

LEGISLATIVE COUNCIL

Wednesday, 19 June 1996

The President (The Hon. Max Frederick Willis) took the chair at 11.00 a.m.

The President offered the Prayers.

DISTINGUISHED VISITOR

The PRESIDENT: Order! I draw the attention of members to the presence in my gallery of Emily Lau, who is a member of the Legislative Council of Hong Kong.

ESTIMATES COMMITTEE No. 1

Special Report

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

That the Special Report of Estimates Committee No. 1, on a possible contempt of the committee, be referred to the Standing Committee on Parliamentary Privilege and Ethics for inquiry and report.

AUSTRALIAN RUGBY LEAGUE STATE OF ORIGIN SERIES

Motion by the Hon. J. F. Ryan agreed to:

That this House congratulates Phil Gould, Brad Fittler and the rest of our New South Wales Blues Team in their three to nil victory in the ARL State of Origin Series.

PETITION

Oaths and Crown References Bill

Petition praying that the Oaths and Crown References Bill, which has as its objects the abolition of the oath of allegiance to Her Majesty the Queen of Australia and the removal of references to the Crown from Government functionaries, received from the **Hon. J. M. Samios**.

CHILDREN (COMMUNITY SERVICE ORDERS) AMENDMENT (MAXIMUM HOURS) BILL

Second Reading

Debate resumed from 6 June.

The Hon. PATRICIA FORSYTHE [11.08]: The Opposition supports the bill and acknowledges the support it has received from a number of groups with specialist knowledge, including the Juvenile Justice Advisory Council and Children's Court magistrates, past and present. Notwithstanding their support I will raise concerns about the enforcement of community service orders, especially in isolated and rural communities, where the support of juvenile justice personnel is not generally available. I will seek from the Minister certain assurances in this regard.

As the Minister said in his second reading speech, the genesis of this change lies in the work of the Legislative Council's Standing Committee on Social Issues. The concept was identified in the 1993 green paper entitled "Future Directions for Juvenile Justice in New South Wales" and endorsed in the November 1994 white paper entitled "New Directions for Juvenile Justice in New South Wales". I note the Minister's churlish comment that despite the view that 100 hours is manifestly inadequate to deal with older, more serious juvenile offenders, the former Government failed to implement the necessary changes. In response I suggest that as we are almost at the end of the third parliamentary session since the March 1995 State election, the Government cannot claim a great record, either. Leaving aside politics, this issue deserves bipartisan support.

Dealing with juvenile crime is a community problem that deserves a community response. The 1993 green paper is perhaps the most comprehensive review of juvenile justice ever provided in this State, although certainly the work of this Chamber's Standing Committee on Social Issues contributed significantly to the debate. The green paper noted that the first key principle that underpins the juvenile justice system in New South Wales is "prevention, diversion and reintegration". Throughout the green paper a strong emphasis is placed upon the principle that juveniles should only be sentenced to detention when alternative community sentences have been considered by the court and deemed inappropriate because the community is at risk. That underpins the necessity for this bill; the current maximum of 100 hours is inadequate for some juveniles aged 16 years and over.

However, while I agree with the Minister that community service orders may provide valuable work and assist in raising the self-esteem of the young people involved, and I am also aware of some of the recorded success stories, a community service order of 250 hours may well represent a difficulty for some young offenders not accustomed to a disciplined life. I will return to this issue later. Community service orders represent the most severe penalty that a young offender can receive other than the imposition of a custodial sentence. It is in no sense the soft option that some people believe it is. However, its benefit obviously depends on the nature of the work performed, the interaction of the serving of the CSO with the life of the juvenile, and whether there is not only adequate supervision but also appropriate supervision and support underpinning the completion of the community service order. The Standing Committee on Social Issues highlighted this issue in its September 1995 report into youth violence in New South Wales.

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Referring to an increase in the maximum number of hours under a CSO from 100 to 250 hours, the report stated:

However, it considers that such an increase should only occur if the Minister for Community Services can guarantee that resources are available and relevant support services are able to be drawn upon to assist Juvenile Justice personnel in all regions to adequately supervise and offer a range of community work. . . .

In his second reading speech the Minister made no reference to the availability of appropriate support staff, especially in rural areas where recent crime statistics suggest significant problems. I ask that the Minister, in his response, give the House an assurance about the availability of suitable personnel - including, where appropriate, counselling personnel - especially in rural and isolated areas. Given the age of the juveniles that will be caught in the net of this bill, the serving of a long community service order may well be the last opportunity to arrest inappropriate behaviour before a young person turns 18. This is, of course, the challenge for the system. Effectively, preventing criminality and reducing recidivism is what is needed, as well as ensuring that the young person is appropriately punished for committing a

serious crime. Obviously, increasing the maximum CSO to 250 hours will increase the sentencing alternatives available to magistrates. That is supported by the Opposition, but as a sentencing option it obviously has to be enforced.

There is considerable anecdotal evidence that community service orders are not always completed, and also that the nature of the work performed falls short of a standard deemed appropriate as a response to serious crime. I therefore ask the Minister to provide to Parliament, at least annually, a detailed report on the community service order system. I have not at this time sought to include that in the legislation by way of an amendment, as I am prepared to accept the Minister's word on this. Further, I seek an assurance that young persons who fail to fulfil their community service orders will be returned to the court system for an appropriate response. I ask that because I believe that the success of CSOs will depend in part on their being seen as a last stop before a custodial sentence. In other words, community service orders should be regarded as a serious response and not as a soft option, and that perception will depend on the extent to which they are enforced.

The success of community service orders also depends on public confidence in the juvenile justice system. It is that confidence that I ask the Minister to address by way of monitoring the system and reporting to the Parliament on its effectiveness. The Opposition recognises that when dealing with older juveniles, society may have but one opportunity to break the cycle of crime before the juvenile becomes an adult. The nature of the response, firmness and fairness are critical elements in this. The Opposition welcomes the bill provided that its implementation is underpinned by adequate resources. The Opposition also recognises that when dealing with issues involving juvenile justice, flexibility is important and this bill will give magistrates another element when responding to the challenges presented in this area. The bill is a positive initiative, provided that it is underpinned with adequate resources. The Opposition's goal is to ensure that young people break the cycle of crime and, at the same time, to provide a safe community for everyone. The Opposition supports the bill.

The Hon. ELISABETH KIRKBY [11.16]: The Australian Democrats support the Children (Community Service Orders) Amendment (Maximum Hours) Bill. The object of the bill is to increase the maximum number of hours of community service work that a person aged 16 years or over may be required to perform under a children's community service order. As far back as May 1992 the report of the Standing Committee on Social Issues into juvenile justice in New South Wales - I am a member of that committee - inquired into the effectiveness of community service orders with respect to young offenders, and made several recommendations. At section 4.4.4. on page 112, the report stated:

Evidence submitted to the committee indicated that Community Service Orders are an effective way of dealing with young offenders. For instance, a submission notes that:

"The juvenile knows that he/she "hasn't gotten off", he/she begins to appreciate the harm caused by their offences and they do not lose contact with their community."

A further submission provided to the committee noted that:

"Encountering the depression and anger of young people in juvenile detention suggested to us the need for an alternative to detention. Our workplace experience of a Community Service Order was that it was a very successful alternative and mutually rewarding for Streetwise and the young person involved . . . Our experience with (name) convinced us that appropriate placement of youth offenders on Community Service Orders is an alternative to detention that works."

Moreover, with young offenders by researchers of the Kids in Justice Report indicate that most of them felt that Community Service Orders were worthwhile.

Also, evidence presented to the committee by specialist Children's Court magistrates reveals that the number of hours for community service orders is not enough, given that the next sentencing option

available to magistrates is custody. Other witnesses have echoed this view, claiming that there needs to be some option in the case of offenders whose offence and prior convictions warrant more than 100 hours community service work, but who should not be given a custodial sentence. One Children's Court magistrate stated:

They (Community Service Orders) are used as an alternative to institution, that is, the next step, before institution. Touching on that, I can only give 100 hours, which I believe is inadequate, because when they turn 18 they can get 500.

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The three relevant recommendations of the Standing Committee on Social Issues were 54, 55 and 56, and I believe that recommendation 56 is applicable to the bill. It provides that a pilot scheme be introduced for a period of two years, whereby the maximum number of hours that a young offender can perform under a community service order is 300. The purpose of the pilot scheme is to assess the feasibility of increasing the number of hours of community service orders as a realistic alternative to custody for serious offenders. Again, in February 1993 the Juvenile Justice Advisory Council of New South Wales published a green paper entitled "Future Directions for Juvenile Justice in NSW" and recommended, at page 135 of their report under option 103A, that the Children (Community Service Orders) Act 1987 and the Children (Criminal Proceedings) Act 1987 be amended to allow that community service orders of up to 100 hours be imposed as a general sentencing option and to increase the maximum number of hours that can be imposed, as an alternative to detention, to 250 for offenders aged 16 years or over.

The Australian Democrats support the creation of four categories of offender and the specification of the maximum number of hours that may be imposed in respect of each category. An offender under the age of 16 years can receive up to 100 hours and the offender's liability at any time cannot exceed 100 hours. An offender aged 16 and over who has committed an offence punishable by law by a sentence of six months or less can receive up to 100 hours, and the offender's liability at any time cannot exceed 100 hours if only offences of this category have been committed. An offender aged 16 and over who has committed an offence punishable by law by a sentence of more than six months but less than one year can receive up to 200 hours and may have a liability of up to 250 hours at any time if more than one offence has been committed. An offender aged 16 and over who has committed an offence punishable by law by a sentence of more than one year can receive up to 250 hours and may have a liability up to 250 hours at any one time.

The bill aims to ensure the credibility and effectiveness of children's community service orders as a last alternative to the imposition of a custodial sentence. The Australian Democrats appreciate that the bill ensures that juvenile offenders under 16 will not be faced with community service orders of a length that is unsuitable for them. Juvenile offenders may not receive more hours for an offence than would an adult who committed the same offence. In the case of offences carrying a penalty in excess of one year, the maximum liability of a juvenile is limited to 250 hours, whereas an adult offender could be liable for a maximum of 500 hours. While the Australian Democrats appreciate the efforts that the bill makes towards increasing community service orders as an operable alternative to detention, I would urge the Government to continue with reforms to the juvenile justice system. Perhaps I should remind the House of the words of the Standing Committee on Social Issues on this issue:

Every inquiry into Juvenile Justice completed in the last ten years has concluded that early and repeated contact with the judicial system and subsequent institutionalisation of children has been disadvantageous to the individual, their family, the victim and subsequently to the community at large. The Committee's research has indicated that court procedures and incarceration are intimidating, misunderstood and ineffective for many children. In fact, far from being successful in deterring young people from offending behaviour, institutionalisation is directly linked with recidivism rates in the juvenile population.

I think possibly that is what has gone wrong in the past. The Hon. Patricia Forsythe said that this scheme would be monitored, particularly in country areas, and I believe that is very important. It is well known that there are far too few parole and probation officers in the adult system and that there are far too few juvenile justice officers able to look after young people, again particularly in rural areas. I do not think many people in Sydney realise that to have a number of officers in a town like Dubbo is of very little value to children to the west of Dubbo who may need their counselling and care. The distances alone do not permit those officers to travel regularly and cover the number of clients that need their assistance.

If this scheme is to be effective, it requires not only that magistrates impose a community service order but that the officers of the department oversight those orders. Once young people - and, after all, at the age of 16 one is hardly a very young person - or teenagers of 16 to 18 years of age believe that getting a community service order, of however many hours, is a soft option and they will never be checked, they can get away with it if they do not attend or misbehave when carrying out a community service order, then the whole of this reform will be totally wasted. That type of behaviour can only be checked if the young people know that the juvenile justice officer has his or her eye on them and is liable to check them on a random basis, and that severer penalties will be imposed if they do not take advantage of this option they have been given by the court.

I trust that the Minister will review this legislation after two years, when we will have further information to establish whether it has been successful. I hope that it will be possible then to do any necessary finetuning. With those words, I again say that the Australian Democrats are delighted to support the legislation, and that as a member of the Standing Committee on Social Issues I am delighted that one of the committee's recommendations, with which I totally concurred, has been acted upon by the Government.

The Hon. A. G. CORBETT [11.28]: This bill deserves, and has received, widespread support. Everyone concerned with the interests and welfare of young people will support any opportunity to reduce the possibility of young offenders being
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given custodial sentences. This bill increases the use of community service orders, and that is to be encouraged. The bill provides for greater flexibility in the administration of juvenile justice. No-one could argue that appropriate and consistent sanctions and sentences should be applied in instances where offences have been proved. The question is what sentence should be imposed to simultaneously express the feeling of the community about the nature of the offence, enable restitution to be made to the community, provide an opportunity for rehabilitation and self-improvement, and extend the possibility for the establishment or re-establishment of the social contract between the individual and the community - in short, a just settlement for all.

There has been no shortage of inquiries and investigations into the reform of the juvenile justice system. The "Kids in Justice" report of the Youth Justice Coalition, the "Juvenile Justice in New South Wales" and "Youth Violence" reports of the Standing Committee on Social Issues and the green and white papers on juvenile justice have all canvassed options for improving the administration of justice for young people in New South Wales. These reports all agree that detention should be a last resort, that greater use should be made of community-based options for sentencing, and that such options need to be carefully controlled and monitored.

Any move that makes detention less likely or less necessary is to be welcomed. We must, wherever possible, minimise the use of custodial options for young people. Prior to the last State election when the major parties were escalating their rhetoric on law and order - competing with each other to see who could lock up more people more quickly and for longer - I advocated in my policy document the need to ensure as much as possible that children are kept out of the criminal justice system. The "let's get tough" attitude, which was displayed by both parties at the last election, does nothing to address the emotional pain and hurt that so often can be found in young people's lives. This

pain and hurt often finds its expression in rage and anger against property and, to a much lesser extent, against people.

We are quick to judge and condemn. We are quick to seek fast solutions and hasty justice. We are quick to punish. However, we are slow to accept that in some way we may be responsible for the situation in which these young people find themselves. We are reluctant to address the range of personal and social pressures experienced by young people in contemporary society, for which we are in part responsible. Adults and parents are responsible because in the main they frustrate children; they restrict and at times deny them the freedom to express their feelings. We do not always take the time to listen to young people about what is important to them, what worries and frightens them, and what is taking place in their lives.

We do not always hear pleas for help nor sense the quiet desperation of lives subject to enormous peer and social pressures until it is too late. We should take the time and make the effort to engage our young people in an exchange of information and ideas, so that we can all be clear about our lives and relationships. We need to approach relationships with young people a little differently and a little more creatively. We acknowledge, by the creation and maintenance of a separate justice system for young offenders, that they need to be treated differently. However, we need to be more adventurous in how we help young people to avoid the self-destructive and anti-social nature of crime. We must adopt sensible yet sensitive solutions which acknowledge the mistakes of the past but work vigorously towards a better future.

We need a sensible mix of sanctions and solutions to assist young offenders to realise and reflect on the nature and consequences of their actions, but which provides an opportunity for them to receive advice, support and assistance to enable them to put their mistakes behind them and to free them to more actively and productively contribute to their family, community and society. Community service orders are but one desirable means of achieving these objectives. We must be very particular about the management of community service orders for young offenders. The orders offer us the opportunity to create a sanction which, where possible, clearly connects the offence with its logical consequences, but at the same time offers compassion, flexibility and hope.

Community service orders could be used as a blunt instrument - it would be easy to impose a maximum sentence in the hope that it alone will provide a sufficient deterrent and sanction. I am pleased that community service orders will not be made available as a general sentencing option. That is, community service orders are to be made only after a detailed assessment of the individual concerned, with a recommendation for further action to be made to the sentencing magistrate. I have two concerns about the increase in the maximum hours to be served by young offenders in the community. The first is that magistrates may sentence a young offender to the maximum hours in the case of a first offence. This offers little in the way of options for responding to future transgressions, should they occur. I have been informed that orders made under the amendment will be subject to comprehensive monitoring by the Department of Juvenile Justice to ensure that they do not become a de facto general sentencing option.

The second concern is that the community service itself needs to offer young offenders the opportunity to escape from or break the pattern of offending. While I understand that there may be options for young offenders elsewhere, such as supervised probation and attendance centres, we should be looking at making personal development programs available to young people carrying out

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community service orders, as an adjunct to the orders. Community service orders are an essential, but not the sole, element in assisting young people to reconnect with the community. Workers and advocates in juvenile justice have sought the provision of personal skills development programs as part of the orders. I acknowledge the reluctance of the department to be seen to be undermining the sanction represented by the orders, but I feel that community service will be a waste of time and resources in the absence of programs that address the causes and roots of juvenile crime.

All sentencing options must contain the possibility of rehabilitation. The community service order policy states that restitution to the community through work is the punitive element of the scheme. The policy details the objectives of the scheme as follows: first, to provide a community-based sentencing option to the courts as a direct alternative to a control order; second, to ensure juvenile offenders make restitution to the community for the offence or offences committed; and, third, to retain the juvenile offender in the community to minimise disruption to relationships, employment or education and normal community life. While these objectives are adequate, they need to be reinforced by an acknowledgement of the need to assist young people to realise a sustained position in the community, whether through remedial, rehabilitative or similar support services. If community work is to be the only aspect - and there are to be no formal remedial or rehabilitative elements to the order - we have wasted an opportunity to assist young people to find a firm, more solid place in the community.

Basic personal skills, including literacy, communication and social interaction skills, need to be developed if we are to have any chance of helping young offenders to break free from patterns of anti-social, dangerous and destructive behaviour. It is not possible to determine the levels of literacy among juvenile justice centre detainees as no testing takes place. However, we know that many young people in these centres have not obtained any formal educational qualifications. I should like to see the community service order as part of a package of remedial and support options to assist young people to avoid future transgressions.

The orders need to achieve a sensitive balance between a focus on the community and a focus on the individual. The orders need to be administered in such a way that, as well as providing restitution to the community, they offer the opportunity for young offenders to learn and develop personal, social and vocational skills. The orders need to be aligned with, and backed up by, a range of supervisory and support services, which assist young people to achieve personal growth and educational development. Community service orders need to engage and connect young offenders with the community. Many juvenile offences are committed out of boredom, frustration and alienation - all of which suggest a separation from the community. The orders provide us with a means of re-engaging, or even making an initial connection, between young people and their communities.

Though it is important that orders ensure that the community derives restitution and benefit from the work of young people, it is equally important, if not more important, for young people to benefit from the order. The Department of Juvenile Justice has given undertakings that it will monitor the implementation of these amendments to ensure net widening does not occur. This has long been a concern in the expansion of the hours available for community service orders. Net widening occurs because the sanction is used in situations where it is not appropriate or would not otherwise have been used. Although I welcome the monitoring of the general impact of these amendments, it will be necessary for the department to ensure that adequate, appropriate and approachable legal services for young people are provided so that the legal rights of young persons are respected in the juvenile justice system.

A further concern with regard to any increase in the available hours relates to the potential increase in non-compliance with orders. According to the department, at present only 6 per cent of orders are breached by offenders. It is to be hoped that similar rates, or better, will occur under the new regime of orders. However, this will demand extensive support and supervision, and that in turn will require the deployment of considerable staff resources by the department to guarantee this level of assistance. Staff from the Department of Juvenile Justice will also have to ensure sufficient community options are recruited and made available to young offenders. It is to be hoped that community organisations will see this as an opportunity to assist young people to correct their mistakes and work towards personal achievements and growth. It is to be hoped also that magistrates will regard the increase in the number of hours available for community service orders as an opportunity to divert young offenders from custodial options. The Standing Committee on Social Issues 1994 report into youth violence states at page 312:

Two thirds (68.7%) of juveniles in custody had not been given the benefit of a community service order.

It is to be hoped that two effects of the bill will be to reduce the number of offenders in custody overall and to reduce the number of offenders in custody who were not previously given the option of a community service order. I shall be interested in the results of the monitoring, firstly to ensure that there has been no widening of the net and, secondly, to determine whether there has been a decrease in the number of custodial sentences that would have been made in the absence of the bill. While the orders should be seen as serious sanctions for juvenile offences, they should also provide the means for recognising, developing and enhancing existing interests and skills and for exposing the young people to new life opportunities. By placing the young people in community service we are

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providing them with the opportunity to expand their horizons and engage in work that, it is to be hoped, is satisfying and productive, while recognising that they are under an obligation to perform the order to the satisfaction of the court and the Department of Juvenile Justice.

I have spoken to a number of people with experience in juvenile justice about the amendments contained in the bill. I acknowledge that the amendments have the support of, amongst others, Mr Rod Blackmore, a former Senior Children's Magistrate, and Mrs Barbara Holborow, a retired Children's Court magistrate. I hope that widespread support will be achieved from magistrates, the community and, ultimately, the young people themselves following the implementation of the amendments. In conclusion, I seek assurances from the Minister for Community Services and from the Government that sufficient resources will be given for the implementation of the community service orders, for the supervision and support of young people undertaking those orders, and for support and remedial programs that promote personal growth and skills development.

I also seek assurances that a balance will be achieved between the focus the order places on community restitution and on individual development; that sufficient support and supervision will be provided to ensure compliance with the orders; that young people subjected to inappropriate or unjust orders will be provided with the opportunity and the resources to undertake an appeal; that orders will not become a general sentencing option; and that the objectives, policies and procedures for the orders will be amended to effect greater recognition of the interests and the needs of the young person, in conjunction with the need to provide restitution to the community. I reinforce the comments of the Hon. Patricia Forsythe and the Hon. Elisabeth Kirkby and seek an assurance that honourable members will be given an opportunity to consider the results of the monitoring of the implementation of the amendments and to provide input into any procedural changes that may be necessary following that review. I congratulate the Government on the bill, which I trust will provide a better future for our young people.

Reverend the Hon. F. J. NILE [11.43]: Call to Australia is pleased to support the Children (Community Service Orders) Amendment (Maximum Hours) Bill, the object of which is to increase the maximum number of hours of community service work that a person who is of or above the age of 16 may be required to perform under a children's community service order that is imposed in respect of an offence for which the maximum term of imprisonment provided by law exceeds six months. The bill will repeal and re-enact section 13(2) of the Children (Community Service Orders) Act so as to specify the maximum number of hours concerned. The re-enacted subsection will retain the 100-hour limit for persons under the age of 16 and for those of or above that age whose offence is one for which the maximum sentence provided by law does not exceed six months.

The bill provides for two different levels for more serious offences committed by persons of or above the age of 16: a maximum of 200 hours if the maximum sentence applicable to the offence concerned exceeds six months but does not exceed one year, and a maximum of 250 hours if the maximum sentence applicable exceeds one year. As honourable members will know, for a number of years I served on the Standing Committee on Social Issues, during which time I was deeply involved in juvenile justice and shared in the production of recommendations on that issue made by the committee, some of which are contained in the bill. I commend the Minister for Community Services for taking action and moving in this positive direction. Members of the committee visited detention centres, conducted

interviews with various magistrates who dealt with children's matters, and met young people, legally children, within detention centres and off the streets, so to speak, who shared their concerns as street people.

The committee was privileged to see in action the Children's Court, which is usually closed to the public. Members of the committee noted the caring and sympathetic way in which magistrates dealt with the children who came before the court. Even though procedures in the Children's Court are less formal and less complicated than those in adult jurisdictions, it is still an awesome experience for a young person to appear before the court, particularly for the first time. The Standing Committee on Social Issues recommended that consideration be given to an increase in the maximum number of hours of community service work that could be imposed upon juvenile offenders in order to provide a more realistic alternative to detention. Members of the committee met detention centre staff, and it appears to me that the staff have a high level of dedication to their task and have a deep concern for the wellbeing of the young people in their care. There is a problem with detention centres, however, despite the best of intentions of those who run them.

In detention centres it is possible for a young person who may not have had serious criminal experience to learn more about crime. A detention centre can be an open university of crime in which young people learn more efficient ways of breaking into cars, stealing cars, and carrying out break and enter and steal offences. Instead of placement in a detention centre being a deterrent, a minority of young people learn lessons that they should not learn. Evidence indicates that if young people start down the path of crime from juvenile detention centres they will graduate as adults to prison. Many adults in prisons would list experience of time spent in a juvenile detention centre. Within reason, something has to be done. There is widespread community concern about the increase in juvenile crime and the development of more violent juvenile crime.

