Walker	Mr Willis

Question so resolved in the negative.

Motion negatived.

ADJOURNMENT

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [7.17 a.m.]: I move:

That this House do now adjourn.

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DORRIGO LOGGING PROTESTS

The Hon. R. S. L. JONES [7.17 a.m.]: I would like to draw to the attention of the House a grave matter of inconsistency in regard to the police handling of matters arising from the forest protest at Wild Cattle Creek State Forest in the Dorrigo region during September 1992. Three intoxicated Dorrigo residents were charged after harassing peaceful protesters and then assaulting police. This can be verified by witnesses present, including local member Andrew Fraser, who it was alleged praised the activities of these three people. There are also witnesses who said that Andrew Fraser was in fact encouraging this kind of activity. Because of legal representations made on behalf of the three people all charges have been subsequently dropped. I am extremely surprised that such serious charges of assaulting police and putting into jeopardy the lives of two peaceful protesters, one of whom was a young teenager, in front of so many witnesses, including the wives and children of both protesters, and the logging fraternity could be dropped. On the other hand, the charges incurred, of a lesser nature, by the protesters, who have a proven record of non-violence, during the blockade have been processed or are currently before the court. No leniency has yet been shown in their cases.

Also, at later dates during this peaceful protest there were some other very surprising incidents in which police were used, it seemed, to sanction dubious and maybe unlawful practices by the Forestry Commission and its logging contractors. Some of these occurrences included allowing logging operations to continue while there were people in sight within the logging compartments and in fact causing injuries to at least two protesters who were hit by falling trees. A person who wrote to me witnessed one of the logging contractors being allowed to chase a female protester into the bush while verbally threatening her. When a complaint was made to the police about this it was ignored. In fact, the police seemed to think it was rather amusing. The lady who was being chased was definitely afraid of being physically hurt and did not find it at all amusing. The writer believes that the dropping of the assault charges was a serious injustice and that the decision and the way police seemed to be used at times during the protest call into question whether the actions of the police were totally impartial and free of political interference. Therefore the writer asks for an immediate inquiry into the actions.

LENNOX HEAD SEWAGE OUTFALL

The Hon. Dr B. P. V. PEZZUTTI [7.19 a.m.]: I speak further about the defamatory and highly inaccurate statements of the Hon. Jan Burnswoods regarding the issue of Mr Ringland's action with

Ballina Council. I have two matters to add. It is confirmed that it was not the motion of the shire president to move that the council insist on Mr Ringland apologising and that if he did not, legal action be taken. That was taken by vote of the council. Also, I would like to make it perfectly clear to the Hon. Jan Burnswoods that many people would be delighted if she made the same comments outside the House that she made in the House. Of course, being a wuss, she would be quite unprepared to face realities.

I also remind her that freedom of speech does not mean freedom to shout "Fire!" in a crowded theatre; nor does the freedom to act mean that one can drive anywhere on the road without recourse to the rules of the road. The behaviour of the Hon. Jan Burnswoods is so outrageous that it is not funny. Whilst the big lie commonly works for the Australian Labor Party, in this particular case the big lie will not work because the realities are that it is time that people and councils stood up to some of the outrageous statements made by members of the Australian Labor Party, in all its various apparitions, to stop the disinformation campaigns they run on major public issues.

Ballina Council determined that this issue is in the public health interests to ensure that the people of Ballina are comfortable; that they are reassured about the quality of their sewage treatment and effluent disposal processes; that they are approved by the Environment Protection Authority; and, most importantly, that the process of approval was also carried out according to the Environmental Planning and Assessment Act. If the Hon. Jan Burnswoods has any evidence to the contrary, I am sure she will be more than happy to go out into Macquarie Street and issue a press release in her own name without hiding behind the skirts of the Parliament.

MOTOROLA SMART ZONE SYSTEM

The Hon. I. M. MACDONALD [7.22 a.m.]: I direct my comments to the Leader of the Government representing, in effect, the Premier. Is the Minister aware that there is considerable industry concern at the outcome of the Government's decision to award the $70 million State mobilnet contract to the United States of America's giant company Motorola with its Smart Zone APCO25 system? I would like the Minister to ascertain for the House why the Government chose this proprietory option which will not be able to communicate with the non-proprietory MPT1327 system adopted in other States, especially Victoria and which has also been adopted in Asia and Europe. Another concern raised by small manufacturing high-tech companies is why the Motorola system was chosen when its standard excludes Australian manufacturing and ensures that jobs and profit will flow to Motorola's Malaysian plant? Motorola does not manufacture in Australia.