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There is a worrying development of crime against senior citizens and pensioners. Aged people who live alone are often identified as people who have money or other items that can be stolen. Often the homes of aged people are broken into while the occupiers are still home, and sometimes the senior citizen or pensioner is assaulted and badly injured, and generally for only a small amount of money. Provisions such as those contained in this bill have to be balanced against what is happening in the community. There is widespread concern about the level of juvenile crime and the tragic increase in violent crime. In the past many honourable members have argued that the portrayal of violent crime in videos, on television and in other forms of the media and so-called entertainment, can leave a great impression on young people. A minority of children will follow lessons learnt from the media and will copy crimes they have seen portrayed.

The film *Colors* dealt with teenage gangs in Los Angeles, the almost warlike situation between youth gangs and police, and the way in which police had trouble coping with the dramatic increase in violence perpetrated by highly organised gangs of juveniles. When that film was released in Sydney for the first time we experienced drive-past shootings in George Street, Sydney: groups of young people in motor vehicles would fire upon the occupants of other vehicles - a so-called drive-by shooting - imitating what they had seen in the film. A psychologist would no doubt argue that such an offence would have occurred irrespective of whether the offenders had viewed the film. I question that argument. Clearly there is a direct connection between what is depicted in the media and what happens in our society. When we are critical of young people who become involved in crime, we should also question whether our society should also be put on trial for the messages that it sends out to young people. I feel very strongly about this issue. I am pleased that the Minister has introduced this legislation. The Minister has been reported as saying that statistics show that the most active predictor of recidivism is whether young offenders have been to a detention centre. Keeping young persons out of detention centres will benefit society and young persons generally.

Former Senior Children's Magistrate Rod Blackmore expressed strong views about this matter when he gave evidence before the Standing Committee on Social Issues. As I said earlier, magistrates have a caring attitude, and they now have a greater range of options available to them. In the near future a bill relating to home detention will be introduced in this House. It will provide judges with even more flexibility with regard to adult crime and adult sentencing. I support such an initiative. There have been calls, of course, for heavier penalties. I note that recent editorials in the *Illawarra Mercury* have been running a fairly strong campaign against juvenile criminals, as the newspaper describes them. The editorial of that publication of 20 January stated that it was time to take off the kid gloves. It suggested that serious offenders from the age of 17 years should be publicly named. The editorial further stated:

Under existing laws juveniles aged 17 and under are not named when they appear before the courts . .

I think it is high time the kid gloves came off when we are dealing with vicious young thugs, thieves, hoodlums and killers. Some of the more hideous crimes in society are being committed by juveniles.

They kill, rape and rob, knowing they cannot be named and exposed.

One might say that such comment represents the hard edge of society's concern, expressed through the media. Of course, we always need to assess whether the media is reflecting community feeling or whether it is seeking to shape, or even lead, public opinion. Surveys indicate that there is a clear sign of fear in the community about crime. The Standing Committee on Social Issues, when inquiring into juvenile justice, reported on whether the perception of increased crime and the possibility of violence against a person was a reality. Some evidence suggested that the media was responsible for the fear; that the fear was based on media reporting that painted a picture that was worse than the reality. We need to bear in mind that media-led campaigns fluctuate.

As other honourable members have said, there was certainly a high concentration on law and order issues during the last State election. That too was media driven. There seemed to exist an "auction" mentality, as it were, whereby the Labor Party and the Liberal Party, through their respective leaders, Mr Carr and Mr Fahey - and later, Mr Collins - tried to outbid one another in an endeavour to show the electorate who was the toughest political leader. In many ways they were being pushed by the media to say the things they said. Opinions expressed in the media may not reflect the genuine concerns in society. I acknowledge, however, that there certainly are concerns in society in this regard. On 9 February the *Illawarra Mercury* published the results of a special investigation conducted by the Juvenile Justice Department into the juvenile crime in the Illawarra-Shoalhaven area, where I live. The newspaper reported:

Figures released by the NSW Juvenile Justice Department reveal serious assaults, assaults and sexual offences committed by youths have jumped dramatically in the past number of years.

It is not uncommon for a 15-year-old to be charged with armed robbery, rape, assault or even murder. According to statistics serious assaults have risen by 146 per cent, assaults by 98 per cent and sexual offences have tripled since 1991. Overall, violent crimes have jumped by 87.5 per cent.

In comparison, the Illawarra and Shoalhaven have experienced drops in non-violent offences like car theft and break and enter offences.

Each week large numbers of teenagers, some as young as 10 years, attend Port Kembla Children's Court charged with crimes that would shock the community. The most serious offenders often end up at Keelong - Wollongong's juvenile detention centre.

In the same newspaper the following information appeared under the heading "Theft offences top the list":

Stealing, assault and break and enter offences were the most common crimes committed by children, according to a major study by the Judicial Commission of NSW. The study - which was released last year - analysed 58,000 cases in the NSW children's courts. Break and enters (16.7 per cent), stealing (12.5 per cent) and assaults (7.1 per cent) accounted for more than 36 per cent of crimes by juveniles.

Other common crimes included shoplifting (6.4 per cent); malicious injury (6.3 per cent); offensive behaviour (5.8 per cent); possess cannabis (2.8 per cent); fraud/forgery (2.5 per cent); and possess/use weapons or implements (1.3 per cent).

Despite the increased media reports of crimes performed by young people with weapons, interestingly the report shows that offences involving the use of weapons accounted for only 1.3 per cent. I concede that it is still 1.3 per cent more than we want, but it is perhaps an indication that media reports have exaggerated the incidence of such crimes. This move by the Government is positive, and Call to Australia will be watching with interest to see whether it will have any influence on juvenile crime and recidivism in New South Wales.

The Hon. Dr MARLENE GOLDSMITH [11.58]: I am pleased to speak in support of the Children (Community Service Orders) Amendment (Maximum Hours) Bill. I have considerable experience with such issues, having been a member of the Standing Committee on Social Issues for a number of years, during which time I participated in several inquiries into youth violence and youth crime. I am pleased that this bill will implement, partially at least, some of the recommendations on juvenile crime that that committee made repeatedly to governments throughout the years. I shall briefly address some misperceptions about youth violence and juvenile crime as I know there is concern about legislation such as this being regarded as going soft on crime, so juvenile crime should be put in perspective. Some of the misperceptions are that there is a juvenile crime wave currently overwhelming the citizens of New South Wales; that the juvenile justice system has gone soft on juvenile crime; and that juvenile justice centres are holiday resorts that encourage absconding.

Another misperception is that having absconded, juvenile criminals engage in an orgy of criminal behaviour, threatening the safety of ordinary citizens of the State. Those words come from a report of the Standing Committee on Social Issues, "Juvenile Justice in New South Wales", which was released four years ago. How little things have changed in four years. Those misperceptions, sadly, are still widely held in the community, and they have no more basis now than before. Overall, patterns of juvenile offending have remained static for more than a decade, even during periods when adult crime has increased. Most young offenders grow out of crime. The most common juvenile offender is a male between 16 and 18 years of age. More than 60 per cent of young offenders do not reappear in court after a first offence and only a small minority pursue criminal careers.

The vast majority of violent crime in our society and in all other societies of which I am aware is committed by young people between the ages of 16 and 24, and overwhelmingly by male young people. Violence is a phenomenon of young males. As a society we have not come to grips with the fundamental facts of violent crime in the community, although the bill will address concerns in this area in some ways. Most juvenile crime is episodic, opportunistic and transitory. Very little crime, particularly involving offences against the person, is committed by juveniles who have escaped from juvenile justice centres.

Those are general facts. There are still areas of concern to be addressed. A more recent report of the Standing Committee on Social Issues on youth violence refers to concerns about particular areas of the State. The perception is that there is far more violent crime in Sydney. In stating that generally there is a misperception about a juvenile crime wave I specifically exempt certain areas of the State, particularly far western and north-western New South Wales. Towns in those areas deserve special attention. My colleague the Hon. M. R. Kersten has drawn to the attention of the House the problems with juvenile

crime in Bourke, which appears to be having particular problems.

Although there is a concern about overrepresentation of certain young people in detention centres, a study by Luke and Cunneen, referred to on page 51 of the Standing Committee on Social Issues report on youth violence, stated that Aboriginal young people and non-Aboriginal young people with equivalent criminal histories appear to be treated equally by the courts. So the reason more Aboriginal young people are in detention is that they have longer criminal histories. There are problems in this area that we have not begun to address but I am delighted that the bill increases the present limit on community service order hours.

As all honourable members are undoubtedly aware, community service orders are only one step down on the sentence tariff from a custodial sentence. Currently a young offender cannot be sentenced to more than 100 hours of community service, whereas offenders over the age of 18 can be sentenced to up to 500 hours of community service. There is no flexibility in the system for young people, particularly those between 16 and 18 years of age. I welcome the changes in that area. The changes will allow sentencing magistrates more options to keep young people out of detention centres.

Far from this move being a way of going soft on crime, there are a number of reasons for keeping young people out of juvenile justice institutions. First, those institutions have long been recognised

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as academies for crime. If young people are locked up with criminals they are far more likely to become recidivists or continuing adult criminals. It is much more likely that future crime will be prevented by not locking young people up in detention centres. However, it is enormously important that young people be made to feel responsible and to make restitution for what they have done. That is precisely what community service orders are about.

Although I would not adduce any evidence in this area, I have a personal concern that when magistrates have been faced with the draconian alternative of putting a young person into a detention centre or giving a relatively light sentence they may have been tempted to give community service orders of up to 100 hours, the maximum, as it was the only way of keeping young people out of detention centres. So the bill in reality may stiffen the penalties for young people. The Standing Committee on Social Issues has repeatedly pointed out that with increasing the number of community service orders there is a parallel need to supervise them properly. During the committee's inquiries into juvenile justice and into youth violence it was stated that community service orders need to be effectively supervised.

Evidence presented to the committee in the juvenile justice inquiry revealed that the workload of many juvenile justice officers is very large: much of their work is taken up with pre-sentence court reports, leaving little time for effective supervision of those undergoing community service orders. Drugs are often a reason for youth crime and helping young people to find alternatives to drugs and to adjust is critical, but this cannot be done without an adequately resourced and trained diversionary and probation network. Country areas are particularly disadvantaged in relation to the availability of services for young offenders. The bill contains nothing to provide the structural support mechanisms for the supervision of community service orders. I am aware that the Department of Juvenile Justice has undertaken to monitor this legislation to ensure that net widening does not occur. But that is not enough; community service orders must be properly supervised.

The Hon. Dr B. P. V. Pezzutti: And that the supervision is paid for, of course that is important.

The Hon. Dr MARLENE GOLDSMITH: The Hon. Dr B. P. V. Pezzutti makes a telling point: the supervision must be paid for and young offenders should not simply be shunted off to non-government organisations in the hope that the community service orders will be supervised without adequate resourcing. In 1992 the Standing Committee on Social Issues brought down its juvenile justice report. In 1996 the committee is still waiting for its recommendations to be implemented. In 1993 the committee brought down its youth violence report. In 1996 the committee is still waiting for its recommendations of

that report to be implemented. It is important that community service order hours have been increased, despite the fact that the bill makes no provision for resources to supervise the orders. Across the span of the two reports to which I have referred the Standing Committee on Social Issues had wide ranging representation from this House.

At different times the committee has comprised members of five different political parties, all of whom supported the recommendations. Some were members of the committee only for the first report and others only for the second. On each occasion the recommendations were unanimously supported by all members of the committee. The speeches made by members of the committee in this House are evidence of the broad-ranging support from across the political spectrum. When one is confronted by the evidence in relation to juvenile crime one becomes aware that the bill is an essential development in juvenile justice. The legislation is one of many needed developments that New South Wales has been waiting for. Unfortunately the Government changed the rules after the exhaustive process undergone by the previous Government. That process included the inquiry by the Standing Committee on Social Issues, the establishment of the Juvenile Justice Advisory Council, and the preparation of the green and white papers.

For reasons best known to itself, the Government decided to restart the process. Those reasons are mysterious. All the interest groups have certainly been consulted. During the 1990s interest groups were consulted ad infinitum. Unfortunately, the consequence has been to delay a number of necessary reforms. The legislation is not a softening of the legal process as it relates to young people; it is a stiffening of that process. I recommend that the legislation be widened to encompass the family conferencing system sentencing options. The more juvenile crime that can be dealt with through the family conferencing system, the better. The Standing Committee on Social Issues inquiry constantly heard that the legal process is not an effective way of dealing with juvenile crime. That process takes a long time, and the importance of immediacy in responding to an offence is lost on young people. The process is undertaken by third parties. The young person sits in court while lawyers and magistrates discuss the issues in legal language that the young person does not identify with or understand. I remind honourable members that process occurs a long time after the offence.

The result of that process is that the young person is alienated by and distanced from the legal process. To the young person the legal process seems irrelevant to the offence. That is not conducive to reform, to putting that young person back on the rails, to making the young person a productive member of society, or to making the young person responsible for restitution. It is a negative process. The more young people who are kept away from that process, the better. I strongly

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recommend that the Government consider extensive community sentencing order options for the family conferencing system, so that more youth crime can be dealt with in that way. That will benefit young people and the community. That has been demonstrated by the experience in New Zealand, where the process has been implemented. I reiterate my concern about the lack of supervision provided by the legislation. Apart from that I am delighted to support the legislation.

The Hon. J. F. RYAN [12.15]: I am pleased to contribute to this debate. I am not ashamed that in my early life I came within the net of the juvenile justice system and spent some time in substitute care, partly as a means of addressing my family situation, and partly as a means of addressing juvenile offences that I had committed. In 1990 I visited New Zealand with representatives of the New South Wales Police Service to observe the revolution - and that is the only way it could be described - that had occurred in the New Zealand juvenile justice system as a result of the passage of the Children, Young People, and Their Families Act. That revolution impressed the Police Service representatives and was beginning to impress members of the previous Government. However, the New Zealand Act was passed almost a decade ago and New South Wales has not implemented legislation that remotely resembles the New Zealand Act.

That we have not been able to reform the juvenile justice system and produce legislation that will

provide better outcomes not only for community but also for young people who are involved in juvenile crime is an indictment of us all. Since 1990, when the Police Service representatives visited New Zealand, the Standing Committee on Social Issues has conducted inquiries into juvenile justice and youth violence, and white and green papers have been issued. Even this legislation is only half a step in the right direction. I support everything my colleague the Hon. Patricia Forsythe said about community service orders not being soft options. Honourable members and the community need to understand that when a custodial sentence is considered inappropriate, as it is in the majority of cases, and a young person is given a bond, the young person may interpret that as getting off.

Many magistrates would like to impose community service orders as an alternatives to bonds and other options to make the point that the young person did not get off, but owed something to the community because of the offence that had been committed. I endorse the remarks of the Hon. Patricia Forsythe in relation to the need for supervision of community service orders. The budget papers for the next financial year show a small reduction in the juvenile justice staff numbers from 1,027 to 1,000. That reduction may have an impact on the department's ability to supervise what I hope will be an increased number of CSOs, which should lead to a reduction in the number of committals. In my view those figures in the budget papers are not a good signal. I support the call by my colleague the Hon. Patricia Forsythe for annual monitoring and reporting to the Parliament on the operations of this Act.

Those annual reports could address the number of people involved in supervising CSOs and whether that number is increasing or decreasing. The annual report could also address the degree of recidivism that is occurring in relation to those who are subject to those orders. The budget papers indicate that over the next two years \$15 million will be spent on constructing a 60-bed unit in Dubbo. The budget papers also show that a significant amount will be spent on the upgrading of the juvenile justice centres at Cobham, St Marys and Mount Penang, and \$18 million on upgrading similar facilities in metropolitan Sydney. I am not sure of the number of beds at each of those facilities. Honourable members should understand that 60 beds, the number at Dubbo, is equivalent to the entire number of remand, custodial and high-security beds in New Zealand.

Bearing in mind what I had heard about the need for high security for young people, I was impressed by the simple New Zealand method of accommodating high-security juvenile detainees. A custodial officer was assigned to them for 24 hours a day and they were in locked premises. There were no high walls and no electronic security or anything of that nature. The system simply used people. It was a more humane and more sensible approach; if the juvenile justice system is working properly very few juvenile detainees need to be housed in high-security premises. The detaining of 60 young people at Dubbo is an indictment of New South Wales. This State should be able to reduce its total custody requirements to those of Victoria. In Victoria today 75 young people are in custody. In New South Wales today 480 young people are in custody in the juvenile justice system. That comparison is outrageous.

The Opposition offers the Minister all the support in the world for changing the juvenile justice system from one that involved high security to one that involves a great level of diversion, a greater use of community service orders and a great deal less custody. It has been said so often that it has become a cliché, but places of custody become colleges of crime. In many instances, all that happens is that the young people who are held in custody become better criminals. They are rarely, if ever, reformed and in many instances those that are reformed would have been reformed through the normal maturation process, in any event.

I appeal to the Minister to carefully consider the capital works budget to ascertain whether there can be an even greater reduction in the number of beds in these facilities, and perhaps an even greater regionalisation of such facilities. In many instances a simple, suburban house with some good locks, staffed by competent people, is all that is required for adequate custody. That is probably more

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appropriate for places such as Wilcannia, Wellington and Bourke than sending young people to Dubbo. The Opposition supports the legislation. I look forward with great interest to the revolution that is needed

in the juvenile justice system in New South Wales. The Minister has heard the contributions from Opposition members. There has been little cranking up of the get tough, law and order enforcement approach. The Opposition, of course, wants to be firm with juveniles who offend, but it is not interested in the custodial option because it has been proved time and time again to not work.

The Opposition would prefer these young offenders to reform themselves in the community, in the context of their existing community links and existing family support links. I know from bitter personal experience, from many of the young people that I mixed with when I was young, from my later experience in the school system, from the study I have made as a member of the Standing Committee on Social Issues, from the visits I have made to New Zealand and from the extensive consultation I have undertaken that there is a better way. There is not a great deal of indication in this year's budget papers, or even in this legislation, that the Government proposes to vigorously implement the findings of the white paper. I only hope that, in his reply, the Minister will tell me that I am wrong. I hope he will act. The young people in this State need this legislation, and the Opposition supports it.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [12.24], in reply: I thank honourable members who have contributed to the debate for their support for this important legislation. I first want to address the legitimate concern raised by the Hon. Patricia Forsythe about the extent to which community service orders are successfully completed. In the 1994-95 financial year, 992 children's community service orders were finalised by successful completion, expiry of the order, revocation after application to the court, or revocation by the court upon the offender being dealt with for another offence. Successful completion accounted for 83 per cent of finalisations. The proportion of orders about which the department initiates breach action has been of the order of 6 per cent when averaged over the past three financial years. The remaining portion is accounted for by revocation upon being dealt with for another offence, orders expiring in cases where children have been unable to complete them due to injury or illness, or instances of the child and his or her family leaving the State for employment or other reasons.

I assure the House that to maintain the credibility of this sentencing option, the department has a policy of breaching young people and returning them to court when they clearly refuse to cooperate and to complete the order. Constant and vigilant departmental supervision of children's community service orders takes place and is considered to be a high priority by the department. I know that concern has been expressed regarding adult community service orders. However, I believe that the performance in juvenile justice is rather better. The Hon. Patricia Forsythe also expressed concern about the availability of rural juvenile justice staff. Juvenile justice-community services staff are located throughout the State. The department is decentralised and officers are located in all major towns. In addition, visiting services are provided to other locations. One rationale for my moving out some of overloaded head office staff was to locate them in community-based services. Specialised supervision is also available in rural areas by contracted fee-for-service counsellors.

An important point raised by the Hon. Patricia Forsythe related to what I might term the evaluation issue. I assure the House that the purpose of this measure is to make children's community service orders more viable as alternatives to detention for relatively serious offences. I am committed to taking every possible step to ensure that there will be no net widening, leading to increased imposition of CSOs for offenders who currently would not receive such penalties. I have instructed the Department of Juvenile Justice to monitor both the statewide utilisation of children's community service orders as a penalty option and instances when the penalty may seem to be imposed inappropriately by individual magistrates. Depending upon what may be discovered by such monitoring, I may need to bring information to the attention of the Chief Magistrate, the Senior Children's Magistrate, the Judicial Commission or individual magistrates.

The Hon. Dr B. P. V. Pezzutti: Or the Attorney General.

The Hon. R. D. DYER: Or, for that matter, the Attorney General. I have no problem with making

the outcome of the evaluation available to honourable members. The Hon. Patricia Forsythe asked about the possible tabling of an annual report detailing the outcome. I point out that the annual report of the Department of Juvenile Justice already contains information about community service orders. However, as I have said, I will be happy to make the evaluation available. I do not believe there is a need for any separate annual report, although I will ask the department to ensure that thorough and complete information about community service orders is made available in its annual report. I will consider appropriate modifications, if that becomes necessary in light of the evaluation, to ensure that the legislation being considered by the House operates effectively to achieve its stated aims. Honourable members may be assured that I will not swerve from acting energetically to ensure that the purpose of the bill - namely, to increase the viability of children's community service orders as an alternative to the detention of mature young offenders who have committed relatively serious offences - will not be diverted or misapplied.

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The Hon. Dr B. P. V. Pezzutti: What about granny bashing?

The Hon. R. D. DYER: If the Hon. Dr Brian Pezzutti is concerned about a particular crime of violence, I would indicate to him that although sentencing is a matter for the magistracy, serious crimes of violence will end in a young person being committed to detention. The Hon. Alan Corbett made some detailed comments seeking that at least portion of the hours imposed under a children's community service order be devoted to the personal development of the young offender, for example in addressing an education deficiency. The purpose of a community service order is for the offender to make some reparation to society for the offence. This reparation takes the form of community service work. Section 3 of the Children (Community Service Orders) Act 1987, which defines community service work, allows a great deal of latitude. The definition is "unpaid work approved by the Minister or unpaid work of a class or description so approved". In theory, almost any activity could be brought within the scope of this definition. However, in my view several considerations militate against broadening the category of community service work to encompass the personal development of an offender.

That broadening would blur the distinction between the various penalty options that are open to the court and are administered by the Department of Juvenile Justice. For example, the court may use a "Griffiths remand" to give a young offender time to enter a particular rehabilitative program and then consider the changes wrought in the young offender's attitude or behaviour when subsequently imposing sentence. The court may choose between a number of community-based options that entail supervision by officers of the Department of Juvenile Justice. The young person may be placed on a bond or on probation. A probation order may also be specified as attracting specialised supervision through one of the department's intensive program units. These units operate in the metropolitan area; an equivalent service is provided in country areas by way of contracted fee-for-service counsellors. This activity of the Department of Juvenile Justice provides specialised counselling, intensive supervision and group work involvement. The aim of intensive program unit intervention is to assist children to address the factors underlying their offending, to develop strategies to deal appropriately with society's values and expectations, and to meet their own needs in constructive socially acceptable ways.

The Department of Juvenile Justice will generally recommend to the court that an offender be dealt with by probation supervised by an intensive program unit, although it is open to the court to recommend such supervision when imposing a probation order. Should the court identify a young offender as being in need of personal development, it can address that need by imposing one of the penalties I have already discussed. If the young person is assessed as requiring intensive psychiatric or psychological counselling services, it is highly unlikely that the department would recommended a CSO to the court. In these cases other options would be suggested. In addition, there is a concern that the unique nature and purpose of community service orders would be compromised by diluting their reparatory nature.

A community service order is intended as a means by which a young offender can make tangible

reparation to society by doing work that either benefits society as a whole, or some section of society that is seen to be deserving of assistance. It should be remembered that a children's community service order should generally not be considered by a court unless the child previously has been dealt with by way of penalty. Such earlier imposed penalty should have attempted to address the personal needs of the young offender. To include personal development activities may lead to children's community service orders being seen as a soft option, rather than as a serious penalty that is the last alternative to detention. Children's Court magistrates have strongly expressed this ground as basis for their criticism of any personal development component being allowed in children's community service orders. On 24 April last year the then Senior Children's Magistrate, Mr Rod Blackmore, wrote to me to express his opinion that the inclusion of a personal development component in the increased maximum proposed in the green paper was undesirable. He said:

It might be perceived as trivialising the serious status of community service orders . . . then it is likely that these orders will not have the confidence of the judiciary and that persons who might have been subject to such orders would continue to be subject to detention.

That is the very outcome that I am seeking to avoid by making community service orders more available and more attractive to the judiciary as an alternative to detention. While I recognise the genuine concern that underlies the proposal, that a portion of the increased maximum hours should be available for personal development, I can assure the House that the long-term interests of young offenders would not be served by such an approach. However, I am assured that the Department of Juvenile Justice will refer young people undertaking a CSO to its other support services as necessary, but that those services would not form part of the CSO itself. I believe that this practice would address the issue raised in the report of the Standing Committee on Social Issues report on youth violence.

I generally agree with the comments made by the Hon. Dr Marlene Goldsmith during her contribution. Current statistics do not suggest alarming increases in juvenile crime, although there are increases in some categories. Serious violent offenders will continue to be sentenced to detention. I want to make that clear. That is a matter for the judiciary, but that is the Government's wish. It is
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not envisaged that CSOs will be available to serious violent offenders. A range of other intensive support programs are now being developed by the Department of Juvenile Justice, such as a new violent offender program, and I expect they will be launched shortly.

In response to the Hon. John Ryan, the budget papers refer to reduced staffing in the Department of Juvenile Justice but that certainly does not apply to supervisory staff involved with community service orders. Some staff have been moved out of head office in Sydney; there is a clear reduction there. However, my aim is to increase the functioning of the department and the staffing and resourcing of community-based services, including the supervision of community service orders. I agree with the comments of the Hon. John Ryan about the importance of providing alternatives to custody. I noted his comments regarding the capital works program for juvenile justice and his reference, for example, to the proposed new centre at Dubbo.

The Hon. J. F. Ryan: There is not one in Lismore, is there?

The Hon. R. D. DYER: I am well aware there is not one in Lismore. The Hon. John Ryan should recognise that I have stated publicly more than once that I would like to put a bulldozer through Minda. It is quite clearly the case that there is substandard accommodation in many parts of the juvenile detention system and that is why I want to replace beds that do not comply with United Nations, international, or Australian standards. It seems to me to be important that beds should be provided that comply with such standards and, more particularly, that beds should be provided closer to the place of origin of young offenders.

The Hon. Dr B. P. V. Pezzutti: There are none on the north coast.

The Hon. R. D. DYER: The Hon. Dr Brian Pezzutti keeps saying there are no facilities on the north coast. I am well aware of that and I am giving some consideration as to whether a facility might be placed somewhere on the north coast to service both the north coast and the New England region. The reason I want to place these facilities in non-metropolitan areas - by which I mean other than Sydney, Newcastle and Wollongong - is to avoid the double penalty of young people being sent both into custody and, in effect, into exile hundreds of kilometres away from where they reside. If that happens, more often than not it is very difficult for their families and friends to visit, and that does not assist their reintegration into society. I thank all honourable members for their support for this measure. It will be monitored carefully and I will endeavour, via the department's annual report, to ensure that full and appropriate information is provided to honourable members and to the public of New South Wales.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SYDNEY SHOWGROUND SITE DEVELOPMENT AND STATE OFFICE BLOCK LEASEHOLD SALE

Suspension of standing and sessional orders agreed to.

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

That General Business Notice of Motion No. 2, relating to the Sydney Showground and State Office Block, be called on forthwith.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [12.42]: I move:

That this House requests that the Auditor-General:

- (1) Examine the proposal to lease and develop the Sydney Showground site and advise, having regard to the tender process, whether the terms of the proposed lease (including State Government planning instruments and State Government financial assistance), provide a fair and reasonable economic return for New South Wales taxpayers. The Auditor-General should specifically examine and report on:
 - (a) the costs to be met by the State under the terms of the lease, having regard to planning conditions and the long-term nature of the lease;
 - (b) an assessment of the benefits to flow to the developer of the site, which include length of the lease, planning considerations and whether such benefits are in the best interest of New South Wales taxpayers;
 - (c) having regard to the Valuer-General's report, and the failure of the Government to release the B.Z.W. report reviewing rent, whether the proposed rent of \$2 million per annum is in the best interest of New South Wales taxpayers;
 - (d) the appropriate rental amount for the site that the Government should receive if it is advised that the proposed rent is not in the best interests of New South Wales taxpayers;
 - (e) any other matters within the jurisdiction of the Auditor-General that the Auditor-General believes are pertinent to Parliament's consideration of the proposal to lease and develop the Sydney Showground site;
 - (f) the true value and market rental of that part of the Sydney Showground to be leased to Fox

Studios:

- (i) in existing condition;
 - (ii) in improved condition after proposed government expenditure on services and infrastructure; and
 - (iii) with regard to its enhanced value due to State Environmental Planning Policy 47 rezoning and development application approvals for usage and subdivision.
- (2) Examine the proposed sale of the State Office Block building and advise, having regard to the tender process, whether the terms of the proposed sale provide the best economic return to the New South Wales taxpayers. The Auditor-General should specifically examine and report on:
- (a) whether the tender process has been administered fairly and to achieve the best economic return to New South Wales taxpayers; and
 - (b) the terms of any contract entered into for the sale of the building.
- (3) Report to the Parliament on (1) and (2) by 17 September 1996.

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The motion is in two parts. One relates to the Sydney Showground site and the other to the sale of the State Office Block. I will ask that the two parts be voted on seriatim so that the House can, in a deliberative way, deal with each separately. I have moved the two parts in one motion because they each involve a reference to the Auditor-General, and it is convenient to debate them together. I will deal first with the Sydney Showground site. The motion does not seek a general debate about the site but asks the Auditor-General to determine whether the proposed lease provides a fair and reasonable economic return. The matter has been around for a long time. On a number of occasions the House sought to gain access to information concerning the lease and I sought to obtain documents relating to the lease. On 13 May 1995 the Treasurer said in answer to a question as to whether the Government was seeking financial advice from an independent third party, such as a recognised merchant bank, to assess whether the New South Wales Government and Fox Studios for the Government was fair and reasonable:

My understanding is that that has already occurred and that the answer is in the affirmative.

That is the situation because as at 13 November 1995 the Government had received a report from BZW Australia, the merchant bank that had been engaged to provide advice to the Government. On 14 November the Treasurer was asked whether he would release the BZW Australia report. His advice was that he would release the report and make a decision on it. On 20 November 1995 the Treasurer was again asked whether he would indicate to the House whether he would release that report and when it was to be released. He replied:

The information which the Government has already released is the information which it will be releasing.

That referred to the Government tabling certain documents and refusing to table others, the BZW Australia report being one document that the Government refused to release. In the other place, in answer to a question on 23 November 1995 about the BZW Australia report containing in-confidence commercial matters that precluded its release, the Premier said that the report concluded that the \$2 million rent is "within reasonable commercial parameters". The Government has taken an interesting approach to this matter. Initially the Government said it was relying upon a report of the Valuer-General that supported the valuation of the lease of this land. The Valuer-General's report is an interesting

document and I should draw it to the attention of the House. In the report, dated 7 June 1995, the Valuer-General said:

Consideration has been made for the market, within which the subject will compete and the restricted uses the site can be put to having regard to the current planning instruments.

He said that the use for which Fox studios was planning to acquire the land is prohibited under the current planning legislation. Notwithstanding that, the Valuer-General then said:

This rental valuation is to take into consideration permissible uses in the open market.

The Valuer-General then went on to state:

The lessee would take the land and buildings in their existing condition and return them to the Crown at the expiry of the lease, in a state of good repair.

In his valuation rationale the Valuer-General stated:

It is considered that the current use of the site is the only permissible and commercially viable use the land can be put to.

. . . Ignoring the proposed film studio, it is very unlikely that there would be a large amount of operators that would be able to take on the rental and maintenance of the site in its current condition.

He then valued the rental of the property at \$2 million. At no time was the Valuer-General asked to value the land on the basis that its use would change. At no time was the Valuer-General asked to take into account that the Government would provide \$32 million to remediate the land - both of which would be significant factors to be taken into account by the Valuer-General in determining the value of the land. The Valuer-General said that ignoring the proposed film studio - and, I infer from that, any other use for which permissible land use might be changed - it is very unlikely that there would be a large number of operators who would be able to take on the rental and maintenance of the site in its current condition. Therefore, naturally, the market for this land would be exceptionally limited. With all the constraints the Government has placed on the Valuer-General we would accept that the Valuer-General might come up with a \$2 million rental value for the land. The Premier said in answer to questions that he wanted a second opinion. It was more than a second opinion because the Opposition made an application under the Freedom of Information Act to gain access to the BZW Australia report. At page 6 of the judgment, quoting the evidence of Ken Baxter, the director-general of the department at the time, the judge said:

The Valuer-General has prepared his reports on the basis of the likely and comparable rentals that can be obtained for a site of this kind. Since the site is unusual, it is necessary for the Government to ensure that values placed on the site and the rentals being discussed are commercially realistic and consistent with those which would arise if the negotiations were being conducted by two private sector organisations. The Government needs advice to enable Cabinet to reach a view about what ultimately may be negotiated with the R.A.S and Fox Studios Australia Ltd.

The evidence is interesting. Page 7 of the judgment states that on 21 September 1995 BZW provided a preliminary advice that was "discussed at the sub-committee of the Cabinet committee". Following the receipt of that preliminary advice BZW was asked to prepare a "succinct document". Page 8 of the judgment states:

The main motivation for obtaining the report was to obtain a second opinion so that Cabinet could be satisfied that the Valuer-General's opinion as to rentals was within commercial parameters.

The Government is not talking about a fair and reasonable value; it is talking about reasonable parameters. It is interesting to note at page 9 of the judgment:

The BZW report was three pages long and set out a number of factual matters and then drew conclusions and gave advice.

If the Government is genuine about wanting the public to be satisfied that the deal gives a fair and reasonable economic return for the people of New South Wales, the report ought to be released. That is the document that gave comfort to the Government. However, the Government has consistently refused to release it. At this stage there can be no comfort at all that out of the Fox Studios proposal the Government has been able to secure a fair and reasonable economic return. This motion is clearly aimed at requesting the Auditor-General - because it is only the Auditor-General who is able to examine all the documents and prepare advice for the Parliament - to determine whether everything that has been done has been done in the best possible manner for the benefit of this State. It is on that basis that I commend to the House the first paragraph of the motion.

I turn to the State Office Block. The way in which the proposed sale of the State Office Block has been handled is a matter of grave concern to the Opposition. On 11 March 1991 the Hon. M. R. Egan, who was then the shadow Treasurer, was reported in the *Newcastle Herald*, in reference to a proposal by the former Government to sell the State Office Block for \$140 million, as saying that the \$140 million "fire sale" price was \$45 million less than a valuation that property experts and the Government had placed on it 18 months previously. He said that it was crazy to sell off prime Macquarie Street property when the market was at rock bottom. When the market was at rock bottom the Treasurer said that more than \$140 million should be obtained from the sale of the State Office Block. Only a short few weeks ago the Treasurer and the Premier said that New South Wales is having a boom time.

The latest statistics released by the Real Estate Institute show that the return from property values has increased markedly from the time when the market was at rock bottom. I acknowledge that in 1991 property values in Sydney were at rock bottom. Now, several years later, property values have increased markedly, yet the Government is negotiating a contract for \$69 million. By way of a press release the Minister for Public Works and Services had the following to say about the negotiations:

... the \$69 million offer from Lend Lease was unconditional. This means the company will bear the risks associated with development of the site.

The press release goes on to state that the negotiations had resulted in one of the best deals that the State could achieve. One has to question that. The property market is no longer at rock bottom, yet the Government has accepted a \$69 million offer for the State Office Block. There are many questions to ask about the deal. I put to the House that the only organisation that should appropriately at this time examine the deal and determine whether it provides the best economic return to the State is the Auditor-General. Tenders for the property closed on 20 March 1996. I draw the attention of honourable members to two clauses of the tender. The final sentence in clause 15 states:

No Tenderer will in any way publicise its tender or proposed tender.

That is an absolute prohibition. Clause 16 states:

In consideration of the Offeror agreeing to consider each tender made in accordance with the Tender conditions and the Tender agreement the foregoing Tender conditions [which include clause 15] will continue to bind the Offeror and each Tenderer notwithstanding that its Offer might not be accepted and notwithstanding acceptance of any other Offer and, in the case of the successful Tenderer, notwithstanding entry into or completion of the Tender agreement.

The tender requires absolute confidentiality: the tenderer is required to say nothing and do nothing. I point out that the prohibition was not adhered to by the successful tenderer but, to the best of my information, was adhered to by every other tenderer.

Debate adjourned on motion by the Hon. J. P. Hannaford.

[The President left the chair at 12.57 p.m. The House resumed at 2.30 p.m.]

FINANCIAL INSTITUTIONS (NEW SOUTH WALES) AMENDMENT BILL

LIQUOR AND REGISTERED CLUBS LEGISLATION AMENDMENT (ENFORCEMENT) BILL

FORESTS AND FLORA RESERVES REVOCATION BILL

Bills received and, by leave, read a first time.

SYDNEY SHOWGROUND SITE DEVELOPMENT AND STATE OFFICE BLOCK LEASEHOLD SALE

Suspension of standing and sessional orders agreed to.

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

That General Business Order of the Day, relating to the Sydney Showground and State Office Block, be called on forthwith.

Debate resumed from an earlier hour.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [2.31]: Earlier I had indicated that the Opposition was extremely concerned about aspects of the sale of the State Office Block. There was a
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requirement on all tenderers not to make public matters relating to the proposed tender; the matter was to be kept at all times confidential. And to some extent, that requirement has impeded the Opposition's ability to obtain information about this property. However, a number of matters have become clear. If matters relating to the proposed tender were to be kept confidential - and that seems to have been a condition of any application - an explanation must be given for the reason that Lend Lease was able to lodge an application with the Sydney City Council for an approval in relation to this proposal. Given that the tender process was to be confidential, why is that within four weeks of tenders closing on 20 March Lend Lease was able to lodge a predevelopment application in respect of the site with the Central Sydney Planning Committee? No such application can be lodged without the concurrence of the owner of the property.

After being informed that such an application had been lodged, I arranged for inquiries to be made of the council about it. Those inquiries revealed that there is no public record of the application having been lodged. Why is that? After that inquiry a document arrived, out of the blue, at Parliament House. It referred to an application by Lend Lease Development to demolish the existing State Office Block, including the Premier's wing, for the purpose of erecting two new commercial buildings. Attached were details of the application, copies of the plans and a full analysis of the application. Yet the tender process required that all such information be kept confidential! That was an essential ingredient of the application. Why was this able to be done by Lend Lease but not by any other tenderer? The document stated:

Lend Lease Developments among other companies has submitted a tender and Lend Lease wish to obtain an indication of the Central City Planning Committee's requirements for the site prior to the tender being finalised if successful. To this end, Lend Lease has submitted a pre-development application for consideration by the CSPC.

When was this application considered? The answer is 16 May. When were the tenders accepted? The answer is 14 days later. Why was Lend Lease the only company of the 10 tenderers to be given the opportunity to lodge a development application with the council? It is most intriguing. On Saturday 13 April the *Sydney Morning Herald*, in its property section, reported:

The Government must choose the highest bidder, with the proviso that the bidder can deliver. That proviso is complicated by the sale of the leasehold without development approval.

In other words, no tenderer was able to get development approval - that is, except Lend Lease. I shall examine that more closely in relation to the explanation given by the Minister for acceptance of the proposal. The Minister stated in *Hansard*:

The amount of net present value calculated for the Leighton offer was \$72 million.

So we have an offer of \$72 million which is conditional on finance and development approval. Because of the confidentiality clause I am having difficulty getting information about what went on. I have to rely on public documents. The Minister is saying that the building at present net value is worth only \$72 million - that is, more than the tender accepted by the Government. The tender was conditional on getting development approval and therefore it was not good enough. Yet we now know from the documents that nobody was able to get development approval - except the successful tenderer, who was able to put an application before the City of Sydney Planning Committee. Clause 9(3) of the tender document states that the offerer, the Government, reserved the right to request further particulars and information from any tenderer relating to its offer, to allow the offerer to evaluate the broad objectives set out in clause 4(c), and the offerer further reserved the right to request any tenderer to amend its offer in any way whatsoever. Together with the other parts of clause 9, that is interpreted by tenderers as an invitation to negotiate.

I am told that it is unusual to have a clause inviting negotiation. But were there negotiations? In the *Australian Financial Review* property section of 31 May there is an article headed "Lend Lease wins NSW State Office Block war". The public record indicates that there were 10 tenderers, with a range of parties involved in each one - construction companies, bankers, advisers; consortiums of tenderers. Mr Roger Brock is quoted as saying that the Government had declined repeated requests to discuss the bid. There was a clause inviting negotiation, and one of the bids was up to \$20 million higher than the Lend Lease offer. Macquarie Bank was believed to be protesting against the Government's decision. The Macquarie consortium is said to have offered around \$75 million for the site conditional only on a development application approval.

I am led to believe that only one of the tenderers was invited to discuss its tender with the Government. I understand that most of the tenderers, if not all, sought an opportunity to discuss their tender with the Government in accordance with the tender arrangements. They were not given that opportunity. Mr Brock made numerous requests to discuss the tender but every request was turned down. I understand that a number of the tenderers requested discussions with the Premier because of the way in which the matter was being handled. Only one of the tenderers had discussions with the Premier.

The *Australian Financial Review* report, in relation to Mr Brock's offer, stated that the consortium's tender, which included a hotel, had been complex but "totally unconditional", including a series of options for the Government. Even if none of the options had been taken up, the net present value of the consortium's tender, calculated by financial adviser SBC Warburg, was \$82.9

million rising to \$122.9 million if land tax was paid in advance and if the Government agreed to a 26-year option to the lease. That net present value was independently assessed by a merchant bank. In the other House the justification given by the Minister for accepting the tender of \$69 million unconditional was that it was the best offer. Yet there was another unconditional offer independently assessed with a net present value of \$82.9 million - that is, \$14 million higher than the accepted tender.

One has to ask what was going on with the assessment process in relation to this offer. How was it being administered? Further, I am led to believe that there is major concern in the business community about the assessment. The normal process was for the Government to receive a single recommended offer. Yet in this matter the Government was given choices. Why was there a departure from longstanding practice in this case? As I said, the proposal accepted by the Government was assessed by the City of Sydney Planning Committee. It was one of the few proposals to involve demolition of the State Office Block.

The Hon. R. S. L. Jones: With asbestos?

The Hon. J. P. HANNAFORD: It has asbestos in it. Attachment B to the report of the City of Sydney Planning Committee, which refers to heritage matters and is headed "Statement of Significance", states that the State Office Block is a landmark in architectural design of the 1960s. It is a first-class example of a prestigious 1960s office building. It continues the tradition of excellence in design and standards of finish set by successive government architects. At the time of the documentation and construction it was the tallest building in Australia. It was the first building in Australia to use advanced wind tunnel tests to assist in design. It is the only building in Sydney to have used the advanced version of the cell deck floor - a hollow metal flooring system designed to conceal service ducts. This building, in its day, was a unique building, and it is still architecturally unique. Part of the building is already the subject of a heritage order.

The report goes on to deal with the building's compliance with planning policies and design principles. It states that the development does not comply with seven of the 13 design principles. It complies in regard to its relationship to neighbouring developments. However, its appearance is considered to be mediocre and to not enhance its position as a gateway site for Macquarie Street. Of significance also is that vistas of buildings in Macquarie Street will be affected. There is only partial compliance in this regard. The vista along Bent Street towards the botanic gardens will also be affected as the building will be built out to the street where the plaza currently exists. The development complies with only seven of the 13 standards, yet the Government is prepared to accept an offer of \$69 million when, on all the evidence, other offers were over and above that amount.

The Minister said that the amount of net present value calculated for the Leighton's offer was \$72 million, or \$3 million more than the offer accepted by the Government. That offer of \$72 million was conditional on finance and development approval. Why should that application be conditional upon finance when one of the partners in the consortium is one of the largest banks in the world? I am advised that that condition existed when the tender was first lodged, and when the process was completed the consortium withdrew it. Why is it that the Government was prepared to discuss the tender with some of the tenderers but not others? Why was the Minister told that there was a precondition with regard to finance when that condition was withdrawn? Why did the Minister say that he would reduce the value of the development because it proposed that acceptance would be conditional on development consent when only one tender was accepted, and only one group was able to lodge a predevelopment application to the council - and it did so in breach of the tender documents?

Why is it that all other tenderers that who complied were not allowed to discuss the matter with the Government when the tender documents invited them to have discussions? None of the matters referred to applied to the successful tenderer; it had discussions with the Government. The tender documents state that as a result of discussions a varied tender may be lodged. Why was the successful tenderer

the only consortium permitted to lodge a varied tender? None of the others was able to; none of them had discussions, although they wanted to talk to the Government about conditions. Had the Government engaged in discussions with them and allowed them to vary the conditions, their prices might may have been even higher. But the Government would not talk to them.

Some members of the consortia were prepared to discuss the matter but advised that they were bound by secrecy clauses, even after tenders were accepted. Who among them would have courage enough to investigate the Government's role in this process? All the tenderers want to do business in this town in the future, and they are scared to discuss the matter with anyone but a statutory authority. The business world is well aware of the dirty tricks that members of the Government are prepared to get up to; it has not forgotten that the Premier was a Minister in a previous Labor government that blackballed certain tenderers.

Consortia members are so scared that those who were prepared to provide information insisted that I give an undertaking to use only letters in my notes to identify those I talked to. I was not permitted to write down their names. That is how scared of the Government they are. They do not know who was given the opportunity to talk to the Premier, although the Opposition has its suspicions. The stench of this process extends from the Town Hall to Circular Quay. The only way that public

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sector confidence can be restored in relation to tender processes with this Government is if it can be truthfully said by the Government, "Yes, in accordance with our resolution, the best price was obtained for this site and the processes were correctly followed." The names of members of each consortium, including a number of banks, were associated with the tender process.

I do not know whether the Minister has spoken, as I have, to finance houses in Sydney since this tender process was concluded. If he has, he would know that they are unhappy about this process. As unhappy as they are, however, they are not blaming Lend Lease. They are more concerned about how the Government has handled this proposal. They are concerned that the Minister has made statements about this proposal that are wrong. What advice was given to the Minister and, consequently, what was put into the documents that led to the assessment of the proposal? Confidence needs to be restored in the tender process and in the Government's administration of the tender process. That can only be done if the Auditor-General investigates the process. That would not be an unusual situation.

The Auditor-General has been called on to assess the appropriateness of other tender processes. As I recall the State Bank contract had to be reviewed by the Auditor-General. This contract for the sale of the State Office Block has been signed and will go ahead. At least on the State Bank sale the Auditor-General reported before the sale was completed. Members of the upper House have an obligation to the community. Given all the commentary and the doubts expressed one can understand why the public is concerned. The public's concern has been aggravated by the comments of the Treasurer during the estimates committee hearings, when, on 31 May, he was asked about the sale of Crown assets and why prices had not been achieved. The Treasurer replied, "Part of the confidence is that as to some of the asset sales that were anticipated in the current financial year 1995-96 we will not get the proceeds until 1996-97." He further said, "That includes the State Bank - not the State Bank, the State Office Block." Dr Pezzutti said, "It has been sold." The Treasurer replied, "Yes, I know. That was a pretty bad deal and I hope Opposition members will ask me some questions about that."

The Hon. M. R. Egan: No, that was the State Bank.

The Hon. J. P. HANNAFORD: No, it was not.

The Hon. M. R. Egan: I am sorry, it was.

The Hon. J. P. HANNAFORD: The *Hansard* proof states, "That includes the State Bank - not the State Bank, the State Office Block." That is what the Treasurer said, but it cannot be so. How much

was the State Bank sold for? How many hundreds of millions?

The Hon. M. R. Egan: It was \$534 million, and does the Leader of the Opposition know what we made on it?

The Hon. J. P. HANNAFORD: We are talking about \$173 million, the amount referred to in *Hansard*. The Treasurer has an opportunity to clear this up. I assure the Treasurer that the Government really has a problem with regard to its administration of this contract. The Government can try to shrug it off but everything I have said highlights that it has a real problem. The result of this reference to the Auditor-General may show that something is wrong and the tender process will have to be reviewed. If that happens, the community will be happy. The community will be concerned about this matter but it will be pleased that the Government has cleaned up the process. On the other hand, the Auditor-General will say that the tender process was a proper one, that the Government got the best price, and that the complaints are merely hollow screams from those who missed out. If the Government values its reputation and the reputation of its administration, it will not oppose this reference to the Auditor-General.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [3.00]: The Government opposes the motion. I was paying close attention to the remarks of the Leader of the Opposition in relation to the second part of the motion. I was almost convinced that his concern was genuine until he quoted a passage from the estimates committee. It was obvious that in the passage he quoted I was referring to the sale of the State Bank. Anyone who attended that estimates committee would understand that. If my comments were taken by anyone to have related to the sale of the State Office Block, it would have been headline news in every newspaper the following day. The Leader of the Opposition knows that, and it was dishonest of him to verbal me on the basis of that quote.