It is the concern of many businessmen that this decision seems to be based upon an ideological antagonism towards Telecom and its non-proprietorial system. A non-proprietorial system enables many manufacturers in Australia to participate in buying hardware through the various forms of telephones that can be used and inserted in that system. The Motorola Smart Zone system has its own proprietorial

system that no one can interconnect with. Finally, could the Minister ascertain the facts of the situation and indicate whether he is concerned that the inevitable consequence of this potentially wasteful decision will be the isolation of the mobilnet communication New South Wales in the lead up to the internationally focused Olympic Games when trunked radio will be vital.

Down the track the problem could be quite severe. The contract runs for five years, but because it is proprietorial and because of the amount of hardware involved it will be virtually impossible to switch over at the end of 1998 when the contract runs out. It is almost certain that for economic reasons it would be impossible for the contract to remain in place into the next century. I and those who have contacted me find it difficult to understand why such a closed system was chosen. The United States standard has not even been determined, but I am sure a non-proprietorial system will be chosen because in that country emphasis is placed on non-proprietorial computer or other communications systems so that everyone can have access to them.

The Hon. Dr B. P. V. Pezzutti: They are either IBM compatible or not.

The Hon. I. M. MACDONALD: The Hon. Dr B. P. V. Pezzutti can put it whatever way he likes, but first he needs a decent sleep. The APCO25 system is a closed circuit system. The decision taken in Victoria in September last year, with other States following up this particular system, means there will be no interconnection. With Asia choosing the MPT1327 as its system, which is spreading throughout that region -

The Hon. Dr B. P. V. Pezzutti: Which countries? Would you like to name them?

The Hon. I. M. MACDONALD: Most of the Asian countries. I shall not name them now, but I will provide the honourable member with the information later. In Europe the other standard is being used extensively. I ask that question and hope that the Minister can give me an answer.

Motion agreed to.

House adjourned at 7.26 a.m., Friday, until Tuesday, 9th November, 1993, at 2.30 p.m.

QUESTIONS UPON NOTICE

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

SYDNEY WATER CHLORINATION

Mr Jones asked the Minister for Planning and Minister for Housing -

(1) Have chlorine levels in Sydney's water supply been increased recently?
(2) Can the incidence of certain cancers be linked to drinking, bathing and showering in chlorinated water?
(3) Will the Minister ensure that chlorine levels are kept to a minimum level consistent with destruction of pathogens and ensure that members of the public are aware of any health dangers of chlorine in water?

Answer -

(1) No.
(2) There is no evidence which suggests that certain cancers are linked to drinking, bathing and showering in chlorinated water.
(3) I can assure the Hon Member that the chlorine levels in Sydney's water supply are kept to the minimum level to protect the health of the consumers. To completely eradicate the use of chlorine could lead to the sort of tragedy that occurred in South America where Peru, to save money, eliminated the use of chlorine. As a result cholera, which had been eliminated from much of the continent, spread rapidly with over 3,000 deaths and more than 300,000 cases being reported.

DEPARTMENTAL OFFICE REFURBISHMENTS

Mr Egan asked the Minister for Education and Youth Affairs and Minister for Employment and Training representing the Minister for State Development and Minister for the Arts -

In relation to each Department or Authority within your portfolio, how much was spent on office fit-outs or refurbishment in 1991/92 and what is the estimated expenditure in 1992/93.

Answer -

Organisation	Expenditure 1991/92	Estimate 1992/93
Ministry for Arts	Nil	19,995
Opera House	560,607*	20,000
State Library	55,809	37,000
Australian Museum	63,937	24,375
Art Gallery	10,000	Nil
Archives Authority	Nil	Nil
Historic Houses	70,000	10,000
MAAS	85,506	45,000
Film and TV Office	15,000	199,176**
TOTAL	860,859	355,546

* The amount of $560,607 for the Sydney Opera House is a one-off component of the building's current major maintenance and upgrade program.
** The amount of $199,176 was for the relocation of the NSW Film and Television Office from rented premises to accommodation provided rent-free to the Office, and resulting in savings to the Office and increased funds available for the film and television industry.