The Hon. D. J. Gay: Hansard do not get it wrong.

The Hon. M. R. EGAN: *Hansard* makes it quite clear.

The Hon. J. P. Hannaford: You had better read *Hansard*.

[Interruption]

The Hon. M. R. EGAN: The Hon. Elisabeth Kirkby is also making that disreputable accusation. I would expect it from the Leader of the Opposition but I do not expect it from her. I find the accusation personally offensive.

The Hon. Elisabeth Kirkby: It is in *Hansard*.

The Hon. M. R. EGAN: It is not in *Hansard*, madam! Go and look at *Hansard*. I was talking about the State Bank.

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The Hon. J. P. Hannaford: There is *Hansard*, read it.

The Hon. M. R. EGAN: What a contemptible human being! I find the assertion of the Leader of the Opposition -

The Hon. J. P. Hannaford: Take the *Hansard*; look at it.

The Hon. M. R. EGAN: Yes, let me have a look at *Hansard*.

The Hon. J. P. Hannaford: I read it word for word, and it is marked.

The Hon. M. R. EGAN: That is right. It reads as follows:

Part of the confidence is that as to some of the asset sales that were anticipated in the current financial year 1995-96 we will not get the proceeds until 1996-97. That includes the State Bank -

I corrected myself and said, " - not the State Bank, the State Office Block". Then *Hansard* shows that the Hon. Dr B. P. V. Pezzutti said, "It has been sold." Anyone who was at the estimates committee will remember that when the Hon. Dr B. P. V. Pezzutti said, "It has been sold", he was referring to the State Bank. In fact, his interjection followed my reference to the State Bank. I went on to say, "Yes, I know. That was a pretty bad deal . . ." Is the Hon. Elisabeth Kirkby seriously suggesting that as a member of the Government and as a member of the Cabinet committee that made the decision on the State Office Block, I would be saying days later, "That was a pretty bad deal and I hope Opposition members will ask me some questions about that"? Are you seriously suggesting that, madam?

Reverend the Hon. F. J. Nile: You were referring to the State Bank.

The Hon. M. R. EGAN: Precisely, and I find it absolutely objectionable for the Hon. Elisabeth Kirkby to suggest otherwise. I hope she will have the decency to apologise. It is a contemptible suggestion. As I was saying, I was almost ready to believe that the Leader of the Opposition was genuine in his remarks, until he misquoted that passage. I now realise that that was a dirty political stunt. In fact, the whole motion is a political stunt. The request that forms part of the motion is another stunt in a long line of unsuccessful Fox-related political stunts by the Opposition. As the Leader of the Opposition well knows, the Auditor-General does not need to be told what to report on; he is able to examine anything he considers appropriate.

The Hon. J. H. Jobling: You would be vindicated. If you have no problems, you would want to be vindicated by the Auditor-General, wouldn't you?

The Hon. M. R. EGAN: The Auditor-General, as I have said, is able to inquire into anything he considers appropriate.

The Hon. J. H. Jobling: Why don't you refer it to him?

The Hon. M. R. EGAN: Because it is his job to determine what he wants to investigate. With regard to the showground deal and the economic return it will deliver to the taxpayers of New South Wales, I firstly remind the Opposition that the primary purpose of the showground proposal is not to maximise income from the disposal or lease of the site. I emphasise that that is not the purpose of the exercise. The purpose of the exercise is to secure the future of a strategic job-creating industry in New South Wales and to find a first-class use for a fabulous first-class site. If the purpose of the showground proposal was merely to get the maximum number of dollars for its sale or lease, the Government would not be talking about film studios and related facilities at the showground.

I can think of a dozen and one uses that would reap a much more significant number of dollars for the State of New South Wales. That is not the purpose; the major purpose is to make sure that a magnificent new industry is located in Sydney, an industry that will create enormous opportunities for talented young Australians and will be an enormous economic boost to this city and to the State. What is more, it will make Sydney the second biggest English-speaking film-making location in the world. That is the name of the exercise, and that is what the previous Government was attempting to do. It was unable to do so; it was unable to deliver the deal.

The Hon. E. M. Obeid: They wanted to give it to Jeff Kennett.

The Hon. M. R. EGAN: They wanted to deliver it to Jeff Kennett or to Wayne Goss in Queensland because they were the two other States bidding for film studios, as were New Zealand and a number of other locations around the world that particularly wanted Fox studios to set up in their States or countries. The other consideration is to make sure that that significant, indeed historic, site that everyone knows as the showground has a first-class use. I am sure the Government could have got more money if it were prepared to lease the site for a regional shopping centre, or sell or lease it for high density housing, as the previous Government wanted to do at one stage.

The Government could have got a lot more money but it took the view, as a matter of policy which was announced well before the last election, that it wanted Fox studios on the site and wanted the site to retain all of the essential characteristics of the existing showground site: a site that the public could visit; a site where worthwhile economic activities were taking place; and a site with an industry that the whole of Sydney and New South Wales could be proud of. As I have said, the purpose of the showground proposal is not to maximise income from the disposal or lease of the site, but to secure the future of a strategic job-creating industry in New South Wales. However, thanks to the
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Opposition, a number of independent studies have been conducted on the economic impact that the development of a major film studio would have on New South Wales. In fact, it was Peter Collins, when he was Minister for the Arts, who commissioned a study by the Kinhill group.

The Hon. Jan Burnswoods: Pop-up Peter?

The Hon. M. R. EGAN: Yes, that was Pop-up Peter. In 1994 he commissioned a study by the Kinhill group. The Kinhill report not only nominated the showground as the ideal location for a major film studio, but also determined that such a studio facility would enhance the gross State product by \$241 million a year. The report, commissioned by the present Leader of the Opposition, could not have more clearly highlighted the fact that a film studio development would be in the interests of New South Wales taxpayers. The report stated:

If the facility were not to be built, some \$241 million per annum of activity would be forfeited by the State. This direct and flow-on indirect activity would generate income in the hands of New South Wales residents of \$193 million per annum of which nearly 70 per cent, or \$133 million, would be generated by industries other than films.

That is an extra \$38 per annum for each and every New South Wales resident. The news for the people of New South Wales in relation to employment is even better. The Kinhill study estimated that the film studio facility would generate an additional 1,200 film industry jobs and 5,600 jobs in other sectors, particularly service industries, where there would be, on the Kinhill estimate, some 2,600 jobs and trade industries, where, again according to the Kinhill estimate, there would be an additional 1,300 jobs. These are sensational job and investment estimates for the people of New South Wales.

It is important to emphasise one thing: they are not my figures; they came from an independent source commissioned by the Leader of the Opposition, Mr Peter Collins, when he was the Minister for the Arts. The Government has taken a responsible conservative approach and estimated that the studios will generate \$85 million per annum in production each year and create 1,600 direct and indirect new jobs annually. Rev. the Hon F. J. Nile often makes the point that the location of a film industry in Sydney will be the greatest advertisement that this city, this State and this country could ever have.

I am a great supporter of the Olympic Games. The Sydney 2000 Olympic Games will be a superb opportunity for Australia to advertise itself to the world, and particularly for Australia to refocus its international business reputation. At the moment Australia has an image around the world of a country that relies almost exclusively on what it produces on the land and takes out from under the land, perhaps with a few barbecues and a few people lying on a beach thrown in. In fact, Australia and New South

Wales have mature, sophisticated and diverse economies. More than 60 per cent of New South Wales exports now consist of manufactured goods and services. Only 40 per cent are mineral or agricultural products.

Sydney's huge information technology industry accounts for about 60 per cent of Australia's information technology industry - an \$11 billion industry. I understand that the figure for information technology exports emanating from New South Wales is \$2.25 billion. Pharmaceutical exports from New South Wales are worth \$740 million a year and are expanding at the rate of 25 per cent per annum. I believe I have told the story in this House of some of Sydney's manufacturing industries. The factory that makes the cochlea hearing implant - a hearing device designed, developed, and manufactured in Sydney - is not too far away from this Parliament. That factory has 80 per cent of the world market. It is a world leader, and 200 skilled people representing 60 different nationalities work in that factory.

The Olympics Games will give us the opportunity to convey the truth of our economy and our country to the world, but there will be an expiry date on the benefits from the Olympics. I hope New South Wales will continue to get a spin-off for many years after the Olympics. Sooner or later people will forget, just as they have forgotten that the 1956 Olympic Games took place in Melbourne. By 2020, or 2040, or 2050 people will have forgotten, except for those of us who take a special interest. The location in Sydney of the second-biggest filmmaking location in the world will continue to be a huge advertisement for Australia. One only has to travel overseas and talk to people about Australia to learn the knowledge they have gained about Australia -

The Hon. Franca Arena: Is through our films.

The Hon. M. R. EGAN: - has been through the film industry. They see the films made here and get an understanding of Australia from those films. They now even know that we speak English: 10 years ago they did not. I was at a function where they purported to play the Australian national anthem. I did not recognise it and I thought: that bloody Bob Hawke has changed the anthem while I have been away. It was the Austrian national anthem. Things like the Olympics and the Fox film studios in Australia will tell the world that Australia is the best country in the world in which to live, that it is one of the most civilised countries in the world, and one of the most technologically advanced countries in the world, that all in all Australia is the best country in the world. The film industry will help to get that message to the people around the world. Whichever way it is looked at, the end result will be a substantial increase in investment and new skilled jobs for New South Wales.

Not only the Kinhill Group recognises the positive impact that the establishment of the world's second largest English-speaking film studio will have on New South Wales. After months of anti-Fox reporting from sections of the media and

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the hypocritical protests from the Opposition, the New South Wales public know that they will be better off. The Hon. D. J. Gay knows it too. I know he does. A Newspan survey conducted in November last year found that 82 per cent of the respondents looked forward to having a working movie studio in New South Wales. That is almost triple the number who approve Peter Collins as Opposition leader.

The Hon. Jan Burnswoods: Pop-up Peter.

The Hon. M. R. EGAN: Pop-up Peter. Only a third of the number of people who support the film studio support Peter Collins. Unfortunately, the only people who cannot see the benefit of this once-in-a-lifetime opportunity for the people of New South Wales are members of the Opposition. I reiterate that Fox will invest \$120 million over the next 11 years, and 1,600 jobs will be created each year. Included in the rental agreement is the condition that if Fox does not meet specific job and investment targets, it will lose access to parts of the site. The studio will not only be for the use of Fox but will be used by all New South Wales industries related to film and television. Payroll tax concessions will be available not only to Fox but to all producers who use the site to make films. With regard to the

rehabilitation of the showground, a great deal of comment has been made about the fact that \$32 million will be spent by the Government to clean up the site. The important point about that is that the taxpayers of New South Wales will save up to \$60 million in clean-up costs.

The 1993 report prepared for the previous Government by engineers Norman Disney & Young put the cost of restoring the site for use by the Royal Agricultural Society as a showground at \$90 million. In other words, it would cost taxpayers \$90 million for the RAS to stay at the showground. If that had happened the RAS would have ended up with a site it did not want, a site that was inadequate in size, transport facilities, access and all of the other considerations that have led the RAS for years and years to lobby to move to Homebush Bay. I am informed that even a huge expense in excess of that \$32 million would have been involved in converting the site to open parkland. So, although there will certainly be a cost to the taxpayer in fixing up the site, that cost will be a saving on all of the other options. When the idea of moving the showground to Homebush Bay was first mooted, I was horrified. I first went to the show 43 years ago, and the show will never be the same if it is not held in those derelict old buildings at the showground. I used to watch the Jimmy Sharman boxing troupe.

The Hon. Jan Burnswoods: You didn't!

The Hon. M. R. EGAN: I did. I absolutely loved them. I used to watch the woodchopping. I loved the horses and cattle and what-have-you. I have never yet seen a grand parade. I hope that at next year's show I will see my first grand parade in the existing ring at the showground. The Government will preserve the showground ring; it will be a vital part of the new development. However, for me the show will stop being the show when it goes to Homebush.

The Hon. Jan Burnswoods: You are a traditionalist.

The Hon. M. R. EGAN: I am a traditionalist.

The Hon. Jan Burnswoods: Last week we thought you were a radical reformer.

The Hon. M. R. EGAN: In some respects I am a great conservative and in other respects a great radical.

Reverend the Hon. F. J. Nile: A radical conservative.

The Hon. M. R. EGAN: I am a radical conservative on some issues, I am a conservative radical on others, and I am almost a militant moderate on everything. There are no secrets about the deal. The Government took the unprecedented step of disclosing all financial incentives offered to Fox studios. Last year the Government released over 2,000 documents to the Parliament and the press. In late December, after a thorough six weeks review, the Independent Commission Against Corruption threw out the complaints made by the honourable member for Bligh. I took personal offence at those complaints. I know how precious the honourable member for Bligh was when a member of this House referred complaints relating to her to the ICAC. She demanded an apology and all sorts of things. It seems people like that have two standards; she can dish it out but she cannot take it. I found all of her comments personally offensive. I will not forget them, and for that reason I will always suspect her bonafides.

Reverend the Hon. F. J. Nile: She is obsessive.

The Hon. M. R. EGAN: Obsessive. One of the reasons the motion has been moved today is because on Sunday the honourable member for Bligh is having a big rally, a big party, for all her supporters.

Reverend the Hon. F. J. Nile: A re-election campaign perhaps.

The Hon. M. R. EGAN: It is the beginning of her re-election campaign rally, but it is not very smart of her because I am about to become one of her constituents.

The Hon. Jan Burnswoods: You are not leaving Cronulla?

The Hon. M. R. EGAN: Yes, after so many years I am moving from Cronulla to Surry Hills.

Reverend the Hon. F. J. Nile: You will not be voting for her.

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The Hon. M. R. EGAN: I will not be voting for her. The short experience I have had of Surry Hills has convinced me that the people in that area are overwhelmingly in favour of the film studio because they are people who work in creative industries; they are talented people. I cannot even begin to list the occupations, skills and crafts that are tied up with the making of films and television programs, but many of those people live in and around the electorate of Bligh. They will be saying that Clover Moore is only about ensuring that job prospects are not enhanced so that they do not have the opportunity to develop their skills. The honourable member for Bligh is barking up the wrong tree. She is supporting a small group of very selfish residents who want the showground essentially returned to open parkland for their private enjoyment. It certainly would not be a parkland for greater Sydney or New South Wales to enjoy, because car parks would not be allowed. People would have to walk there.

Reverend the Hon. F. J. Nile: They could ride the horses around.

The Hon. M. R. EGAN: That is right, they could ride their horses around. Unless people lived within walking distance, they would not be able to use the showground under the Clover Moore proposal. However, I read in the newspaper that Clover Moore had put up an alternative proposal to the Premier. From what I could work out from what I read in the *Sydney Morning Herald* the centrepiece of the alternative proposal was to have a big gymnasium. The showground was to be the new location for the City Gym. The showground was to be a gymnasium with all sorts of bits and pieces added on - little restaurants and souvenir shops. That is why she is barking up the wrong tree. I do not care how many people attend her rally on Sunday. This issue alone could lose her that seat at the next election. I am sure it will. It often happens.

The Hon P. T. Primrose: She has lost your vote.

The Hon. M. R. EGAN: She has lost my vote but, more importantly, she has lost the votes of thousands of people who previously had been her loyal supporters.

The Hon. J. R. Johnson: What about the second preferences?

The Hon. M. R. EGAN: She will not get my second preference. I will break the ticket. I do not care if the Hon. J. R. Johnson is looking over my shoulder, I will break the ticket. She will not get my second preference.

The Hon. Jan Burnswoods: You would not be biased, would you?

The Hon. M. R. EGAN: No, I am not. I am a very objective person. I pride myself on my objectivity. The reason this motion has been moved today is that Clover has this big rally on Sunday and she has done a little deal -

The Hon. Dr B. P. V. Pezzutti: On a point of order. The Leader of the Government should address his remarks through the Chair rather than address honourable members opposite.

The Hon. M. R. EGAN: I was addressing my remarks through the Chair, as I always do.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I accept that the Leader of the Government is addressing his remarks through the Chair.

Reverend the Hon. F. J. Nile: The Hon. Dr B. P. V. Pezzutti has only just walked into the Chamber.

The Hon. M. R. EGAN: That is right. I can understand why the Opposition is able to pretend that this is a bad deal for the people of New South Wales. When the Opposition was in government it gave New South Wales Eastern Creek, Luna Park and the Port Macquarie hospital: three financial disasters. On my rules, three strikes and you're out. The Opposition has no right to be making claims about any deal, given its record with Eastern Creek, Luna Park and the Port Macquarie hospital. For those reasons the Government opposes the first part of the motion.

I listened intently to what the Leader of the Opposition had to say about the second part of the motion. As I pointed out earlier, I was almost convinced that he was genuine until he tried to verbal me at the end of his speech. I will remember that. The Government stands by the State Office Block tender process. The process was overseen at all times by a probity auditor; I emphasise that. The Government is happy to have the process examined. Is the Leader of the Opposition listening to me? Of course not. That is how seriously he views this issue. I reiterate that the Government is happy to have the process examined by the Auditor-General or, for that matter, by the Independent Commission Against Corruption or by the Ombudsman. The taxpayers of New South Wales are getting the best deal and the best outcome.

Three simple facts expose the Opposition's continuing attack on the tender process as unsubstantiated. I am informed that Lend Lease provided the only tender conforming with the requirements of the tender process and the only unconditional offer. The \$69 million offer was considerably higher than an independent valuation of the property, and the tender assessment committee unanimously recommended that the Government should accept the offer. The tender assessment committee is not a committee of Ministers or politicians; it is a committee of public servants of this State. The decision was not an arbitrary Government decision. Acceptance of the Lend Lease offer was unanimously recommended by the tender assessment committee.

The Hon. Dr B. P. V. Pezzutti: Who appointed them?

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The Hon. M. R. EGAN: I do not know. It could be the tender assessment committee that the former Government left in place.

The Hon. J. P. Hannaford: The Minister has today released details of the names of the people on that committee.

The Hon. M. R. EGAN: I am informed by the Leader of the Opposition that the Minister has released the details of the public servants who are members of that committee.

The Hon. Dr B. P. V. Pezzutti: Who?

The Hon. M. R. EGAN: I do not know. The Hon. Dr B. P. V. Pezzutti's leader has just told me. He has probably got the names. The Government has had a successful outcome on this issue, and that is in stark contrast to the four failed attempts by the former Government to negotiate the sale. Despite the Opposition's criticism now, the previous Government tried and failed four times to sell the State Office

Block. In August 1989 the former Government went to tender on the State Office Block and in April of the next year all tenders were rejected; in May 1990 the former Government adopted a private treaty approach; an exclusive negotiation period started in December 1990 and concluded in April 1991, without a deal being reached; the former Government had another go at private treaty - three offers were received and in July 1991 all were rejected; and in August 1991 another proposed arrangement, which fell through, would have required the former Government to provide mortgage funding and guarantee development. The Opposition's current approach on the issue would result in yet another failure.

Unlike the previous Government, this Government has secured a positive outcome for the State. Part of the benefit for the people of New South Wales lies in the certainty associated with the outcome. Because the Lend Lease offer was unconditional, the company will bear all the risks associated with the development of the site. The total direct benefit to the State will be \$84.05 million - being the offer of \$69 million plus land tax of about \$11.5 million at net present value and about \$3.55 million in stamp duty. It is important to note that the Government will also save an estimated \$40 million in refurbishment costs. Another feature of the arrangements that should be brought to the attention of all honourable members is that the Government is not selling the State Office Block; it is leasing it. That is a policy I have introduced for all significant central business district properties. Many years ago when I was a young fellow of about 23 I visited London for the first time. As I walked around magnificent parts of London I asked who owned it all. I was told that the Duke of Westminster owned London, and I surmised that he must be a very wealthy man. I then asked how it was that the Duke of Westminster owned London.

The Hon. Elisabeth Kirkby: Not any more, it is owned by the Arabs.

The Hon. M. R. EGAN: That is not so. What happened was that about 500 years ago the then Duke of Westminster confiscated all of the national lands and leased them for 400 or 500 years.

The Hon. R. S. L. Jones: It was for 99 years.

The Hon. M. R. EGAN: No, for 400 or 500 years. In 20, 30 or 40 years time the Duke of Westminster gets it all back. I have made sure that when the Government sells a prime CBD property in Sydney the people of New South Wales will get it back in 100 years time. The Government is far-sighted; it cares about future generations and it will make sure that future generations have a secure future. I reject the stunt in which the Leader of the Opposition has been involved today. The Government will oppose this motion.

The Hon. ELISABETH KIRKBY [3.33]: On behalf of the Australian Democrats I support the motion.

The Hon. Franca Arena: Surprise, surprise!

The Hon. ELISABETH KIRKBY: In view of that interjection by the Hon. Franca Arena, I shall put clearly on the record my reasons for supporting the motion. At the end of last year, when in the Chamber honourable members tried very hard to get information from the present Government about the transfer of the Royal Easter Show to Homebush and the deal done with Rupert Murdoch over the studios on the Moore Park site, a Senate committee on which my friend and leader, Senator Cheryl Kernot, was sitting tried to get information from the previous Federal Government as to why the Federal Government was giving the State Government \$27 million. It was extremely difficult to extract that information. At the time there was a great deal of publicity and comment from political and financial analysts. That matter should be put on the record now. Several days were spent in the committee hearing. Senator Kernot stated on ABC radio:

It seems to us, based on the answers at the Senate estimates, that this is \$7 million on a nod and a wink between mates. They are saying to us, "Look, don't worry that there's no formal agreement that's been signed. Let us have the money now; we promise you we won't spend it until all the agreements are in place."

Senator Kernot went on to explain that the Australian Democrats certainly did not find that attitude acceptable and demanded more detailed answers. Within hours of Senator Kernot making that statement on radio the New South Wales Premier, the Hon. R. J. Carr, announced the details of the proposed lease agreement with Fox Studios. A copy of his statement and copies of the supporting documents - all of the material that honourable members of this Parliament, as representatives of the people of New South Wales, could not get - were faxed to Cheryl Kernot's office in Canberra. That did not satisfy my Federal colleagues, however. On 14 November Senator Kernot said:

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Despite repeated opportunities, the Federal Government has failed to justify the \$32 million in grants. Fox will be given a 40-year lease, with an option for another 10 years, for a minimum \$2 million a year rent.

As well as the taxpayer-funded work on the site, Fox studios will also receive an incentive package and payroll tax concessions [of almost \$8 million]. I think rent of \$2 million a year is a pittance. I accept that a major film studio would provide jobs. However, I think it's more than reasonable to question whether this is the best use of publicly-owned land.

Senator Kernot's comments were reported in a *Sydney Morning Herald* article by Alan Ramsey, who referred to a New South Wales Valuer-General's Office letter to the Premier recommending that a fair market rental for the showground site would be \$2 million a year. The letter stated:

The lessee would take the land and buildings *in their existing condition*, and return them to the Crown at the expiry of the lease in a state of good repair.

Mr Ramsey also stated:

So, you see, the \$2 million a year rent was based on Murdoch paying for the Showground clean-up, not taxpayers.

Paul Keating, probably thinking that this would assist him to win the election in New South Wales - not that it did him much good - decided to give the money to the State Government. The taxpayers of New South Wales will foot the entire \$32 million bill. A sum of \$32 million of public money was given by Paul Keating to Bob Carr to facilitate Rupert Murdoch's Fox Studios taking over the Sydney showground. This is the crux of the problem: members of this Parliament could not get that information; it had to be obtained by a Senate committee. It is information that this Parliament should have been given. The deal that has been signed is still not in the best interests of New South Wales. The Treasurer in his remarks this afternoon said that the studio had to be in New South Wales. He said that if the Government had not made the offer and had not agreed to Mr Murdoch's terms the studio would have gone to Victoria, because Mr Kennett wanted it, and New South Wales would have lost it. In fact, that is not the case.

When questioned about this, a spokesperson for the Victorian Premier, Mr Kennett, said that discussions had been very general and that no detailed proposals on tax concessions had been put to Fox Studios. That excuse will not stand up. When the studios were built in Queensland, Movie World received low-interest loans of \$11 million from the Queensland Government. Those loans have already been repaid. The amount was only \$11 million - not \$27 million, which is the amount that has been given to Mr Murdoch by the New South Wales Government - and Movie World received no other concessions. We are giving concessions for payroll tax and all kinds of other concessions, as well as agreeing to clean up the site for Mr Murdoch. In world terms, Mr Murdoch is a billionaire. This is ridiculous.

If this deal is as good for this State as the Treasurer believes, he has nothing to fear from an inquiry by the Auditor-General; because everything he is saying will be proved to be correct. The Treasurer said

that the industry in New South Wales wanted these film studios. I happen to know people in the industry - after all, I worked in the industry in this State for over 20 years. That was not the case then, and it is not the case now. The Australian Screen Directors Association surveyed its members, and 94 per cent of all respondents said no to the proposed Fox Studios at Sydney Showground under the current terms. I ask why. There is a great deal of concern regarding access to those studios for independent, low-budget Australian productions. There is also concern that there will be no project and script development of independent Australian productions. Concern has been expressed that Fox will draw on government subsidies, which in the past have existed for the development of local industry Australian productions - not for productions that are to be made here instead of in Hollywood.

The Hon. Franca Arena: There could be joint productions.

The Hon. M. R. Egan: Don't you want productions in Sydney that would otherwise be made in Hollywood?

The Hon. ELISABETH KIRKBY: Not if they are going to bring in technicians and big name stars from Hollywood and crowd out our performers and technicians. This is something that the Government will have to consider. The Hon. Franca Arena talks about joint productions. We know a lot about joint productions, and we know what happens with them: Australian artists get a very small percentage of the roles and one-quarter of the salaries paid to the stars that are brought in. If the Minister does not believe me, I suggest that he talks to the relevant union - the union of which at one time I was vice-president - because members of that union know very well what happens: it is something that the union has been fighting for years.

If the figures which are being bruited about by the Treasurer and the Government are correct and we bring them to the attention of the Auditor-General, he will be able to assess those figures again and tell us whether they are correct and whether the hundreds of millions of dollars that the Treasurer talks about so glibly will in fact come to this State. But until the Auditor-General's investigation is complete we do not know. That is what this motion is about - to send the matter to him and find out whether the Government's figures are correct. As I have said, if the Government's figures are correct, if the advice it has is the right advice, then there will be nothing to worry about and we shall all relax and be quite happy about it. In addition to the \$32 million which was given to this State by the Federal Government before Christmas, it seems that the New South Wales

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Government will spend almost every cent of its \$20 million State and regional development budget on cleaning up the showground before Mr Murdoch takes over.

Mr Murdoch will receive concessions in land tax, stamp duty and lease costs and will have a rent-free period of four years. In addition to that, of course, the cost of moving the showground to Homebush will be \$384 million. The basis of my concern is that the New South Wales Government is now leasing to Fox 24 hectares of prime central real estate for a rental pittance of \$2 million a year for the 50 years of the lease. And yet, a few kilometres away in Alexandria, another commercial organisation has signed only a ten-year lease for less than three-quarters of a hectare at a rental of \$1.11 million per year, which is considered by real estate experts to be the true market value. On that basis, the true market value of the showground site must be infinitely more. The Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council said that the Duke of Westminster owned all of Mayfair and leased it out for hundreds of years. The leasehold of any property in Mayfair is 99 years, and has been for centuries. Of course the lease can be changed from one owner to another.

The Hon. M. R. Egan: The head lease in those cases is 400 or 500 years.

The Hon. ELISABETH KIRKBY: The problem is that we are entering into a commercial deal - not a private deal - with one of the wealthiest men in the world and giving him a four-year rent-free period and

then asking only peppercorn rent for 46 years. It is ridiculous. It makes no sense at all. When the Treasurer was talking about a suggestion that this area should not be leased to Fox Studios at all, but should be turned into an open park, he spoke about people living in the Centennial Park area and said that there were very few of them, that they were very wealthy, that they were very greedy and very selfish and did not need all this private open space. I would suggest that the Treasurer drive down Dowling Street, because the whole of the right-hand side of Dowling Street, nearly all the way to the airport, is being developed as very large apartment blocks. Within a very short time, perhaps less than five years, there will be thousands more people living in that area.

It is ridiculous to pretend that open space will not be needed to meet their needs and to provide some open space for their children. I believe that is a very proper development of the former factory sites in Alexandria, and I have absolutely no objection to it. But it is no longer an industrial area; it is becoming a densely-settled area of residential high-rise units. Surely there has to be provision for open space and leisure space for all those people. The second paragraph of the motion moved by the Leader of the Opposition deals with the tendering process for the State Office Block. In *Hansard* of 31 May 1996 for Estimates Committee No. 1 Minister Carl Scully is reported as answering at length detailed questions on why the tender of \$69 million was accepted. In answer to a question asked by the Hon. D. J. Gay he said:

If the honourable member is reflecting on the integrity of the tender process, I am happy to have it scrutinised.

That is all that the motion is designed to do. The Hon. D. J. Gay went on to ask:

Is that an undertaking to the Committee?

The Minister replied:

It is open to you, to the Leader of the Opposition, any tenderer, or to anyone.

So the Minister was happy for the tender process for the State Office Block to be examined by the Leader of the Opposition, any tenderer, or anyone. That undertaking is in *Hansard*. As the relevant Minister he should have no objection to the tender process for the State Office Block being examined by the Auditor-General. If the Minister is happy to have that, I cannot see why the Government as a whole and the Treasurer should not support it. It should be no surprise to anyone, following the action taken by my Federal colleagues at Federal estimates committee hearings, that I support the motion. The answers they received about the showground did not satisfy them any more than I was satisfied by the answer received in this Chamber.

The Hon. Franca Arena: Are you going to apologise to the Minister for the innuendoes about his reputation?

The Hon. ELISABETH KIRKBY: I made no innuendo about his reputation; I simply read what is in *Hansard*. *Hansard* may have misquoted him or the words may have been badly phrased but I have only *Hansard* to go on.

Reverend the Hon. F. J. NILE [3.53]: The Leader of the Opposition has moved:

That this House requests that the Auditor-General:

(1) Examine the proposal to lease and develop the Sydney Showground site and advise, having regard to the tender process, whether the terms of the proposed lease (including State Government planning instruments and State Government financial assistance), provide a fair and reasonable economic return for New South Wales taxpayers.

A number of specific matters to be reported on are then listed. The second paragraph of the motion reads:

- (2) Examine the proposed sale of the State Office Block building and advise, having regard to the tender process, whether the terms of the proposed sale provide the best economic return to the New South Wales taxpayers.

Again, specific matters to be inquired into are then set out. I supported the House referring matters concerning the Building Services Corporation to the Auditor-General as I felt I had no option because people had been required to present cheques by a

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certain date; otherwise they would have been cancelled. However, I am concerned that the process of referring matters to the Auditor-General could become another part of the operation of the Legislative Council. We can form select committees, ask questions and debate matters. They are legitimate avenues, and although it is also legitimate to refer matters to the Auditor-General, I wonder whether the process will be abused. Crossbenchers and Opposition members received strong submissions from Mrs Clover Moore to support the inquiry.

The Hon. Dr B. P. V. Pezzutti: That is what he is there for.

Reverend the Hon. F. J. NILE: That is the whole point of what I am saying: the Auditor-General is there to conduct inquiries. Why do we have to refer things to him to inquire into? That is why I am questioning the process. Will we refer three or four matters to the Auditor-General every day? That would be an abuse of the process.

The Hon. Dr B. P. V. Pezzutti: He should be doing it anyway.

Reverend the Hon. F. J. NILE: That is the point I am making. By supporting these motions, are we suggesting that the Auditor-General is so blind to major issues that he cannot initiate these inquiries? That is his job. That is why he is the Auditor-General. Another consideration is whether passage of such resolutions suggests that members of the Legislative Council agree that suspicious, criminal or corrupt things have occurred. Would supporting the motion give the impression that we have evidence of something being seriously wrong with this financial arrangement? In a way this is like loading a gun with a bullet and firing it. I do not believe we have such evidence.

The honourable member for Bligh is very efficient. She has given me a great deal of material with her letter asking me to support this reference to the Auditor-General. She included a copy of her eight-page submission to the Auditor-General of 30 May asking for such an inquiry. Attached to it are pages of relevant financial details. I suggest that the reference of the Fox studio matter to the Auditor-General has been dealt with already: a member of the other place has sent a detailed submission to the Auditor-General, which she is perfectly entitled to do, requesting a financial assessment. This motion seems to be overkill or duplication. If there is not enough evidence in that submission for the Auditor-General to look into the matter, he will not. If there is sufficient evidence, he will. I am not sure whether the Treasurer is aware that the honourable member for Bligh has already sent that detailed submission dated 30 May to the Auditor-General in similar terms to the motion we are considering.

The Hon. M. R. Egan: I did know that, yes.

Reverend the Hon. F. J. NILE: One would think that was adequate. If the House endorses this motion, it would appear that there is evidence of a serious matter that would require not only a member of the other place but also this House to send a reference to the Auditor-General. I am concerned not to do anything that would torpedo the project. I am sure from what the honourable member for Bligh said that she wants the project stopped; she will do anything to destroy the project. I am concerned that without

intending to do so the Government, by putting more pressure on Fox Studios, would lead it to say, "Why bother? Why be involved? We have had a good offer from Queensland to go to the Gold Coast and a good offer from Mr Kennett to go to Victoria." Mr Murdoch and Fox Studios would have no problems in Queensland, which has guaranteed that it would run a tight ship and no questions would be asked. Queensland could do a better deal, because the Queensland Government wants the studios for the jobs and economic growth they would provide. Mr Murdoch could have the studios for an annual rent of \$1. Queensland and Victoria would be waiting to do that.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

GUN LAW REFORM

The Hon. J. P. HANNAFORD: My question without notice is directed to the Treasurer, representing the Premier. Is the Treasurer concerned about the conflict within the Australian Labor Party over tougher gun laws? Is he concerned that some members of the ALP are claiming that they have won concessions from the Premier? Have those concessions been made, and what are they, or are the honourable member for Broken Hill and the honourable member for Bathurst wrong to claim that they have won concessions?

The Hon. M. R. EGAN: The Government has determined its legislation on guns -

The Hon. E. M. Obeid: Unanimously.

The Hon. M. R. EGAN: - unanimously, as the Hon. E. M. Obeid said. Notice has probably already been given of the introduction of the legislation in the other House. I assure every honourable member in this House that the legislation will be dealt with before the House rises at the end of this session, which, if all goes according to plan, will be at the end of this week. I proudly assure the House that the legislation that the Government will present to this House is completely in accord with the resolution of the Australasian Police Ministers' Council and the Prime Minister's call for national uniform gun control. Let me talk about divisions in

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the ranks. As honourable members know, I do not often read newspapers but I picked up, quite by chance, the *Newcastle Herald*. I read that the Lake Cowal amendment to the permissible mining bill, which the Leader of the Opposition was sponsoring and was to move in this House yesterday had not even gone to the party room. The next leader of the National Party in this State was saying, "No-one told me."

The PRESIDENT: Order! I remind honourable members that Hansard has the task of reporting the debate. Members should refrain from interjecting. No amount of goading on the part of the Leader of the Opposition will induce the Leader of the Government to say something that he does not want to say.

The Hon. M. R. EGAN: You have known me for a long time, Mr President. The Deputy Leader of the National Party, the local member, was not consulted; nor was Wendy Machin, the Opposition's shadow minister for minerals. Nobody told her. In a humiliation reminiscent of the humiliation of Peter Costello last week, last night he had to give in. Last night all the divisions, whether on mining or guns were on the Opposition side. There is two-faced Kersten, the man who in Broken Hill said he supported the shooters and in this House voted for the almost unanimous resolution of this House supporting the

Prime Minister's call.

Rob Borbidge, the Queensland Premier, said that the Prime Minister could jump in the lake. I regret that; I think it would be a great pity. Rob Borbidge was really sticking out his neck on this issue given that he leads a government of rednecks. After the experience last week of the Liberal and National Party Premiers in Canberra finding out that they were betrayed by their own Prime Minister, one can almost understand Rob Borbidge saying to the Prime Minister, "Well, if I cannot rely on you, perhaps I will have to listen to some of my rednecks." I hope Rob Borbidge will change his mind and get back on the cart. The way that the Prime Minister betrayed his colleagues last week, he really is testing them.

GUN LAW REFORM

The Hon. J. P. HANNAFORD: I ask the Treasurer a supplementary question. In view of the Treasurer's refusal to support the honourable member for Broken Hill and the honourable member for Bathurst in their claim that they have secured concessions, how does he justify to their electorates their deceit of their electorates in such a claim?

The Hon. M. R. EGAN: The honourable member for Broken Hill and the honourable member for Bathurst are hard-working, diligent, genuine representatives of their constituents. Unlike the Hon. M. R. Kersten, who said one thing in Broken Hill and another thing here, they are consistent. I am sure they will speak to the legislation, as I believe they spoke to the motion in the other place a week or two ago. Their views are on the public record and they will support the legislation, which is in accord with the agreement reached at the police Ministers conference.

GOAT ISLAND CONSTRUCTION PROJECTS

The Hon. A. B. MANSON: Is the Attorney General, and Minister for Industrial Relations aware of the construction projects on Sydney Harbour's Goat Island?

The Hon. J. W. SHAW: All too often in question time I need to inform the House of difficulties and poor occupational health and safety standards in workplaces in New South Wales. Today I have some good news. It gives me pleasure to inform the House of the attributes of the construction on Goat Island. The Army Reserve and the National Parks and Wildlife Service joined forces to restore the island's historic wharf, which was by no means an easy task and certainly one fraught with safety risks for the 80-strong construction force comprised of troops from the 21st Construction Regiment, Army Corps of Engineers.

The Hon. Dr B. P. V. Pezzutti: They do a good job, don't they? I saw them on Bathurst Island two weeks ago.

The Hon. J. W. SHAW: Yes, it seems so. The task, however, was initiated with safety risks as a priority, a factor aided by the fact that the army had within its ranks a senior WorkCover safety inspector. Nevertheless, the approach to the construction is an object lesson in safety management. The project posed problems in terms of sun exposure, electrical safety over water, personnel of varying experience, working under pressure of tight time frames and manual handling of heavy timber. A comprehensive site safety policy was developed including emergency procedures, personal protective equipment and training. Every newcomer or visitor to the island was briefed on work site occupational health and safety. Site plans included a policy statement from management; responsibilities for supervisors, employees and subcontractors; how to identify, assess and control hazards; methods for carrying out daily inspections; accident reporting; investigation and correction of problems; and induction training for all employees on site.

After almost two months of work in preparation for increased tourist visits, the work site had a 100 per cent safety record. All New South Wales government contractors now need to complete accredited site safety plans as part of the tendering process. The job was completed on time, without any injury delays or the need for retraining; morale on the site was not damaged by the injury of a co-worker; there were no prosecutions; and no fines were imposed. A company that does not place safety high on its list of priorities will fast slip into the dark ages of occupational health and safety.

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Comprehensive safety management plans save lives and save money. Goat Island is a good example of a project that gives occupational health and safety a very high priority. It shows that if there is a safe workplace there will be good morale, the company will be more inclined to complete the job on time and it will be more efficient. This is good news. This is the type of workplace the Government wants to encourage in New South Wales. I do not believe this is hyperbole; it is an objective analysis of the position.

NEWCASTLE DISABLED ACCOMMODATION

The Hon. PATRICIA FORSYTHE: My question without notice is for the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services. I refer to the Minister's answer to my supplementary question on Monday about whether a crisis was looming for people with disabilities who are living in boarding house accommodation in the Newcastle region. Is the Minister aware that last week the Chief Executive Officer of the Hunter Area Health Service, Dr Tim Smyth, warned that by next year 200 to 300 people could be made homeless by boarding house closures in the area? Does the Minister stand by his answer that I am gravely overstating the nature of the problem? If this is the extent of the problem, will the Minister give a guarantee that funds will be made available to ensure that no-one is left homeless or placed in substandard accommodation?

The Hon. R. D. DYER: The Opposition cannot have it both ways. The duty of the Government is to ensure that people with disabilities are catered for in appropriate conditions. That applies equally to residents in large institutions run by the Department of Community Services and to residents of licensed boarding hostels or other facilities in the non-government sector.

The Hon. Dr B. P. V. Pezzutti: Tell us something new.

The Hon. R. D. DYER: I know it is not new, but it seems to be something that the Opposition has not learned. The plain fact is that the Government has a duty and a clear obligation to enforce the licensing standards under the Youth and Community Services Act.

The Hon. Patricia Forsythe: I do not disagree with you about the standards; I want to know what you are going to do about the problem.

The Hon. R. D. DYER: The Hon. Patricia Forsythe well knows, for example, that in respect of Burgmann House in Newcastle a recommendation has been made that there ought to be access to the first floor for fire safety purposes. The private owners of that hostel have indicated that they are not prepared to invest in the fire-escape that would render the premises compatible with fire safety conditions. There is no easy answer to this type of situation. If I were to turn a blind eye to the problem and say that the Government would set aside any consideration of fire safety, and a fire were to break out - as happened at Kew Cottages in Victoria - the blame would rest on me and on the Government. In her question the Hon. Patricia Forsythe referred to statements made by Dr Tim Smyth. Dr Smyth is not an officer of either the Department of Community Services or of the Ageing and Disability Department; he is an officer of the Department of Health.

As recently as approximately one week ago I had a meeting with my colleague the Minister for Health, Dr Refshauge, and we discussed this and related matters. It would obviously be a matter of

concern if an undue number of boarding houses were to close down peremptorily. The matter has to be managed and handled, and it has been managed effectively to date. The Hon. Patricia Forsythe chooses to use the term "crisis" in regard to this matter. There is not a crisis at present. Such difficulties as have arisen have been overcome, and I believe that that will continue to be the case. I am confident that, by negotiating with my colleague the Minister for Health, and if talks occur between our respective administrations, arrangements can be made for people who are displaced from boarding houses that do not comply with the regulations to be satisfactorily placed elsewhere.

RURAL FINANCIAL COUNSELLOR FUNDING

The Hon. R. T. M. BULL: I address my question to the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council. Is the Treasurer aware that the Minister for Agriculture stated in another place yesterday that the Government would not cut funding to rural financial counsellors? How does the Treasurer explain the \$574,000 reduction in funding this financial year to the Rural Financial Counsellor Service? Is this yet another example of the Treasurer's creative accounting skills?

The Hon. M. R. EGAN: I understand that funding is to be maintained and that the allocation this year is less than it was last year because some of the funds are being made available from resources within the department.

The Hon. D. J. Gay: That is Eganomics.

The Hon. M. R. EGAN: No, that is something that happens from time to time in all departments, but I will check on that and provide the honourable member with a more certain answer as soon as I can obtain the information. As I understand it, that is the case. I understand that a similar thing occurred last year.

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BOURKE STREETWORKER PROJECT

The Hon. E. M. OBEID: Could the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services inform the House what steps he has taken to provide positive activities and programs for young people in Bourke?

The Hon. R. D. DYER: I am sure that honourable members opposite will be interested in what I have to say, particularly the Hon. D. F. Moppett and the Hon. M. R. Kersten, who have, in contradistinction to the Hon. Virginia Chadwick, shown some interest in this matter in the past.

The Hon. Dr Marlene Goldsmith: What is this thing that the Minister has about Virginia?

The Hon. R. D. DYER: It is not that I am fixated on the Hon. Virginia Chadwick; she appears to have a fixation with me. There has been a deal of community concern in Bourke about the lack of activities for young people and their tendency to aimlessly frequent the streets of the town, especially at night. Representations have been made to me and to other Ministers, and I share the community's concern about situations in which children are at risk. In January, the department piloted an innovative streetworker project to coordinate the provision of a range of activities for the youth of Bourke. This pilot project proved to be a great success, and I am pleased to inform the House that funding will be provided to employ a full-time streetworker for a 12-month period. The Government will contribute \$35,000 to the project, with the welfare organisation Burnside matching the Government's contribution. The generous support of Burnside is most welcome and will be greatly appreciated by the Bourke community. The Bourke streetworker will be an important addition to the community resources of the town.

The aim of the streetworker project is, first, to protect the children who frequent the streets of Bourke at night without parental supervision and to help children who are temporarily homeless to find safe overnight accommodation; second, to coordinate a range of activities so that the town's young people are able to use their free time more constructively; third, to identify children who are at risk of abuse or neglect or in danger of committing a crime and provide them with appropriate support and referrals; and, finally, to develop the appropriate links with the Department of Community Services and other agencies. The streetworker project will be managed by the Bourke Community Development Committee, which includes representatives from a number of community and government agencies. By working for the young people of Bourke and by working with them, the department can develop programs and activities that are not only worthwhile, but are welcomed by the people it is targeting. The young people will have a big say in the programs needed to make the project an ongoing success. I am sure the people of Bourke will support the streetworker in his or her duties.

[Questions without notice interrupted.]

DISTINGUISHED VISITORS

The PRESIDENT: I have to report to the House that the Parliament is honoured today by the presence of a delegation from the Fukushima Prefecture Assembly in Japan, led by Mr Masato Ohno and his Deputy Leader, Mr Masahiko Mogi, who are seated in my gallery.

QUESTIONS WITHOUT NOTICE

[Questions without notice resumed.]

PROCTER AND GAMBLE FACTORY CLOSURE

The Hon. J. M. SAMIOS: My question is addressed to the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council. Is the Treasurer concerned at speculation that the giant household products company Procter and Gamble, worth more than \$80 billion worldwide, is about to close its Australian factory? What effect would the closure have on the State economy? How many jobs would be lost? Why would the company want to close its local operation when, to quote the Treasurer, the boom is on?

The Hon. M. R. EGAN: I understand that Procter and Gamble is rationalising its worldwide operations and that, regrettably, 160-odd jobs will be lost on the central coast. Unfortunately, from time to time, international companies rationalise their global operations; indeed, Australian companies rationalise their operations. Only a few weeks ago, I was able to announce that one of the largest firms in Australia producing airconditioning for coaches and railway carriages was amalgamating its operations and centralising its Australian operations in Sydney. Unfortunately on some occasions we lose jobs and on other occasions we gain them.

WORLD TRANSPLANT GAMES

Reverend the Hon. F. J. NILE: I ask the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council in his own capacity and as the representative of the Premier a question without notice. What is the New South

Wales Government doing to support the 1997 World Transplant Games? In which ways can the private sector support this particularly worthwhile project?

The Hon. M. R. EGAN: I am sure the World Transplant Games will be of interest to members generally but also particularly to the Hon. Dr B. P. V. Pezzutti. As honourable members would no doubt be aware, the 2000 Olympics are not the only international sporting event that Sydney

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has recently won the right to host. Next September, using many of the Homebush Olympic site facilities, 1,500 transplant recipients from more than 35 countries will compete in the World Transplant Games here in Sydney. The games are held throughout the world every two years for recipients of heart, lung, kidney, liver, pancreas and small and large intestine and bone marrow transplants. The games have three very fine objectives: first, to raise an awareness of the need for organ and tissue donation in Australia and overseas; second, to demonstrate to the public the new quality of life recipients can achieve; and, third, to express gratitude to the families of organ and tissue donors.

In the past the games have been a terrific success. It is pleasing to note that all former host nations have achieved significant increases in the organ donation rate following their games. This is a trend that Australia needs to follow, as its donation record is not impressive. There are now 3,500 people in Australia waiting for transplants. The majority are on kidney dialysis and, unfortunately, many will die waiting. The need for more donors is critical. Most Australians associate organ donation only with the box that they - rarely, unfortunately - tick on their driver's licence. However, we need to create an awareness in the community that the donation of an organ can give to a person with a critical but curable medical condition a wonderful new life.

We can no longer kid ourselves that our own organs would not work or would not be wanted by anyone else. Modern drugs and medical advancements have meant that the majority of Australians can now be considered a potential transplant recipient or donor. Apart from saving lives, transplants and the transplant games offer significant economic advantages. The tourism task force has estimated that the games will contribute \$7 million to the New South Wales economy. In addition, transplantation is considered to be a cost-effective method of releasing the recipient from chronic unemployment and expensive long-term health care. If only half the number of people currently on kidney dialysis received a transplant, the savings to the Government and the community have been estimated at \$30 million a year. Tragically, however, Australia has the lowest rate of organ donation in the western world. Only 10 organs per one million people are being made available to those so desperately in need.