ENERGY SELF-SUFFICIENCY

Mr Jones asked the Minister for Planning and Minister for Housing representing the Minister for Energy and Minister for Local Government and Co-operatives -

(1) What incentives are currently offered by the Government to enable community groups or individuals to provide for their energy requirements by such means as is deemed appropriate by a majority of domestic energy consumers in a `remote' area?
(2) Is there potential savings to the State if energy is produced by a method outside the existing New South Wales electricity grid?
(3) What is the cost in real terms to the State Electricity supplier if energy self sufficiency is not pursued by consumers who could generate their own energy?
(4) Are there any studies undertaken within our Universities that show how energy self-reliance is both achievable and realistic?
(5) Are there communities in New South Wales prepared to undertake responsibility via Council or otherwise for the supply of energy and to further decide the effective treatment of effluent or discharge from lands under their control?

Answer -

The Minister for Energy and Minister for Local Government and Co-operatives has advised me as follows:

(1) The Remote Area Power Assistance Scheme (RAPAS) provides grants to assist owners of domestic dwellings in remote areas of New South Wales to gain an adequate domestic electricity power supply either through grid connection or by the purchase of a stand-alone power supply system. The Scheme is co-ordinated by the New South Wales Office of Energy and administered through the New South Wales electricity distributors.
Over the six years of its operation, some 2,289 grants totalling $13.6 million have been approved from RAPAS. 57% of grants have been for purchases of stand-alone remote area power supply (RAPS) systems having a total grant value of $6.9 million.
Arising out of RAPAS assistance for the provision of power to residents in remote areas has been the development of the RAPS market and the establishment of a viable RAPS industry in New South Wales.

(2) In the case of some long grid extensions, especially to individual properties, the capital cost can be relatively high and maintenance costs of the line can be higher than the return from electricity sales to the customer. In these situations the supply authority provides an on-going subsidy unless sufficient customers are connected to the grid extension in the future to cover costs.
The property owner may choose to purchase a remote area power supply (RAPS) system, especially where this is a lower cost than the required contribution to grid connection cost. In this situation the on-going grid subsidy is avoided with resultant savings to the State.
Since mid-1940, it has been the policy of Governments and the electricity industry, in response to the need of residents of New South Wales, to provide grid electricity to rural areas. Although not necessarily economic for electricity supply authorities, the supply of electricity to rural areas of the State has wider social and economic benefits to the community and it is the Government's policy to respond to the expressed desire of residents in remote areas for grid electricity.

It is an inequitable situation to expect residents in remote areas to pay the whole of the cost of providing their own power. This is where the RAPAS scheme is effective.
(3) A study into the supply of power to remote areas of New South Wales undertaken in 1986 by the then Energy Authority of New South Wales found that most rural customers connected prior to 1980 received from electricity supply authorities and subsidy schemes an average capital subsidy of more than 90% of grid connection cost. Most customers connected after 1980 received little or no capital subsidy until the commencement of RAPAS in 1987. The 1986 study also revealed that rural grid connected customers effectively received an ongoing subsidy averaging about $1,000 per customer per annum throughout New South Wales and well over $3,000 per customer per annum in remote areas. This subsidy is largely due to rural grid connected customers not fully contributing to grid replacement and maintenance costs through electricity tariffs.
In contrast, those generating their own power have to bear the full cost of all future equipment replacements and supply failure is the customer's problem to rectify.
(4) Some work on remote area power supplies is being undertaken at the Centre for Photovoltaic Devices and Systems at the University of New South Wales. Significant earlier work on RAPS was undertaken by the then Department of Energy in a 3 year project which involved the installation and performance monitoring of 3 RAPS systems supplied by local manufacturers. Two other existing systems were also monitored.
The project assessed and promoted RAPS systems as a viable and economic electricity supply option for remote area residents of New South Wales.
(5) Communities in New South Wales are provided with electricity either by grid supply or by diesel generators if located remote from the grid. To avoid penalising residents in remote areas, the electricity tariff charged to such consumers is not significantly greater than urban areas. Should a community in a remote area be responsible for generating its own power, the real cost would be incurred by that community. The only communities I am aware of that would desire this situation are those living an alternative lifestyle where the need for electricity and hence the size and cost of the generating equipment is kept to a minimum.