Sadly, Australia has lagged behind America and the United Kingdom, where three times the number of organs are donated. To rectify the shortfall, we need to ensure that the games achieve as much support, exposure and attention as possible. The New South Wales Government is a proud supporter of the games, with the Minister for Sport and Recreation and the Minister for Health each committing \$50,000 to assist with staging and promotion. In addition, the World Transplant Games already have the backing of well-respected organisations such as the Red Cross, the National Heart Foundation and the Australian Kidney Foundation. However, more assistance is needed. The prestigious exclusive naming rights for the games and other sponsorship packages are still available, which is surprising considering the tremendous publicity this international event promises to achieve.

I understand that discussions between event organisers and all of Australia's major television and radio stations indicate that the games will feature prominently in their programs, while international coverage can also be expected from broadcasters CNN, BBC and Asia Star Television. Transplantation is regarded as one of the largest health issues to face Australia in the next 25 years. It has the potential literally to give new life to thousands of Australians. I therefore urge all honourable members to support me in calling for corporate Australia to join the New South Wales Government in its promotion of the World Transplant Games and this extremely worthy cause. Members of this House will be aware that one of its former members was the recipient of a heart transplant. He unfortunately had to resign from this House owing to ill health.

The Hon. R. T. M. Bull: Prematurely as it turned out.

The Hon. M. R. EGAN: Very prematurely as it turned out. Some time later he was the recipient of a heart transplant. That happened many years ago. Any honourable member who occasionally runs into the Hon. Jim Cameron, either socially or more often in a professional capacity through his position with the Law Society, would be most impressed by his robust good health and the fact that he is as cantankerous and as difficult as he always was. The Hon. Jim Cameron is living proof of the benefits of organ transplants. I am pleased that Reverend the Hon. F. J. Nile asked the question because I have a special interest in organ donations. I am sure all honourable members will tick off the little box on their driver's licence renewal form.

The Hon. Dr B. P. V. Pezzutti: Did you?

The Hon. M. R. EGAN: I certainly did. I very proudly take the credit for that provision on our driving licences. For many years the Australian Kidney Foundation and other health organisations in New South Wales had been lobbying to have an organ donor consent form included on driver's licence forms, and for many years all approaches to government had been rejected. I recall when working for a former Minister for Transport, the Hon. Barrie Unsworth, who was also a former Premier, receiving a letter from the Australian Kidney Foundation about this very matter. The response drafted for the Minister by the department was to the effect that the matter had been considered over a period of 20-odd years and on each occasion, for good and valid reasons, it was found that a donor consent form could not be included on the driver's licence.

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I found this a bit odd, and hit a brick wall when I tried to ascertain the real reason for the refusal from the Department of Motor Transport. I recall finally, in frustration, one day going to where the old files were kept and actually looking through them - back some 20 years! I found that every Minister for Transport during that period had given the same stock response when asked to include a donor's consent box on the driver's licence form: "The matter has been thoroughly considered and it cannot be done." I wanted to find out when it had been considered, so I pursued the matter until finally, at the bottom of a huge file, I found a document that stated that back in the 1950s someone had determined there was insufficient room on the driver's licence form to include a donor's box.

In those days a driver's licence was A4 size, and people could draw a box anywhere they wished. There was still further resistance, however, with the department informing us that the driver's licence form requirements for the next five years had been ordered, as that was the cheapest way to purchase them. I suggested overprinting but was told that could not be done because they came in a continuous sheet. I suggested using a rubber stamp, but that was objected to on the basis of cost. Finally, I persuaded the Minister for Transport, Barrie Unsworth, to put out a press release saying that the organ donor consent form would be included on licences. It was a magnificent initiative and the Department of Motor Transport assured the Minister that it would be on the driver's licence form within a month.

The Hon. Jan Burnswoods: Is that your greatest achievement?

The Hon. M. R. EGAN: I do not say it is my greatest achievement, but it is one of my proudest achievements. I was honoured some years ago when the Sporting Transplant Association of New South Wales invited me to speak at one of its fundraising luncheons. I was pleased to accept the invitation. I am delighted that the New South Wales Government is assisting in the sponsorship of the important World Transplant Games.

LORD HOWE ISLAND STORM DAMAGE

The Hon. A. B. MANSON: My question without notice is to the Treasurer, Minister for Energy, and Minister for State and Regional Development. Is the Minister aware of the severe flooding that occurred on Lord Howe Island yesterday? Will the Minister advise the House what damage has been caused and what assistance the Government can provide?

The Hon. M. R. EGAN: I am aware of the severe flooding that occurred on Lord Howe Island yesterday, although I only became aware of it today as a result of a call and visit to my office by the member within whose electorate Lord Howe Island falls, Wendy Machin. When a natural disaster occurs it is normal practice for consideration to be given to the provision of assistance under various established schemes. To be considered eligible for the purposes of claiming Commonwealth assistance, State expenditure on national disaster relief for a particular event must exceed the small disaster threshold, which is currently \$120,000. This threshold is often used by the Government to determine whether assistance should be provided to local councils and sporting clubs. Lord Howe Island experienced severe flooding yesterday after 250 millimetres of rain fell in four hours. Communication links with the island have failed.

The Hon. J. F. Ryan: Take out the generator they are forever complaining about there.

The Hon. M. R. EGAN: I do not think this is a matter about which one should be flippant. Severe damage has been inflicted on the island. The rising watertable has caused large holes to appear in the island's airport tarmac, probably rendering the surface unsuitable for civilian aircraft. Seven homes and one guesthouse were evacuated because of rising floodwaters and 60 people were relocated. There is likely also to be further damage to the island's roads. It is understood that the Lord Howe Island Board owns both the roads and the airport. Fortunately, on Monday this week the island received a regular food shipment by sea. Two Royal Australian Air Force Sea Hawk helicopters have landed on the island with emergency oxygen supplies for the hospital. The RAAF has assessed that a Caribou can land safely but this flight has been deferred until tomorrow morning because of strong winds.

The Caribou will carry 10 State Emergency Services staff to assist with the clean-up, two Department of Community Services staff to provide general assistance, a Federal Airports Corporation engineer to assess whether commercial aircraft can use the airport, and a Telstra technician to assist in restoring normal communications. Given the personal hardship, distress and asset damage, it is likely that the State's expenditure will exceed the small disaster threshold of \$120,000. Under the Commonwealth-State national disaster relief arrangements the SES has the authority to incur disaster relief expenditure. However, my approval as Treasurer is required before other forms of assistance, such as grants to repair assets, can be recognised as disaster expenditure. I am pleased to now give that approval.

LANE COVE RIVER VALLEY FREEWAY CORRIDORS

The Hon. JAN BURNSWOODS: My question is directed to the Leader of the Government, representing the Minister for Roads. What are the Government's intentions for the existing road corridor that was proposed as the future link between the M2 Motorway and the Sydney to Newcastle Freeway?

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The Hon. M. R. EGAN: I thank the Hon. Jan Burnswoods for bringing to the attention of the House community concern over the future of the road reservation known as the B2-B3 corridor through Lane Cove Valley between the M2 Motorway and the F3 Freeway. The corridor extends from the end of the F3 at Pearce's Corner, Wahroonga, through South Turramurra, into Lane Cove River Valley and links up with the M2 near Macquarie University. I am pleased to advise the House that the Government will abandon the B2-B3 road corridor. I hear some cheers in the background from members on the

crossbenches and Government members. As a result of this decision 11 hectares of bushland across Lane Cove River Valley and near Fox Valley will be protected from the prospect of any freeway development. The Carr Government places too high a value on urban bushland to allow a road to be built in that area.

Building the road was never on the Government's agenda, but the abandonment of the corridor dispels the fears of environmentalists and residents once and for all by removing the possibility that any future government could build a road that would destroy that environmentally friendly bushland. I have been advised by my colleague the Minister for Urban Affairs and Planning that the Government intends that the bushland area will remain open space. In determining the exact nature and classification of that open space, the Government will consult extensively with the local community. The abandonment of the corridor represents a major victory for the honourable member for Gladesville, who has been in the Parliament for only 14 months but has already achieved more than any previous member for Gladesville since the Hon. Rodney Cavalier.

The Hon. R. T. M. Bull: Is he going to be a Minister, too?

The Hon. M. R. EGAN: He will make a great Minister one day, I have no doubt about that. The abandonment of the corridor is a victory for the honourable member for Gladesville and is a big win for the environment and for the local community. The abandonment is an action that should have been taken by the previous Government. It is an action that this Government has been proud to take.

COMMISSIONER OF POLICE APPOINTMENT

The Hon. D. J. GAY: I ask the Attorney General, in his own capacity and as representing the Minister for Police, whether he recalls the question I asked on Monday, 17 June, about whether the Minister for Police had breached section 24(3)(d) of the Police Service Act? Is he also aware of reports in today's *Sydney Morning Herald* regarding the legal advice given to the Committee on the Independent Commission Against Corruption by the Crown Solicitor that it is obligated to conduct its own investigation into Mr Ryan's integrity? Given the reported reply from the Minister for Police, in which he threatened to use his legal powers to thwart the inquiry, will the Attorney General guarantee that the ICAC committee will be allowed to continue its inquiry, and will he obtain a guarantee from the Minister for Police along the same lines?

The Hon. J. W. SHAW: The answer to the first question is yes, I do recall the question asked on Monday by the Hon. D. J. Gay. The answer to the second question is that I have read press reports about the apparent legal advice to the ICAC committee. The answer to the third question is that I am not in any position to give guarantees about the role of the relevant parliamentary committee. The committee will, no doubt, take its own course, based upon advice and deliberation.

MENAI POLICE NUMBERS

The Hon. ELAINE NILE: I direct my question to the Attorney General, and Minister for Industrial Relations, representing the Minister for Police. Is it a fact that the Government is committed to increasing the number of available police by 650 by the end of 1998? If that is so, why has a recent review of the south Sydney region by the New South Wales Police Service recently recommended the downgrading of the Menai police station, which services over 30,000 residents in one of the fastest-growing suburban communities in Sydney, including residents in Menai, Bangor, Bardonia Ridge, Illawong, Alfords Point and the future expansion into west Menai? Will the Attorney General please explain why the Menai police station will be downgraded, to be closed between the hours of 11.00 p.m. and 7.00 a.m., with just one patrol car in the Menai district? How will it be possible for just one patrol car to adequately service the 30,000-plus residents of Menai during the eight-hour closure of the station?

The Hon. J. W. SHAW: I shall need to take advice from the Minister for Police as to the precise commitment to increasing police numbers. The fact that in some police regions numbers might decrease does not negate the commitment to an overall increase in numbers, and I would have thought that everyone would accept that numbers could fluctuate, that they might decrease or increase in particular regions. I shall need to take advice on the precise position of Menai and the associated region from the relevant Minister.

PARKVILLE PIGGERY

The Hon. VIRGINIA CHADWICK: Has the Attorney General, and Minister for Industrial Relations, representing the Minister for the Environment, like his colleague the Leader of the House, noticed in today's *Newcastle Herald* that an article that refers to the Parkville Piggery near Scone reveals that the owners of the piggery continue to be unconcerned about unpleasant odours

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emanating from the piggery? In fact, the article is headed "Stink raised with piggery". Is the Government concerned that the owners of the piggery seem to be content to commit such a serious public nuisance? Does the Attorney General agree that the owners, whoever they might be, are callously indifferent to the misery they are causing their neighbours? What action will the Government take?

The Hon. J. W. SHAW: The answer to the first question is no, I have not seen the relevant report. The answer to the second question is that I am sure that the authorities will adopt an appropriate stance in relation to any public nuisance that is alleged to have been created.

The Hon. R. B. Rowland Smith: That's been going on for years.

The Hon. J. W. SHAW: That is no doubt an issue that could be taken into account. If that is the case, one would wonder why the matter has not been addressed over the years. I shall refer the question to the Minister for the Environment to obtain a reply.

VIETNAMESE COMMUNITY DOMESTIC VIOLENCE

The Hon. HELEN SHAM-HO: I ask the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services whether he is aware that domestic violence is a major issue in the Vietnamese community because of the high incidence of domestic violence in that community. Is he also aware that in the past decade domestic violence has been the cause of 10 deaths in the Vietnamese community and that Vietnamese women feel as though domestic violence is accepted and almost condoned by men in the Vietnamese community? What will the Minister do to address this problem? Is there a specific program designed to change attitudes towards domestic violence in ethnic communities?

The Hon. R. D. DYER: I was not aware that domestic violence is a special problem within the Vietnamese community; I would have said that domestic violence is a significant problem in society generally. It may well be that the incidence of domestic violence varies in various groups within society. This is a matter that must be addressed very seriously, and I believe it is being addressed very seriously by the Government and particularly by the Minister for Fair Trading, and Minister for Women. My own Department of Community Services has a distinct involvement in domestic violence via counselling-type services and funding of, for example, family support services that seek to help families that are under stress, partly due to the incidence of domestic violence. I shall refer the question to my colleague the Minister for Fair Trading, and Minister for Women and obtain a suitable reply.

DOMESTIC VIOLENCE

The Hon. A. G. CORBETT: Can the Attorney General, and Minister for Industrial Relations inform the House what occurs to firearms located by the police in the context of domestic violence incidents in which the owner of the firearm is the subject of an apprehended violence order; an interim AVO is not pursued within the courts, or is withdrawn or revoked; or a person is convicted of an assault in a domestic context but is not subject to an AVO.

The Hon. J. W. SHAW: My understanding is that when an apprehended violence order is issued, any weapons held by the person against whom the order is taken are confiscated. They may be disposed of by the owner to a licensed dealer or to a licensed person, or forfeited. If the weapons are forfeited, they are destroyed. If an interim AVO is not pursued in the court, or is withdrawn or revoked, the firearms may be legally returned to the owner after the initial confiscation. As the honourable member may be aware, under current law if an AVO has been issued against a person within the last 10 years that person is unable to acquire a firearms licence. If a person is convicted of an assault occasioning actual bodily harm in a domestic context, action is taken to revoke any firearms licence held by that person regardless of whether an AVO exists.

I am sure the honourable member will be reassured by the fact that protection is far broader than this and relates to all domestic violence offences. Basically, if a person is charged with a domestic violence offence, or if a police officer has reasonable suspicion that the person has committed or has threatened to commit a domestic violence offence, police must suspend any firearms licence. I am sure the honourable member would agree that although it is a tough provision, it is also a justifiable provision to deal with domestic violence situations. As with the previous example, the owner of the firearms would be required to dispose of the weapons in his or her possession.

RAIL FARE INCREASES

The Hon. C. J. S. LYNN: My question without notice is directed to the Treasurer. It was reported today that rail fares will rise next month by up to 5.2 per cent. According to the report the price of most rail tickets within the Sydney metropolitan area will rise by up to 20¢ per day, while trips outside a distance of 55 kilometres will increase by one dollar per day. Why should the battlers of Campbelltown have to pay 300 per cent more than their local member, who lives with the silvertails on the north shore?

The Hon. M. R. EGAN: A member for any electorate will pay exactly the same fare as anyone else will have to pay - unless, like the Hon. J. F. Ryan, he has a gold pass.

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GUN LAW REFORM

The Hon. J. F. RYAN: My question is directed to the Attorney General. Does the Attorney General recall my earlier questions relating to the validity of the recent firearms regulation which controls the sale of firearms? Is that regulation ultra vires the Firearms and Dangerous Weapons Act? Has the Attorney General yet obtained urgent Crown law advice to determine whether that regulation is valid?

The Hon. J. W. SHAW: I do recall the earlier question. The answer to whether I have obtained advice is no. I rely upon the presumption of regularity. To the best of my knowledge, no-one has actually challenged the validity of that regulation. The regulation has force and effect until or unless it is declared void by a court of competent jurisdiction. I should have thought all honourable members would support the validity of that regulation and would not want to raise legal or other technical questions about its validity. The regulation has been made by the Executive Government, it is on the books, it is enforceable, and unless a court declares it to be invalid it will be enforceable. I worry about the purpose

of the honourable member's question. It seems that the honourable member wants to call this regulation - which I thought had bipartisan support - into question.

GUN LAW REFORM

The Hon. J. F. RYAN: I ask the Attorney General a supplementary question. The person who has in fact called this regulation into question is the Chairman of the Regulation Review Committee -

The Hon. J. W. Shaw: Mr President, is this a question?

The Hon. J. F. RYAN: It is a question. Is the Attorney General aware that the Regulation Review Committee has written to the Government asking for that urgent clarification, which to the best of my knowledge has not yet been received?

The Hon. J. W. SHAW: No.

ENERGY INFORMATION CENTRE

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Minister for Energy. Does the Energy Information Centre play a valuable role in providing consumers with unbiased information on energy-saving appliances, building standards and other measures that are designed to reduce the consumption of energy? Does the centre also run a program to teach visiting schools the need for and importance of saving energy? Will the Minister confirm or deny that the Energy Information Centre is about to be closed?

The Hon. M. R. EGAN: No, I cannot, but I will obtain some information on the issue and convey it to the honourable member.

JUVENILE DETENTION FACILITIES

The Hon. Dr B. P. V. PEZZUTTI: My question is addressed to the Minister for Community Services. How can the Minister justify the transportation of two 13-year-old boys from Lismore to Sydney on 11 June because the Department of Community Services and the Juvenile Justice Commission in Lismore was unable to find them accommodation and, therefore, the Lismore Children's Court magistrate, Caroline Barkell, was forced to refuse them bail? How can the Minister justify the transportation of these young children - one of whom was a State ward - all the way to Sydney for the purpose of their incarceration in a juvenile detention centre whilst they were awaiting a court hearing?

The Hon. R. D. DYER: It is interesting that the Hon. Dr B. P. V. Pezzutti - who belongs to a party that left government after a period of eight years in office only 12 months ago - should ask why it is necessary to transport juvenile offenders to some far-distant location. The simple reason for that is that there is an overconcentration of juvenile detention centres in Sydney, Newcastle and Wollongong. This Government - in contradistinction to the record of the previous Government - in the current budget has set aside capital works funding to create juvenile detention centres in regional areas of the State. One such facility will go to Dubbo, with a 30-bed accommodation capacity. Consideration is being given to locate another such facility in either Newcastle or somewhere on the north coast of the State.

The reason that the present Government wants to do that - as I said earlier during debate on the community service orders legislation - is that it is regarded as a double penalty if a child, in addition to being placed on juvenile detention, is also in effect sent into exile by being incarcerated many hundreds of kilometres away from where he or she lives. I have been told that in the past young Aboriginal offenders who have emanated from the north coast of the State have been incarcerated as far away as

the detention centre in Wagga Wagga. That seems to be a grave abuse of the juvenile justice system. It is certainly not an abuse that started under this Government; it is an abuse that existed under the previous Government and was something the Hon. Dr B. P. V. Pezzutti apparently was unable to do anything about.

The Hon. D. J. Gay: It is your Government. Why hasn't it been fixed?

The Hon. R. D. DYER: The Hon. D. J. Gay wants to know why it has not been fixed. As I have said, having come to office 12 months ago, this Government has via the Treasurer allocated capital works funding to make a start on juvenile detention centres in Dubbo and somewhere in the northern region of the State. Clearly, it is not possible to have such a facility in every town - nor is it desirable to do so. This Government sees the need

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for a variety of sentencing options to be available to the magistracy. It is for that reason that as recently as this morning this House enacted legislation to provide for a 250-hour ceiling on community service orders relating to 16- and 17-year-old young offenders. That is a positive move. Within reason, the magistracy should have available to it the maximum number of sentencing options so that offenders do not have to be placed in detention centres except when appropriate. As to young people who are out on bail -

The Hon. Dr B. P. V. Pezzutti: They are not on bail.

The Hon. R. D. DYER: If bail has been refused essentially for welfare reasons, that is a matter about which I am also very concerned. It is for that reason that I am encouraging programs such as the safe haven program and the Aboriginal mentor scheme. The safe haven program provides that people in a given locality can be licensed to care for young people who are to appear before Children's Courts. It is a matter of concern to me if young people are transported away from their places of origin. The honourable member may be assured that as the Minister responsible for juvenile justice I am doing a lot to address his concerns.

JUVENILE DETENTION FACILITIES

The Hon. Dr B. P. V. PEZZUTTI: I ask a supplementary question of the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services. Given that one of the children involved is a State ward, does the Minister not feel even more responsible to provide accommodation during the time between the child being charged and his appearing before the Children's Court?

The Hon. R. D. DYER: I can assure the Hon. Dr B. P. V. Pezzutti that I am passionately concerned to ensure that State wards are adequately cared for.

The Hon. M. R. EGAN: If honourable members have other questions, I suggest they put them on notice.

COUNCIL ON THE COST OF GOVERNMENT PROGRAM

The Hon. M. R. EGAN: On 23 May and 30 May the Hon. D. J. Gay asked me questions without notice regarding the Council on the Cost of Government. The Premier has provided the following response:

Pursuant to s47D(1) of the Public Sector Management Act 1988, the Council is required to forward to the Premier a report of the Council's work and activities for each consecutive period of six months with the first report due on 12 June 1996 for a proposed tabling in both Houses on 20 June 1996. This

report covers the period for the six months from 13 October 1996 to 12 April 1996.

The Council's work and activities are established under an approved Priority Work Plan, and includes work undertaken on management reviews, for example the WorkCover Authority. The report to Parliament is based on the Council's work over the past six months including details of the Council's assessment of the reasons for growth in the cost of Government over the past eight years.

The major themes of the Council's report are the inadequacy of Government-wide management information systems and the need for improved accountability. The future work program of the Council will be guided by the findings discussed in the report and the Priority Work Plan as well as any new issues which require consultation.

Questions without notice concluded.

SYDNEY SHOWGROUND SITE DEVELOPMENT AND STATE OFFICE BLOCK LEASEHOLD SALE

Suspension of standing and sessional orders agreed to.

Motion by the Hon. R. T. M. Bull agreed to:

That General Business Order of the Day, relating to the Sydney Showground and State Office Block, be called on forthwith.

Debate resumed from an earlier hour.

Reverend the Hon. F. J. NILE [5.02]: The Auditor-General has flexibility and freedom to oversight the operations of all government departments. It may have been better for the motion simply to request the Auditor-General to examine the proposals to lease and develop the Sydney Showground site without going into detail about particular matters and suggesting that the Legislative Council has evidence of wrongdoing. Use of the showground site for the Fox studio involves matters other than the amount to be paid for the site. Auditors and accountants look into financial details but the promotion of New South Wales and Australia by having a major film studio in the heart of Sydney will have intangible benefits which the Auditor-General could not assess. For those reasons we are reluctant to support reference of the first matter in the motion to the Auditor-General. We have some sympathy for reference of the State Office Block matter. The matter is of such importance that it would justify investigation by the Auditor-General. I am concerned about both Labor and coalition governments not allowing tender processes to operate fairly for all concerned parties. I see some merit in the Auditor-General investigating whether the tendering process for the State Office Block was fair.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [5.07]: I address first concerns raised by Reverend the Hon. F. J. Nile regarding the appropriateness of the House referring a matter to the Auditor-General. As he stated, the Auditor-General has power to investigate any matters in the conduct of government, including statutory authorities. The honourable member for Bligh may have referred the showground matter to the Auditor-

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General but there is no compulsion on the Auditor-General to investigate the matter following reference of it by a single member of Parliament. Reverend the Hon. F. J. Nile may be horribly misled about the functions of the Auditor-General if he believes that he is now investigating the matter following that request. Passage of the motion would ensure beyond doubt investigation of the matter by the Auditor-General. The first part of the motion requests the Auditor-General to examine the proposal to lease and develop the Sydney Showground site and advise, having regard to the tender process, whether the terms of the proposed lease provide a fair and reasonable economic return.

The Leader of the Government made great play of the fact that the Government had to select a project that was appropriate for the showground site and one that would have job creation benefits. When all these considerations were taken into account the uses to which the showground could be put were severely limited. Honourable members will be aware of the lead-up to the decision, including an announcement by the former Prime Minister, Paul Keating, at the Museum of Contemporary Art that a deal had been done with Mr Murdoch to establish a film studio on the showground site. That was great news to the government of the day because it was not aware of the deal. Honourable members will also be aware of the debate that took place following that announcement.