SUTHERLAND HOSPITAL REHABILITATION UNIT

Mr Jones asked the Minister for School Education and Youth Affairs and Minister for Employment and Training representing the Minister for Health -

(1) Is Sutherland Hospital self-contained rehabilitation unit being broken up?
(2) Has there been a strong community reaction against this particularly when the community worked so hard to set up the rehabilitation unit?
(3) If so, will the Minister intervene in this matter?

Answer -

(1) No.
(2)-(3) Options for the location of the slow stream rehabilitation service at Sutherland Hospital were being considered in order to minimise disruption to the service during the building programme. It was agreed that the service would remain on site but be moved to another location while the redevelopment of the Hospital proceeded. Community concerns were raised about other service options canvassed during early discussion.

F5 MOTORWAY PROPOSAL

Mr Jones asked the Minister for Planning and Minister for Housing representing the Deputy Premier, Minister for Public Works and Minister for Roads -

(1) Did Rod Young, a member of the RTA's Community Advisory Committee on the F5 proposal, tell a public meeting that the decision to build the F5 had already been made?

(2) Did he also say that a consultant is currently being selected to write an environmental impact statement to justify the building of the F5 tollway?
(3) Is this not a breach of the Environmental Planning and Assessment Act 1979 where the Act clearly states that a proposal and its alternatives be considered in the terms of the Act's requirements, and a decision made after proper public comment and assessment of the likely environmental impact?
(4) If the decision to build the F5 freeway has already been made will the EIS be an inappropriate document?

Answer -

(1) Mr Young is not an RTA employee and any comments made by him were not on behalf of the RTA.

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The RTA was not invited to attend or made aware of the meeting in question, which was convened by Marrickville Municipal Council.
(2) See (1) above.
(3) The EIS for the road project will be prepared in accordance with legal requirements. Environmental Planning and Assessment Regulations require the EIS to include 'justification of the proposed activity in terms of the environment, economic and social considerations'. These and other issues will be addressed in the EIS.
(4) See (3) above.

DEPARTMENT OF HOUSING NEWCASTLE PROPERTIES

Mr Jones asked the Minister for Planning and Minister for Housing -

How many properties does the Department of Housing have in Newcastle?

Answer -

(1) Newcastle is generally understood to be the areas covered by the Newcastle and Lake Macquarie City Councils. There are 3,916 rental properties in the Newcastle City Council area and 4,037 in Lake Macquarie City Council areas as at 17 September, 1993.

WETLAND 631A AMENDMENT

Mr Jones asked the Minister for Planning and Minister for Housing -

(1) Will the Minister release the proposed amendment relating to wetland 631a for public comment?
(2) Will the Minister make available to Members a copy of the letter to the landowner which notifies him of the boundary change?
(3) Will the Minister explain in detail why the wetland boundary is being altered?
(4) What are the alterations in the wetland catchment which affect the long term viability of the wetland?
(5) What changes on the subject land have contributed to the viability of the wetland?
(6) Why was the owner of wetland 631a not prosecuted for illegal slashing and burning which took place in 1990 and led to considerable vegetation damage including that on an adjacent crown reserve?
(7) When did the dumping of dredge spoil in the wetland take place and by whom?
(8) Have these actions contributed to the catchment changes which are the basis for the proposed boundary change?
(9) Have the conditions of consent applied to a previous subdivision of part of this land been carried out, especially those conditions which relate to wetland rehabilitation?
(10) Why did determination of an FOI application on boundary changes to wetland 631a take 68 days instead of the usual 21 days?