The area involved in that deal was approximately one-third of the showground site and not the area that is now included in the proposal. The Opposition believes the Auditor-General should examine the leasing proposal to ensure that it is a good deal for the State; that the development is appropriate for the site; that the proposal will deliver the job creation; and that it will provide a fair and reasonable economic return to the Government. The House must ensure that there is transparency in government, that there is transparency in the key decisions that have been made regarding the lease that has been entered into by the Government on behalf of the people of the State, and that at the end of the day everyone is happy. I am not unhappy that the proposal is proceeding. I agree with the Government on many of the issues. This is a suitable project for the site, but the decision making must be transparent so we can be sure of that. As I do not have the BZW report I cannot make a decision whether it is a good deal financially.

I was aware of 10 or 12 proposals put forward to the former Government as a result of a competition by the former Minister for Planning for the development of the site. Most of those proposals involved residential areas along Cook Road, or a village green with shopping centres and other activities in the heritage buildings. Essentially the area was to remain residential with some shopping and entertainment areas and general public facilities. There has been a marked departure from the original proposals. Paragraph 2 of the motion requests the Auditor-General to investigate the tender process for the sale of the State Office Block, a building of declining value. The former Government was strongly criticised by the then Opposition for daring to suggest that it might accept \$135 million for the building.

The Hon. M. R. Egan: You were going to sell it.

The Hon. R. T. M. BULL: The former Government was quite happy to sell it for \$135 million.

The Hon. M. R. Egan: We have leased it.

The Hon. R. T. M. BULL: A 100-year lease is little different to a sale. The sale price is now \$69 million. The Parliament expects the tender process to be transparent. The Parliament should be assured that the sale will yield the best economic return. I am concerned that the successful tenderer will raze the building and rebuild from the ground up. I would be concerned if the site was a building site in the year 2000, when Macquarie Street, Sydney's number one street, will be on display to the rest of the world. We do not want an extraordinarily large building site in Bent Street at that time.

The Hon. M. R. Egan: So we have to stop building in the year 2000? That is a great proposal.

The Hon. R. T. M. BULL: No. The Leader of the Government is getting carried away and is trying to verbal me. I certainly have not said that, but I want to know a little more about the tendering process. I want to make sure that this State gets the best return on what some people suggest is a heritage building. I have investigated what the Central Sydney Planning Committee has said about this building. There are serious concerns about the demolition of this building, including persuasive arguments about the need to keep the facade and the fountain which provide generous open space to the top of Bent and Macquarie Streets. This motion issue has been debated in the House. The House should ask the Auditor-General to examine both projects. I reiterate for the benefit of Reverend the Hon. F. J. Nile that it is important to have the matter referred to the Auditor-General. The referral from the honourable member for Bligh is no guarantee that the Auditor-General will examine the showground proposal. A

reference from this House will ensure that that proposal would be examined. In the past the Auditor-General examined the State Bank sale, about which the Leader of the Government was most enthusiastic. I urge all honourable members to support the motion.

The Hon. J. H. JOBLING [5.19]: Under Standing Order 106 I request that the paragraphs of the motion be put seriatim.

The PRESIDENT: Order! Under the standing orders I must accede to the honourable member's request and, therefore, I will put paragraphs 1, 2 and 3 of the motion seriatim.

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Question - That paragraph 1 of the motion be agreed to - put.

The House divided.

Ayes, 21

Mr Bull	Miss Kirkby
Mrs Chadwick	Mr Lynn
Mr Cohen	Mr Moppett
Mr Corbett	Dr Pezzutti
Mrs Forsythe	Mr Samios
Mr Gallacher	Mrs Sham-Ho
Miss Gardiner	Mr Rowland Smith
Mr Gay	Mr Tingle
Dr Goldsmith	<i>Tellers,</i>
Mr Jobling	Mr Kersten
Mr Jones	Mr Ryan

Noes, 18

Mrs Arena	Rev. Nile
Dr Burgmann	Mr Obeid
Ms Burnswoods	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Mrs Symonds
Mrs Isaksen	Mr Vaughan
Mr Kaldis	
Mr Macdonald	<i>Tellers,</i>
Mr Manson	Mr Primrose
Mrs Nile	Ms Staunton

Pair

Mr Hannaford	Mr Johnson
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Question so resolved in the affirmative.

Paragraph 1 of the motion agreed to.

Question - That paragraph 2 of the motion be agreed to - put.

The House divided.

Ayes, 22

Mr Bull	Mr Moppett
Mrs Chadwick	Mrs Nile
Mr Cohen	Rev. Nile
Mrs Forsythe	Mr Ryan
Mr Gallacher	Mr Samios
Miss Gardiner	Mrs Sham-Ho
Mr Gay	Mr Rowland Smith
Dr Goldsmith	Mr Tingle
Mr Jobling	
Mr Kersten	<i>Tellers,</i>
Miss Kirkby	Mr Jones
Mr Lynn	Dr Pezzutti

Noes, 17

Mrs Arena	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Corbett	Mr Shaw
Mr Dyer	Ms Staunton
Mr Egan	Mrs Symonds
Mrs Isaksen	Mr Vaughan
Mr Kaldis	<i>Tellers,</i>
Mr Macdonald	Dr Burgmann
Mr Manson	Ms Saffin

Pair

Mr Hannaford	Mr Johnson
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Question so resolved in the affirmative.

Paragraph 2 of the motion agreed to.

Paragraph 3 of the motion agreed to.

Motion agreed to.

**TRANSPORT ADMINISTRATION AMENDMENT (RAIL CORPORATISATION AND
RESTRUCTURING) BILL**

Second Reading

Debate resumed from 17 June.

The Hon. I. COHEN [5.34]: I support the general principles and directions in the Transport Administration Amendment (Rail Corporatisation and Restructuring) Bill. The bill will put in place a process of dramatic reform for rail transport in this State. I note that it implements the agreements of the 1995 Council of Australian Government on competition policy for Australia, along with reforms of gas and electricity. I acknowledge in the preparation of this paper the assistance of Professor Philip Laird, Department of Mathematics of the University of Wollongong. The bill is an effort by the Government in

many respects to improve State Rail operations, but that is in some aspects to be done by mere disaggregation. However, in order to gain the sought-after efficiencies that the Government is now promising if this legislation is passed, much more basic measures are needed to improve the efficiency and competitiveness of rail freight and passenger trains in New South Wales.

These measures include improving rail track alignment and ensuring that all road users, including peak-hour urban commuters and heavy truck operators, meet all road system costs and all environmental costs. State Rail is a transport provider with a proud history; it celebrated its 140th year of operations last year. For decades New South Wales Railways was responsible for the development and growth of most of the State, and at about the turn of the century it was also responsible for Sydney's tram system and the generation and supply of electricity power in Sydney. In the first half of the century New South Wales Railways expanded to meet growing traffic. However, by the early 1970s operating profits were turning into deficits and in recent years the extension of the rail system has been minimal.

Over the last 10 years there has been considerable effort to increase the productivity of State Rail. In respect of New South Wales rail freight operations, the 1994-95 State Rail annual report notes average unit freight costs fell from 9.1¢ per net tonne kilometre - one tonne of freight moved one kilometre - in 1985-86, in 1994 terms, to 5.3¢ per net tonne kilometre in 1994-95. This reduction

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in average unit rail freight costs has been due to many factors, including State Rail staff numbers falling from 41,071 on 30 June 1986 to 20,186 on 30 June 1995. The improved efficiency has led to a decline in the New South Wales rail deficit and a saving since 1988 of at least \$1 million. Unfortunately, these savings have tended to go to consolidated revenue and the rail capital works budget has suffered. At the same time, the State Rail, Department of Main Roads and Roads and Traffic Authority annual reports indicate that the roads budget has grown.

In the mid-1980s the rail capital works budget was about \$400 million a year and the roads budget was about \$1,000 million a year, a ratio of about 5:2. However, according to the 1996-97 budget papers, the State Rail capital works budget of about \$382 million was reported by the *Sydney Morning Herald* to have been cut by \$75 million whilst the Treasurer, in delivering this year's budget, was pleased to say that the budget includes a record \$1.9 billion roads program. Thus, over the last 10 years road funding has continually increased, whilst funding for true rail capital works, excluding redundancies or creative accounting, has fallen in real terms. Whether State Rail is split into four or remains a single authority, the present train operations outside of Sydney are rendered inefficient because of poor track alignment and severe ruling grades.

Much of the present steam-age alignment dates back to the early part of this century, when some steep grades were eased for steam trains at the expense of many miles of tight curvature. One case in point is the Goulburn to Yass section that was rebuilt in the 1910s from the older 1870s track alignment. According to a University of Wollongong study, the present alignment requires modern freight trains to take 12 per cent more time and use 12 per more fuel than if they were using the 19th century track alignment. You can see part of the old track bed from the present railway or the old Hume Highway. This study also shows that this section of track could be upgraded to fast freight train - FFT - standards with a ruling grade of 1:66 and no curve tighter than 800 metres, to allow through running of trains at 115 kilometres per hour. The cost of such upgrading was estimated at \$95 million, which is about 20 per cent of the Federal Government's outlay on the Hume Highway between Goulburn and Yass to construct a four-lane highway and bypasses. Meantime, as we are about to enter the twenty-first century the present Goulburn to Yass rail track alignment is worse than it was in the nineteenth century.

Closer to Sydney, the Campbelltown to Goulburn section winds through Picton - just as the Hume Highway bypassed Picton in 1980 - with a new alignment, and the rail track now needs rerouting. It is up to the Government to explain how carving up State Rail will assist this long-overdue work, which was under examination prior to the establishment of State Rail in 1977. Since then there have been at least 10 reports pointing out the need to upgrade the main south railway. The most recent outline of the

necessary work was published in 1995 in a National Transport Planning Taskforce - NTPT - report that noted that about \$1 billion of investment is estimated to be warranted over the next 20 years for rail along the Sydney to Melbourne corridor. A further \$1 billion would be required for the Sydney to Brisbane track, of which the NTPT said, "Transit times, reliability and costs are so poor that the corridor may not survive as a commercial freight alternative unless improvements are implemented."

This situation would be made worse by large-scale upgrading of the Pacific Highway without rail track upgrading. North of Sydney, the short north track to Newcastle has sections with steep grades and sharp curves. An article in the August 1995 issue of *Railway Digest* pointed out that there are nearly 14 kilometres of track with red sectors with steel grades on tight curves. Also, a four-kilometre section north of Fassifern urgently requires realignment. The article stated:

This deviation should have been done prior to electrification in 1984. It is now long overdue.

The least we could do is straighten it out prior to the 2000 Sydney Olympics. One could add that electrification to Newcastle should have been the high voltage 25,000 volts AC system introduced into Queensland in 1980 and into Perth more recently. Our present low voltage 1,500 volts DC system is adequate for suburban trains, but inefficient for moving coal to Port Kembla. Here, south of Sydney four 86 class locomotives are needed to haul just 2,400 tonnes of coal through the congested inner-west Sydney network over sustained steep grades and the poorly aligned Waterfall to Thirroul track. This contrasts with the Hunter Valley main tracks, over undulating terrain, where three 90 class locomotives can haul nearly 8,000 tonnes of coal. North of Maitland, the rail track to Brisbane is long and winding. There have been few, if any, deviations to improve track alignment for New South Wales over the last four decades, save for two small ones north of Grafton as part of the Federal Government's One Nation rail capital works program from 1992 to 1995.

Corporatisation and restructuring will not solve the basic problems that adversely affect the efficiency and competitiveness of rail freight and passenger train services. These problems were highlighted in the tilt train trials of 1995, about which a *Sydney Morning Herald* headline said it all: "Fast Train - Slow Track". In fact, some 575 kilometres or 40 per cent of the mainline interstate track in New South Wales fails to meet basic fast freight train standards. It is clear that State Rail has improved its performance and reduced its deficits. However, as Mr John Kain said in a 1995 Commonwealth Parliamentary Library paper, "rail is probably fast reaching the point where the scope for marginal productivity improvements from operational, for example, work practice, reforms

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may be limited. Future significant gains in productivity will rely increasingly on effective track investment initiatives."

It is not as if straightening out the worst of our mainline railway track requires engineering miracles or heavy expenditure, as shown by the extensive work that has been done by the Queensland Government in its current mainline upgrade program. This program includes 119 kilometres of high-quality deviations between Brisbane and Cairns, with an average cost of less than \$1.5 million per kilometre. Most of these deviations have been completed. Two of the longer ones are worth noting. They are, Gunalda - 197 to 205 kilometres north of Brisbane - where a winding 10-kilometre section was replaced with an eight-kilometre deviation with no curve tighter than 2,200 metres. It was commissioned on 27 February 1995, and provides a time saving for the intercity electric train of about seven minutes. Watalgan - 392 to 405 kilometres north of Brisbane - has an old section with long steep grades which was replaced with a 12.7-kilometre deviation with a ruling grade of 1:93 and no curve tighter than 2,200 metres. As per the recent QR fact sheet of 11 April 1996, the commissioning of the Watalgan deviation on 26 February 1996, "has significantly eased the grade restrictions between Brisbane and Rockhampton and permits trailing loads to be significantly increased." Queensland's MLU project includes new locomotives and wagons and hundreds of new bridges. An outline of the MLU project and compelling reasons for proceeding with it were given by the MLU project manager, Mr Ross Hunter, in a 1994 paper:

Without substantial upgrading, the quality of rail freight services possibly could not keep pace with the quantum improvements enjoyed by our major competitor, road transport. Rail would continue to lose market share, compounding the losses from having to retain services. The Mainline Upgrade Project is targeted at improving services and picking up market share, and reducing the costs of providing these services to enable rail to compete more effectively on price.

Queensland's upgraded railway track will have tilt trains later next year operating between Brisbane and Rockhampton. As the premier State, New South Wales should have been the first to have had these trains operating on a regular basis - instead of the abortive trial we saw last year. Significantly, Queensland has corporatised its rail system, but has not seen fit to split it into four sections. Its rail capital works program has been running at about \$700 million a year for about two years now - far in excess of the true New South Wales rail capital works budget. This is despite Queensland having half the population of New South Wales. Corporatisation and restructuring of rail systems has also been promoted by the Federal Bureau of Industry Economics, in line with national competition policy. However, in order to ensure full competitive neutrality between road and rail freight, it will be necessary not only to straighten out the worst of our winding rail tracks, but also to ensure that road pricing for urban commuters covers all road, social and environmental costs, and that the road freight industry makes a full contribution to the roads it uses in the course of its business.

The move by this State to adopt, at the end of this month, the National Road Transport Commission registration fees will, as stated in debate on the enabling legislation late last year, improve road transport competitiveness. We now need some real, rather than paper, moves to improve rail freight efficiency and competitiveness. Corporatisation and restructuring of State Rail does not address the impact of NRTC charges on rail freight, which was succinctly expressed by the Industry Commission in its 1991-92 annual report, which stated:

Annual fixed charges are not efficient because costs vary with the distance travelled and the mass of the vehicle. The result is that some vehicles - the heaviest travelling long annual distances - will meet less than 20 per cent of their attributed costs. Differences between the recommended charges and road-related costs are greatest for vehicles competing with rail. The charges, as recommended, will therefore potentially distort the long-haul freight market as rail reforms take effect.

What the Carr and truck Government is offering the people of New South Wales in this bill to improve rail services is totally inadequate. It is incumbent upon this Parliament to make provision to speed up our trains before the Olympic Games through track upgrading; and to improve the efficiency and competitiveness of rail freight. At present, we are way behind Queensland. The bill has two objects: better business practices and environmental sustainability. I fully support those principles. To achieve these objectives, the bill establishes entirely new entities in the form of the Rail Access Corporation, the Freight Rail Corporation, the Rail Services Authority and a restructured State Rail Authority. The Rail Access Corporation will be responsible for managing the track and providing access to rail operators. The Freight Rail Corporation will be responsible for freight services and will compete with other operators, for example, National Rail and TNT.

The State Rail Authority will remain as the passenger service operator, including CityRail and Countrylink. The Railway Services Authority will provide specialist track maintenance and construction services to the Rail Access Corporation - RAC. I believe the community must wonder why governments are so keen to drive competition in such a way. If competition provides for improved public transport and environmental outcomes at a lower cost, those measures are to be applauded. The downside must be seen in the likely cut in overall employment in the public sector. I am also concerned that competition will lower the cost to some customers of utilising our more limited natural resources. This could lead to greater resource exploitation at the expense of the environment. This would include the coalmining sector, which commands 80 per cent of rail freight movements within the State. If the reforms mean greater rail movements than road haulage, I will be satisfied that environmental and public safety improvements have been achieved.

The bill also provides that the objectives of the new corporations will be, in part, to operate at least as efficiently as any comparable business, to maximise the net worth of the State's investment in rail infrastructure, to exhibit a sense of social responsibility by having regard to community interests, to conduct its operations in compliance with the principles of ecologically sustainable development, and to exhibit a sense of responsibility towards regional development and decentralisation. I strongly believe that the new boards of such bodies must have people with relevant expertise in each of these areas.

I note that the bill provides for three to seven persons, of which the Labor Council of New South Wales is the only organisation to nominate a member. Board members must also bring with them a sense of social responsibility, including concerns for schoolchildren, families, low-income earners and the environment. In this regard, I note that the conservation movement has approached the Government to ensure that its expertise is included. The requests have not been met, notwithstanding the Minister's general consultation with the conservationists. I note the contribution of Ms Carron Morrison, who has been in contact with the Government, the Opposition and crossbench members. I am persuaded by her arguments for changes to proposed section 190(5), relating to membership of the board, and will seek amendments concerning the other boards. The second issue is ensuring that public transport has priority on the system. I am concerned that the Government's advice is that this would be contrary to the Council of Australian Governments agreement and would contravene Commonwealth law.

I am further advised that such a provision would be subject to legal challenge. My view is that those dependent on passenger trains, such as schoolchildren, should have priority. If that is not to be, I believe that the required access regime should be developed, taking into account public and other benefits. I will move an amendment in that regard also. Crossbench members have also been approached by the New South Wales Mining Council, which is seeking further amendments to the bill. I am not persuaded by all of the council's arguments, but I believe that access to the rail network should not be unreasonably withheld, subject always to environmental considerations. The Government should give this issue serious consideration. In conclusion, I reiterate my support for the bill and seek the Government's support for minor amendments to ensure that the principles and objectives of the bill can be fully met.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [5.51], in reply: I thank honourable members for their contributions to the debate and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

GAS SUPPLY BILL

Second Reading

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [5.52], on behalf of the Hon. M. R. Egan: I move:

That this bill be now read a second time.

By leave, the second reading speech will be incorporated in *Hansard*.

Last year the Carr Government delivered on its promise to ensure that consumers in New South Wales get the expected benefits from the competitive national electricity market.

We delivered on our promise to reform the generation sector, and we delivered on our promise to corporatise the electricity utilities with environmental, social and equity considerations backed by legislation.

With the Gas Supply Bill the Carr Government delivers on more election commitments.

This Bill will bring the benefits of competition to the New South Wales natural gas market and provide for the Independent Pricing and Regulatory Tribunal to regulate gas pricing and third party access to the natural gas distribution systems.

It is very much in the interests of New South Wales that there be free and fair trade in natural gas across and within State borders.

The natural gas retail market in New South Wales is monopolistic. New South Wales has no commercial sources of natural gas within its boundaries and currently depends on a single pipeline to transport all its natural gas from the Cooper Basin in South Australia. The contracted supply of Cooper Basin natural gas to New South Wales is scheduled to begin to decline soon after the turn of the century and further supplies will be needed.

The Council of Australian Governments agreed in 1994 to the removal of legislative and regulatory barriers to free and fair trade in gas and the introduction of a nationally consistent third party access regime for all gas transmission pipelines by 1 July 1996. The 1995 Competition Principles Agreement provides for State-based third party access regimes to be established where they comply with the relevant principles set out in that Agreement.

The current Gas Act 1986 makes provision for the Minister to impose conditions on gas distributors to allow access by third parties to the distribution system. However these arrangements are unsatisfactory and would not be considered an effective regime under the Competition Principles Agreement.

The development of an effective access regime is also one of the agreed reform objectives New South Wales must meet by 1 July 1996 to qualify for payments from the Commonwealth Government under the National Competition and Related Reforms Agreement 1995.

The legislation before the House today is consistent with national competition principles while taking account of the particular needs of the industry in New South Wales.

The Gas Supply Bill is designed to open up the New South Wales natural gas market to competition by establishing a right of third party access to the pipelines and pipes which deliver gas to the final customer.

A customer will then be able to seek alternative sources of gas and contract directly with reticulators for the transport of that gas. Alternatively, new gas suppliers may enter the market and offer customers a choice.

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Third party access will be phased in across the market, with full competition currently targeted for mid-1999. A transitional phase-in period will facilitate the development of a competitive market and cushion any significant adverse impacts on existing market participants.

The Bill provides a mechanism for phasing-in the application of third party access to progressively smaller customers. The actual staging of the transition period will depend on the reform progress

made by other States and in the electricity market.

In the preparation of this legislation the Government has consulted widely with industry.

In September 1995 I requested the Gas Council of New South Wales to conduct a review of the principles and procedures for the provision of third party access to the State's gas distribution systems. The Gas Council reported that, at least in the initial years as the industry moves towards a more competitive market, there should be State-based regulation to address the issues which are specific to New South Wales and the New South Wales gas industry.

New South Wales has been an active participant in the national gas reform taskforce charged by the Council of Australian Governments with the task of carrying forward reform of the gas industry, including the development of a national third party access framework.

It is intended that the access regime being put in place by the Gas Supply Bill will adopt the national Access code.

However, while significant progress has been made, it is not expected that the national Access code will be available for proclamation by 1 July 1996. Therefore an interim, locally developed, Access code will be utilised, based largely on the national Access code.

The access to be provided by this bill will apply to the natural gas distribution or reticulation systems such as those owned and operated by the AGL Gas Companies.

Third party access to interstate transmission pipelines such as the Moomba to Sydney pipeline and the proposed interstate pipelines from Victoria will continue to be subject to Commonwealth regulation.

The extent of the proposed changes has enabled a wider review of the legislative provisions relating to the gas industry, in a manner consistent with the recently enacted Electricity Supply Act 1995.

The Gas Act 1986 will be renamed the Gas Industry Restructuring Act 1986 and be concerned solely with the corporate structure of the Australian Gas Light Company.

Mr Speaker, I now turn to specific provisions of the Bill.

The objects of the Bill are:

- firstly, to encourage the development of a competitive market in gas, so as to promote efficient use of gas and its safe and reliable supply;
- secondly, to regulate gas reticulation and supply so as to facilitate open access to gas reticulation systems and promote customer choice in relation to gas supply; and
- thirdly, to provide for the adoption of an access code in accordance with which the reticulation and supply of natural gas are to be regulated.

The Minister, the Independent Pricing and Regulatory Tribunal and the review panel, in exercising their functions, are required:

- to ensure that the public receives the benefit of a competitive gas market and to encourage the development of competitive gas supply in the non-tariff market, with a focus on free and fair trade;
- to take proper account of the interests of gas users and tariff customers in respect of pricing regulation and other terms of service;

- to ensure that authorised reticulators and licensed distributors satisfy, so far as it is economical for them to do so, all reasonable demands for the conveyance of gas;
- to take proper account of the business interests of authorised reticulators and licensed distributors and their ability to finance the provision of reticulation services;
- to take proper account of the business interests of persons supplying gas to the tariff market; and
- to ensure that third-party access rights are given effect to in accordance with the Access code adopted by the legislation.

The Bill provides for an overall framework for third party access based on the main elements of the Access code, the Access undertakings to be developed by reticulators and the role to be taken by the Independent Pricing and Regulatory Tribunal.

The Access code will be external to the legislation but will be given effect to by an order published in the *Gazette* by the Minister. This document will provide a general, high-level framework for the regulation of third party access.

This approach has been taken as it is intended that the Minister will gazette the National Access Code being developed by the National Gas Reform Taskforce when that is available. As an interim measure, a locally developed Access Code will be utilised, based largely on the expected provisions of the National Access Code.

The Access Code sets out the rights and obligations of parties, the regulatory process, dispute resolution methods, and so on.

There are a number of references to the Access Code in the Bill which essentially will require that the Code will be followed by the Tribunal and the Minister in exercising their functions.

The Minister brings a distribution system under the scope of the provisions of the legislation by gazetting it as a declared distribution system. The reticulator must then establish an Access Undertaking with respect to the use of that system by third parties.

The Access Undertaking will include tariffs for standard transportation services, pricing principles and information requirements. Access Undertakings developed by reticulators must comply with the Access Code and be approved by the Tribunal.