Answer -

(1) Wetland No. 631a was last amended on 26 March 1993 as part of Amendment 8 to State Environmental Planning Policy No.14 - Coastal Wetlands. There is no amendment currently proposed.
(2) Yes.
(3) The Department of Planning on inspection of the wetland found that a substantial part of the wetland should be deleted from SEPP 14 on the basis of the published exclusion criteria for the Policy.
(4) Great Lakes Council prepared a local environmental study for the land covered by SEPP 14 wetland No. 631a. The study concluded that the area is a closed drainage catchment and the hydrological regime of the saltmarsh/sedgeland community had been altered in the past through drain construction and urban development in its upper catchment which reduced water flows into the wetland and retention time. It is these apparent changes to the hydrological links with the upper catchment of the wetland which affects its long term viability.
(5) The viability of this remnant wetland rests with its innate natural characteristics and is not the result of any changes which have taken place within the subject wetland.
(6) Because Great Lakes Council responded in relation to wetland No. 631a by stopping the owner of the land from carrying out any further works.
(7) The area of dredged spoil now deleted from wetland No. 631a appears on the 1986 Coastal Wetland aerial photographs. This shows deposition occurred sometime between the original mapping done from 1981 aerial photographs and the gazettal of the Policy in December, 1985.
(8) No changes subsequent to the inception of SEPP 14 have occurred in wetland No. 631a which contributed to the amended boundary.
(9) I am advised that the developer did not act on the development consent to which the question refers. A subsequent development application has been approved by Great Lakes Council. The Council determined this did not involve land to which SEPP 14 applied.
(10) It was necessary for the Department of Planning to consult with the Greater Lakes Council before releasing documents of the Council. The Freedom of Information Act allows an additional 14 days for such consultations. Thus 35 days were available to determine the application. The Department took the additional time to grant the application because a submission relating to the wetland boundary was before me for decision. This meant the most up to date information was released to the applicant following my decision.

Parts 1-8 previously answered Tuesday, 14 September 1993 (Q & A No 21)

LOOK AT ME NOW HEADLAND OCEAN OUTFALL

Ms Burnswoods asked the Minister for Planning and Minister for Housing -

(1) Does the Environmental Impact Study, released earlier this year and prepared by Camp Scott Furphy, on the impact of the ocean outfall at Look At Me Now headland near Coffs Harbour contain a section headed "Social Impacts and Social Response"?
(2) Does this section make reference to the work of Dr Peter Sandman, who has researched community participation in decision-making?
(3) Does the section rely heavily on the work of Dr Sandman in making the finding that "in the short term there will be adverse social response in some sections of the community that could lead to social disruption. It is anticipated that this adverse response will reduce in time"?
(4) What action will the Minister take to correct the EIS following comments by Dr David Russell, Associate Professor of Social Ecology at the University of Western Sydney, writing on behalf of Dr Sandman, that the EIS misrepresents Dr Sandman's work, and therefore the conclusions based on Dr Sandman's research are incorrect?
(5) Does the Minister agree that the errors made by Camp Scott Furphy taint the EIS, making its conclusions unreliable. If not, why not?

(6) Will the Minister ensure that the EIS is not given any weight until the errors are corrected?
(7) What action will the Minister take to have the EIS corrected to properly reflect Dr Sandman's concepts?

Answer -

(1) Yes, or rather, the Environmental Impact Statement, which was prepared by Camp Scott Furphy Pty Ltd, does.
(2) Yes.
(3) Section 15.3 of the EIS, which summarises the findings of Chapter 15 concludes as follows "It is considered that, in the long term, there will not be a noticeable adverse impact on property values, lifestyle, recreation, health and tourism if the proposed activity were to proceed and function as designed. However, in the short term there will be adverse social response in some sections of the community that could lead to social disruption. It is anticipated that this adverse response will reduce with time".
As I have indicated above, section 15.2 of the environmental impact statement makes use of Dr Sandman's work. The above statement included in section 15.3 of the EIS may have been based on the work of Dr Sandman, and the results of the community consultation program, conducted as part of the EIS.
(4) If Dr Sandman feels that he has been misrepresented in the EIS then this is a matter for Dr Sandman, or those acting on his behalf to pursue. The most appropriate means of doing this is by way of a submission to the public exhibition of the EIS. Such submissions are taken into account in the assessment of the proposal. The EIS was exhibited between 22 May 1993 and 21 July 1993, and there has thus been adequate opportunity for public input into the environmental impact assessment process.
(5) It is not possible to comment on the reliability of the conclusions in the EIS until the EIS has been thoroughly reviewed by all relevant authorities. If, following this review, there remains concern about any matters addressed in the EIS (including those matters referring to the work of Dr Sandman) then it may be appropriate for further work to be undertaken by the consultant in respect of these issues.
(6) and (7) The Honourable Member may be assured that a thorough review of the entire EIS will be undertaken by relevant authorities. Additional information will be sought from the proponent, as required.

ILLAROO ROAD PUBLIC SCHOOL STUDENT NUMBERS

Dr Burgmann asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

(1) Was the Illaroo Road Public School at North Nowra designed to accommodate approximately 450 pupils?
(2) Are there now approximately 755 pupils enrolled?
   (a) If so, how are the excess pupils currently accommodated?
   (b) What plans does the Minister have for a permanent solution to this problem?

Answer -

(1) Illaroo Road Public School at North Nowra is a 21 core Primary School, which currently provides for 14 permanent classrooms and 12 demountable classrooms to cope with growing enrolments. Consequently, permanent classroom accommodation exists for 420 students with another 342 students accommodated by the provision of demountable classrooms.
The core plus principle enables the provision of demountable facilities to meet emerging needs in areas of relatively high growth as experienced in the North Nowra district.
(2) Enrolments at Illaroo Road Public School reached 762 students at the February 1993 census.
   (a) The school is able to function successfully with the current enrolment and the students are accommodated in a mix of permanent and demountable facilities.
   (b) Increasing enrolments are being experienced at Illaroo Road Public School and demountable classrooms have been provided to meet the school's needs when required. In 1972 the

Department of School Education acquired a 3.2 hectare parcel of land between Page Avenue and Judith Avenue, North West Nowra in anticipation of the long term population growth of the district. A review of the suitability of this site conducted in 1992 indicated it is well placed to provide significant enrolment relief for Illaroo Road Public School when a new school is constructed in the area. At the present time, resources have not enabled detailed planning for a new school to proceed at this location.

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The present situation is being closely monitored. The South Coast Regional Office of the Department of School Education has indicated the relieving school has a high regional priority and further planning will be initiated when the project receives a sufficiently high statewide priority for funding to be provided.

DEPARTMENTAL OFFICE REFURBISHMENT

Mr Egan asked the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier representing the Minister for Community Services, Minister for Aboriginal Affairs and Minister for the Ageing -

In relation to each Department or Authority within your portfolio, how much was spent on office fit-outs or refurbishment in 1991/92 and what is the estimated expenditure in 1992/93?

Answer -

The answer to this question was provided to Mr Crittenden's Question No. 633 of 9 March 1993 in the Legislative Assembly.

SPECIAL NEEDS AND LITERACY PROGRAM

Ms Burnswoods asked the Minister for Education and Youth Affairs and Minister for Employment and Training -
(1) How many applications for funding under the New South Wales Board of Adult and Community Education's Special Needs and Literacy programs were received in 1992?
(2) How many of these applications were successful in receiving funding?
(3) What was the total amount of funding allocated?
(4) Why has the New South Wales Government failed to respond to the needs of non-English speaking women in the South Sydney area?
(5) Will the Government make a special grant to South Sydney Community Aid Co-operative Ltd to enable it to run ESL classes for women in its area who are unable to afford the cost of "user-pays" services?
(6) If not, why not?

Answer -

(1) There were 124 applications for funding under the Special Needs program and 92 applications for funding under the Australian Language and Literacy Policy (ALLP) Literacy program. A total of 216 Special Needs and Literacy applications were received by the Board of Adult and Community Education.
(2) Of these applications, 55 were successful under the Special Needs program and 35 were successful under the Literacy program. A total of 90 applications were successful.
(3) Funds for Special Needs programs totalled $301,116. Funds for ALLP Literacy programs totalled $784,680. The total amount of funding allocated was $1,085,796.
(4) In the South Sydney area, the Board allocated a total of $6,000 to three community organisations under the 1992 Other Providers of Adult and Community Education Program. Another organisation received $12,000 under the ALLP program. These programs mostly targeted women from non-English

speaking backgrounds (NESB).
The Government is responding to the needs of non-English speaking women. It has established the NSW Interdepartmental Committee on Migrant Settlement (NICOMS) which will assess key priorities in the delivery of ESL and develop strategic planning responses for the next three years in NSW against these priority areas. The Committee will ensure the coordination of course and address access issues to provide more equitable services to migrant people, particularly longer term residents. TAKE, AMES and the Board of Adult and Community Education are represented on this Committee.
The main providers of ESL classes are TAKE and AMES.
(5) The Government is unable to make a special grant to South Sydney Community Aid Cooperative Ltd.
(6) The provision of language classes for the target group, women from NESB, needs a planned and coordinated approach. To fund this one organisation in isolation would be a short term solution when longer term strategies are required.

HIGHER SCHOOL CERTIFICATE 1994-95 COURSES

Dr Burgmann asked the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier -

(1) Have draft syllabi for the new 1994-5 HSC courses been made available to comment? If not, why not?
(2) Have syllabi for the new 1994-5 HSC courses been made available to teachers in sufficient time to enable them to prepare new topics? If not, why not?

Answer -

(1) The Board of Studies Pathways initiative provides for increased flexibility of access to the Higher School Certificate from Year 11, 1994. This initiative, which followed extensive school and community consultation, required the rearrangement of Years 11-12 syllabuses into Preliminary (Year 11) and HSC (Year 12) components. Schools were invited to comment on the rearranged courses.
In the great majority of syllabuses the only changes to occur will relate to the rearrangement of the course components. The Board will notify schools well before the end of 1993 regarding any necessary changes to the HSC examinable course program. The restructured HSC courses will be examined for the first time at the 1995 HSC examination.

(2) With respect to Part 2 of the question, it should be understood that, although there will be no changes to the great majority of Years 11-12 syllabuses, some syllabuses have undergone or are undergoing revision as part of the normal Board process to update older syllabuses. These syllabuses include Ancient History, Agriculture, Computing Studies, Music and Visual Arts.
In such circumstances the Board consults widely with teachers and in sufficient time for schools and teachers to plan their courses. In all cases the Board uses its identified "consultative network", which includes the Department of School Education, the Catholic Education Commission, the Association of Independent Schools, the NSW Teachers Federation and the Independent Teachers Association, to obtain feedback from teachers. Further, schools are also selected and randomly sampled to provide comments on draft syllabuses.

SELECTIVE HIGH SCHOOL STUDENT SELECTION

Mrs Symonds asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -
(1) Do selective high schools take the children who score in the top 10% in special tests administered in 6th class?
(2) In the Higher School Certificate for each selective high school in the years 1981-1992, how many students were in each of the 10 decile bands? i.e. 0-10 up to 90-100 decile bands?

Answer -

(1) The most important factors in determining academic merit for entry to selective high schools are the results of the Selective High Schools Test in English language, mathematics and general ability together with primary school assessments of students' performance in English language and mathematics.
As the students are not considered on their test results alone, it is not possible to say whether or not successful students score in the top 10% of the candidature. In fact successful candidates and those on reserve lists are not determined on a percentage basis at all.
Each selective high school has a set number of places. Students qualify for entry in academic competition with other students with places being offered to the most academically qualified. If offers are declined, the positions are offered to the next student on the merit list.
Not all Year 6 students take the Selective High Schools Test, only those who apply. As part of the Government's policy of flexible progression, some students from Year 5 or Year 7 also take the test. In addition, some students such as those who are temporarily interstate or overseas are considered for selective high school entry by means of alternative measures of academic merit.
(2) In recent years the government has increased the number of selective high schools as part of its program to recognise and promote excellence. Most of the newly created selective schools have not yet presented students who have gone through the selection process for the HSC examinations.
Those government secondary schools which have been selective during 1981-1982 are mainly located in the metropolitan North and Metropolitan East regions. These schools have always performed well in the Higher School Certificate.
To provide the detailed information requested in the Member's question would impinge on the resources and time of Senior Board Officers. As a consequence, moving resources from other tasks to meet this request would detract from the task of ensuring the smooth running of the HSC program. I am not willing to risk the program in this way. General statistical information on the Higher School Certificate is available in the Board's Annual Report and in the HSC Examination Statistics report produced by the Board.