If an Access Undertaking is not established within three months of declaration of a distribution system, the Tribunal may make an Access Order establishing the access conditions that are to apply to the system. The Access Order ceases to have effect as soon as an Access Undertaking is established.

Within the parameters set by the Code, the Undertakings or Access Orders and any guidelines made by the Tribunal, reticulators and potential users will be free to negotiate terms and conditions of access for services.

Parties to negotiations on access may seek conciliation and where a dispute exists as to the terms on which the system user is to be granted access to a declared distribution system, either party may refer the dispute to arbitration. The Tribunal will act as arbitrator.

The Bill provides for the establishment of a Review Panel which acts as an appeal mechanism on decisions in respect of access matters, including the Tribunal's establishment of Access Orders, the rejection by the Tribunal of a proposed Access Undertaking or access agreement with an associated

system user, or an arbitrator's decision with respect to the terms of an access determination.

The grounds for making an appeal will be as set out in the Access Code.

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The Tribunal will be empowered to conduct investigations for the purpose of exercising its functions, in accordance with provisions in the Independent Pricing and Regulatory Tribunal Act 1992.

The Tribunal will also be able to direct an authorisation holder to keep specified records and to furnish specified information to the Tribunal for the purpose of monitoring the holder's compliance with the legislation and the Access Code.

The Bill abolishes the Gas Council of New South Wales. The function of gas pricing regulation will be undertaken by the Independent Pricing and Regulatory Tribunal, which already regulates electricity tariffs, thus providing a consistent and equitable treatment of competing industries.

It is also the most cost-effective option for New South Wales.

The existing, fair approach to pricing regulation of the tariff market provided for in the Gas Act 1986, is being continued in the new Bill. The tariff market represents twenty-five per cent of the total market and is made up of domestic customers and small industrial and commercial customers.

Existing pricing conditions will be preserved as a transitional provision and will remain in force until new determinations are made by the Tribunal. The Tribunal will be empowered to make gas pricing orders for natural gas supplied to tariff customers. The Bill provides for an appeal against a gas pricing order to a Review Panel.

AGL Gas Companies and the Albury Gas Company are currently required to provide pensioner rebates as a condition of their authorisation. The rebates are currently funded through cross-subsidies. As a transitional arrangement, these provisions will remain for three years.

Pensioner rebates will be included in the current review of social programs by Treasury to seek a common approach with the electricity industry, where pensioner rebates are directly funded by the Government.

The Gas Supply Bill includes a mechanism which can be used to enable pensioner rebates to be provided in the tariff market. The Minister may impose a condition on authorisation holders to implement Government policy on community service obligations to tariff customers. This can only occur, however, if the Minister has entered into an undertaking, on behalf of the State, to indemnify the authorisation holder with respect to the costs of complying with that condition. The relevant clause in the Bill will not be proclaimed until after the transitional period ceases.

At present industrial and large commercial gas users subsidise small commercial and domestic gas users, the tariff market. These cross-subsidies place New South Wales industry and commerce at a competitive disadvantage with other States.

The Pricing Tribunal will administer appropriate transitional arrangements for the gradual phasing-out of cross subsidies. The impact of the removal of cross-subsidies on the tariff market will be partially offset by efficiency gains in the distribution system and growth in the volume of gas sold.

The AGL Gas Companies' Gas Customer Reserve Account was created by the 1985 legislation which restructured the Australian Gas Light Company. The Account preserved an agreed value of \$134 million, to be applied for the benefit of tariff customers. The nominal value of the Account has not

changed since 1985.

However the after-inflation value of the Account's balance has declined significantly in that time and its long-term benefit to tariff customers will continue to decline.

The Bill provides for the equity in the Gas Customers' Reserve Account to be used for the benefit of gas users, in a manner determined by the Tribunal after consultation with the AGL Gas Companies. The Tribunal may approve the use of the Account for the mitigation of any adverse impacts arising from the removal of cross-subsidies to the tariff market

Treasury is to examine the extension of the current Energy Accounts Payments Assistance Scheme to cover gas accounts for households suffering financial hardship.

The Gas Supply Bill provides for authorisations for two distinct activities:

- a *reticulation authorisation* for a person operating a distribution system for the purpose of conveying natural gas to any other person; and
- a *supplier's authorisation* for a person who supplies natural gas, either retail or wholesale, to any other person by means of a distribution network.

The Bill will apply equally to all authorisation holders, including local government utilities.

At present, authorisation fees based on the distributor's revenue are applied, but only to certain distributors. The bill provides for annual authorisation fees to be applied fairly to all authorisation holders, based on recovery of the cost of regulation of the particular authorisation holder.

The Minister's role in granting authorisations will continue, but the Minister must now endeavour to consider authorisation applications within six months. The Bill now specifies the grounds upon which authorisation may be refused, providing transparency to the process and certainty for market participants.

As now, the Minister may attach a wide range of conditions to the authorisation. These may include the period for which the authorisation is to remain in force, the geographical district for distribution, and such other conditions as the Minister may from time to time impose.

The Minister may cancel an authorisation or attach new conditions to the authorisation, but this will now be subject to appeal to the Supreme Court.

The existing Gas Act 1986 contains provisions for the separation of the regulated activities of a gas distributor's business from the non-regulated activities.

Consistent with this, the Bill allows for the regulations to provide for the separation or ring-fencing of gas supply and gas reticulation activities. The Access Code will define the minimum requirements for ring-fencing of activities.

Ring-fencing is essential to ensure that customers are subject to fair and equitable transportation charges. Separation of these activities will enable the cost of the distribution service to be accurately assessed for pricing purposes by the Tribunal. It is also necessary to minimise opportunities for cost shifting between the activities of a distributor's business for competitive advantage and to minimise the risk of anti-competitive behaviour between related parties.

Under current arrangements only certain distributors are required to pay a levy to the State Energy Research and Development Fund, amounting to \$1.6 million in 1995-96. On competitive neutrality

grounds this requirement is to be removed. However, the Fund will be continued using current balances.

I have recently approved \$2.2 million in funding for energy research projects under this Fund which will run for the next three years. The future of the State Energy Research and Development Fund will be the subject of a joint review to be undertaken by the Department of Energy and the Sustainable Energy Development Authority.

The Government recently announced funding of \$65 million for the Sustainable Energy Development Authority, which will be one of the main mechanisms the Government will use for setting and delivering on targets for the abatement of greenhouse gas emissions from the energy sector in New South Wales.

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The use of natural gas results in the emission of substantially less greenhouse gases than other fossil fuels.

As it becomes more price-competitive, as new technologies are developed, and as applications such as co-generation become more common, natural gas will increasingly substitute for other traditional energy sources, reducing the State's greenhouse gas emissions.

The Bill carries forward from the Gas Act 1986 provisions dealing with the reticulation and supply of liquefied petroleum gas and gases other than natural gas. It also defines the powers and duties of network operators in connection with the installation, operation and maintenance of their distribution systems.

The reforms in the gas industry are being coordinated with those in the electricity industry, both at the State level and nationally.

The new energy market will bring about competition both between gas suppliers and also between gas and electricity. Increased and sustained competition will mean lower energy prices for all consumers in the long term.

Gas customers, especially large commercial and industrial customers, will be able to choose between, and contract directly with, competing suppliers. Energy cost savings will improve the competitiveness of energy-consuming industries, leading to higher industry output, more jobs and more efficient use of resources.

Third party access to the distribution network will provide security of supply for natural gas in New South Wales by encouraging producers from the Gippsland Basin in Victoria to compete with those in the Cooper Basin to supply the New South Wales market through interstate transmission pipelines.

Already the prospect of third party access has been a factor in encouraging two proposals for new natural gas pipelines: one from Longford in Victoria to Wollongong, the other linking Wodonga in Victoria to Wagga Wagga.

These proposed pipelines will establish an interconnected grid with the potential for effective interstate competition in the supply of natural gas to New South Wales.

This Government looks forward to an integrated energy market amongst the eastern and southern states of Australia. So far as is possible, firms competing in this energy market will face the same regulatory and fiscal regimes.

The aim is to avoid giving any market participant a government-provided advantage, or for that matter,

placing them at a disadvantage.

We will be looking carefully at progress in other States to ensure that local utilities are not disadvantaged in this regard or that New South Wales customers are not disadvantaged because of a lack of progress in other States.

After a transition period we look forward to full competition down to the retail level between electricity and gas with suppliers able to provide both energy forms and a wide range of energy services.

There is a synergy to be gained from adding a competitive natural gas market to a competitive electricity market. A new competitive energy market in New South Wales that extends interstate will open up a range of customer choices and a range of energy services.

Most importantly, barriers to environmentally friendly energy forms will be removed and there will be structural and market pressures to keep energy prices down.

I commend the Bill to the House.

The Hon. J. H. JOBLING [5.52]: The Opposition supports the bill. There are, however, several matters that concern Opposition members and I shall put a number of them on the record in the hope that the Minister will respond to them in his reply. The Opposition supports and encourages the development of a competitive market in gas and applauds attempts to promote the efficient use of gas and to ensure the delivery of a safe and reliable supply. The bill regulates the reticulation of gas supply in order to facilitate, in this case, open access to gas reticulation systems and to enable customers to have a choice in gas supply. In taking that measure, it is necessary to provide for the adoption of an access code, in accordance with which the reticulation and the natural gas supply are to be regulated, and to conform with what will become the national code.

The bill is part of a continuing process of micro-economic reform that was commenced by the coalition Government, especially in relation to gas. The Opposition will support the bill as it embodies the principles of competition as set out in relation to the micro-economic reforms and the principles that were taken to the Council of Australian Governments. New South Wales consumers stand to benefit greatly from the reforms introduced under the bill. There is no doubt that business in New South Wales will be the major beneficiary. The questions that must be considered, however, relate to the powers of the regulator, timing, the rights of appeal, community service obligations, what happens with pensioners, and, most certainly, what happens to local government - a matter to which I shall refer later.

Without doubt the current structure that faces New South Wales and the Australian gas markets, combined with legislation and government policy, would effectively prevent the construction of many new pipelines. It would therefore prevent access to a greater variety of natural gas resources and a greater choice of supplier. I am sad to say that comparison shows that the cost of gas in Sydney is up to 40 per cent higher than in Victoria. Consequently, the breaking down of the price differential will be of great benefit to those who use gas as opposed to other fuels. In Albury, the price differential is most clearly apparent. In my view, natural gas provides major environmental benefits. The use of natural gas will have the environmental benefit of the long-term displacement of older coal-fired power stations, which will be replaced by gas-fired power stations or co-generation. That will be the result if the State continues to make gains in environmental controls and costs.

Combined-cycle gas topping will be the technology of tomorrow. The real reduction in price will come from competition between major suppliers in the different fields and the ability of new gas fields to join the system and avail the access that will be set up. The reform process started in 1994 under the previous coalition Government. The coalition supports the principles embodied in the Council of Australian Governments agreement signed in Hobart on 25 February 1994. In this issue a bipartisan approach is important - and

there is a bipartisan approach. In dealing with a competitive market it is important to make sure that organisations are neither advantaged nor disadvantaged. It is particularly important to make sure that suppliers, users and distributors are not placed at a commercial disadvantage.

I am greatly concerned about that issue, because interests from other States, namely Victoria and South Australia, could consider seizing the New South Wales market if New South Wales interests are shackled in a way that prevents them from competing equitably. As I have said, a number of questions need to be raised. It is important to consider local government. Local government bodies have written to me about the costs that have been met by the Australian Gas Light Company. Most of the concerns are centred on clause 51. Local government relies on section 611 of the Local Government Act 1993 and, as I understand it, since 1970 it has received payments from AGL, based on the judgment of Justice Pike, for allowing AGL to place its pipes in streets. I do not propose to read the entire document submitted by local councils, but I shall quote from it briefly so that honourable members are aware of payments that have been received by various councils.

Bankstown City Council was paid \$105,225.81; Blacktown City Council receives \$206,786; Fairfield City Council receives \$188,731; and Parramatta City Council receives \$206,551. In total, the AGL has paid \$2,918,951.08 for the year ended 1996. That is a huge sum of money. Local government bodies are very concerned about this matter. They have written to me and to the Treasurer expressing concern about clause 51. They have also expressed concern that this measure was introduced without consultation with local government. In a letter dated 19 June, the Treasurer indicated to local government that some consultation would occur. I note that it will take three years before the matter is phased out. That time lapse will afford local government the opportunity to make up the shortfall and to find other areas of funding. Considering current conditions and the difficulties faced by local government, taking nearly \$3 million back from local government will place a considerable impost on its ability to make up for those services. I note that clause 51 of this bill is identical with the section of the Electricity Supply Act that deals with charges for placement of electricity works. To that end, consistency is required so that electricity and gas can compete on a level playing field. My understanding of the Electricity Supply Act is that it was taken from the original Electricity Supply Act of 1945 - so it has been around for a considerable time.

A number of people involved in the industry have written to me. The Australian Gas Association has expressed concerns about the Independent Pricing and Regulatory Tribunal. It is concerned about the discretion that is given to IPART in relation to access agreements. It was concerned about unintended consequences, and expressed the view that the regulator should approve the access undertaking if it complies with the COAG access code - a code which we are still waiting to see. The Australian Gas Association - which is the major supplier in New South Wales - expressed concerns about the regulator as a law-maker.

The Australian Gas Light Company is concerned about a number of matters, specifically that the access code is not definitive law and that IPART can disregard the code that has been adopted by the Minister pursuant to the Act. AGL also contend that the code will cease to be the central document for determining the rules for competition. It further contends that the code - which in time is intended to be the national code - will cease to be consistent with the national scheme as it is likely that the State will add to or change the State rules rather than take the more complex route of changing the code. It is the latter aspect about which I have a great deal of concern. Broken Hill Proprietary Company Limited - which is the likely builder of a new trunk main from Longford in Victoria to Picton in New South Wales, and which would give us a second main when the missing link between Albury and Wagga Wagga is completed in the AGL main - totally supports clause 20(4) of the bill. BHP expressed the view that it is vital to a new gas supplier, such as BHP, that proposed access undertakings be subject to an appropriate process of review prior to approval by the designated regulator. BHP expresses a diametrically opposed view to that of AGL.

I am sure honourable members would be aware that the Albury situation raises the question of consumer obligations. It has been indicated that subsidies for the provision of pensioner rebates exist through the Albury gas company. Obviously, transitional agreements and arrangements had been made for these provisions to continue for a period of three years. However, the question remains whether they can be dealt with under clause 27(3). I hope that the Government will indicate that community service obligation provisions will continue to provide for pensioner rebates. Obviously, the cost to private consumers would rise considerably if that were not to be the case.

The people of the city of Wagga Wagga have expressed concern to me that Wagga Wagga is the network supplier for almost 75 per cent of the people in that region who use gas. Wagga Wagga City Council is concerned that with open access others may wish to bring gas into Wagga Wagga. Under the provisions of the bill it is possible that the network can be declared and that owners will be required to provide open access to their systems. The people of Wagga Wagga are extremely concerned about the preliminary estimates of the cost of open access, and have asked the House and the Minister to consider the unreasonably high costs relative to the benefits because of the size of the

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network. The council contends that its infrastructure is not significant in terms of the Trade Practices Act, that its infrastructure can be bypassed and that the cost of open access to consumers could indeed exceed the benefits.

For this reason I would put to the Minister that smaller towns such as Wagga Wagga - which is one of the few towns supplying and distributing its own gas - should not have their natural gas networks declared under the proposed Act. Again, the people of that town are concerned about clause 51, which seeks to take away the ability of Wagga Wagga City Council to charge the gas company and therefore to bring some money back to the council. They have expressed concerns - as have many others - that the regulator will refuse to approve agreements, even if they comply with the access code referred to in clauses 20(4) and 24(4). Clause 20(4) provides that the tribunal must not approve an access undertaking unless it is satisfied that the undertaking complies with the access code. This is clearly designed to give the tribunal some flexibility in placing conditions on access that may not be covered in the access code.

It seems to me to be somewhat unrealistic to develop a prescriptive access code that will cover all contingencies. Clearly, it would take a number of years for this to be developed and put in place. Obviously, to try to satisfy the tribunal and the reticulators at this stage would be well-nigh impossible because in this case we are dealing with a major private company, as opposed to the electricity situation in which we are dealing with mainly state-owned corporations and public bodies. Whilst understanding this problem, the Opposition is concerned that future negotiations will place onerous conditions on New South Wales reticulators and third parties which would affect their competitiveness in the national market. This is particularly important, because eventually the code in New South Wales should - and will, as we understand it - mirror the national code. Therefore, the question of the provision of extra conditions in the code - which are likely to disadvantage the workings and business of New South Wales - is of great concern to the Opposition.

Therefore, I seek an assurance from the Minister that the tribunal, when placing conditions on access, will take into account specifically the need to keep New South Wales companies competitive and will not impose conditions which place New South Wales companies at a competitive disadvantage with regard to those in the other States. I also seek an assurance that when the national code is in place, in 18 months when the scheme has had a chance to operate and any problems have arisen, the New South Wales Code will be reviewed to ensure that it reflects the national code and does not contain additional and onerous conditions that will affect New South Wales people in the market. With those cautions and those reservations, the Opposition will support the bill.

The Hon. I. COHEN [6.11]: I offer qualified support for the Government's Gas Supply Bill. The qualifications arise not from principles of access and competition but from my concern about improved

environmental and consumer protection outcomes as a result of such measures. This bill is the latest from the Government in a series of legislative measures implementing the national competition policy agreement between the Commonwealth and State governments. Under the agreement, States are required to establish competitive markets in government-controlled monopolies. This Chamber has already passed legislation providing for increased competition in the electricity industry which has reduced the cost of electricity to industry and private consumers. I understand that already \$170 million in savings have been passed on to consumers. Professor Thomas Parry, in his foreword to the report of the Gas Council of New South Wales entitled "Inquiry into Access to the Natural Gas Distribution Network of NSW", summed up the objectives of the legislation in these words:

The opening up of competition in the market for natural gas will require the removal of any barriers that prevent free trade in gas. For NSW, this essentially means allowing third party access to gas transportation networks within the State.

The legislation will take away the monopoly the Australian Gas Light Company has had in supplying gas in most parts of New South Wales. This should lead to reduced prices for industry and the average consumer. Third-party access should encourage BHP to connect its gas from Bass Strait into the existing pipeline that traverses Victoria from the gas fields of South Australia to Sydney and Newcastle. A big cheer will go up from the conservation movement if BHP cancels its plans to build an independent pipeline from Bass Strait to the outskirts of Sydney in preference to having third-party access to AGL's pipeline. The legislation not only allows third-party access; it encourages it by replacing the Gas Council of New South Wales with the Independent Pricing and Regulatory Tribunal - IPART - which will check on the terms of access and arbitrate disputes between a reticulator such as AGL and a user such as BHP.

I ask the Minister to indicate whether he believes that additional gas pipelines from Victoria into New South Wales will be necessary to fulfil national competition policy. Will the connection of the east Australia pipeline between Wodonga and Wagga Wagga fulfil the basic requirements for increased competition? Will the eastern gas pipeline proposed by BHP-Westcoast be necessary if the EAPL pipeline can meet market demand? I also seek an assurance from the Minister that the regulatory framework covering consumer rights will also be addressed. I would, as a principle, seek the establishment of a consultative committee similar to the one provided under the Electricity Act to report to the Minister. Such a body should include consumer and conservation interests.

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The Greens do not consider that the legislation goes far enough. We believe that competition that does not enhance or protect the environment is destructive competition. The bill in its current form could help destroy our environment. I foreshadow that I will move an amendment to insert in the objects of the bill the formulation of a competitive market within the context of ecologically sustainable development - ESD. This would require all players in the market, the Minister in his determinations and IPART in its deliberations, to be cognisant that protection and enhancement of the biophysical world is a part of their responsibilities. My colleague the Hon. R. S. L. Jones will introduce amendments to address the serious problem of global warming by making it a condition of the authorisation granted to a reticulator or supplier to develop and implement a strategy promoting the adoption of thermally efficient appliances and efficient energy use practices.

This is ESD in action. That the Hon. R. S. L. Jones and I are required to move such amendments is another indication that the Government benches are not freely forthcoming with environmental policy that produces a better world for us, our children and the life around us. A major plank of the Australian Labor Party platform in the election campaign was the articulation that its decisions would be taken in the desire to make environmentally positive decisions. Government members do not seem to have the ability to be environmentally pro-active any longer. The foreshadowed amendments are good, worthwhile amendments. Just as amendments to the Electricity Supply Bill improved the environmental credibility of that bill with the support of both the Government and the Opposition, I expect both the

Government and the Opposition to support our amendments. In that hope, we support in principle the Gas Supply Bill.

The Hon. ELISABETH KIRKBY [6.16]: The Government's Gas Supply Bill access proposals and pipeline constructions form part of the Commonwealth's Hilmer or competition policy reforms. Western Australia has four companies involved in the gas supply industry, and experience in Western Australia is evidently the national catalyst for this bill. The proposals are similar to the reforms that the Government has made to the New South Wales electricity market as a result of which New South Wales consumers have experienced \$170 million in savings - roughly 11.5 per cent. Domestic power prices have been effectively frozen despite a 5 per cent inflation rate. Similar savings to consumers are anticipated if the reforms to the gas industry proceed.

Further benefits to industry and private electricity consumers through the use of natural gas to generate electricity by way of gas turbine, or in the very near future ceramic solid oxide fuel cells, are also likely. They will assist in the reduction of the emissions of greenhouse gases. The Australian Democrats welcome such benefits and continue to urge the Government to look at alternatives for electricity generation and transport. For the benefit of honourable members I shall explain exactly what ceramic fuel cells are. A ceramic fuel cell is an electrochemical device which converts a fuel - hydrogen, natural gas or coal gas - and an oxidant, air, directly into electricity. This eliminates the usual processes of combustion and conversion of heat energy via mechanical means to electricity. Ceramic fuel cells thus offer a more efficient, less polluting alternative to current power generation technologies.

The advantages of solid oxide fuel cells include high fuel conversion efficiencies - up to 60 per cent without heat recovery and 80 per cent total system efficiency with heat recovery. There are no carbon dioxide emissions with hydrogen as the fuel, and there is a reduction of up to 50 per cent with fossil fuels. There is fuel flexibility: the ability to use hydrogen, natural gas, coal gas and methanol. There is high power density - up to one megawatt per cubic metre. There is also high-quality waste heat for co-generation. Among the various types of fuel cells under development around the world, ceramic fuel cells are the most promising, with both the highest efficiency ratio and the widest market potential.

The international panel on climate change, although accepting that its original forecasts of global warming of between 4 and 4.5 degrees Celsius in a worst case scenario were based on original data that was wrong, still believes that an increase of between 1 to 1.5 degrees Celsius by the year 2100 is likely. Such a seemingly small increase is still likely to have a significant impact on global weather patterns; the El Nino effect is believed to be caused by much smaller variations in sea temperature. The message that must be firmly sent to decision makers is still one of urgent action in order to reduce greenhouse gas emissions.

The intent of the legislation is to ensure security of supply and the guarantee of alternative fuel supplies. New South Wales does not have its own supply of natural gas and it could be at the mercy of other States in the price it pays for gas if competition is not introduced. Insufficient attention has been paid to the extraction of coal bed methane, another contributor to global warming, as the domestic gas source in New South Wales. Presumably large quantities are lost to the atmosphere as the result of coalmining. Hopefully, technology will advance to the extent that the recovery of methane becomes more viable in the near future.

The Natural Gas Reform Task Force has set July 1996 as the target date for these reforms. The environmental impact study and construction inquiry into the \$370 million underground pipeline proposed between Longford in Victoria and Wollongong in New South Wales will shortly be completed and a date for construction to begin will be announced in the near future. This has caused some concern to

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the Nature Conservation Council of New South Wales. On 30 October 1995 the Nature Conservation Council wrote to Mr Gary Drysdale of the Gas Council of New South Wales in the following terms:

Submission re Inquiry into Access to the Natural Gas Distribution Network of NSW

. . . The groups have not had time to establish all the likely or potential environmental impacts deriving from third party access to natural gas infrastructure within NSW and/or as it pertains to interstate access.

Consequently, at this stage we would wish to have noted the following resolutions which were passed unanimously at the annual conference of the NCC (Oct.28-29) . . .

2. That this conference:

- (i) opposes the Eastern Route proposed by BHP for its pipeline from Longford to Sydney;
- (ii) calls on the NSW Government to require BHP to supply detailed information regarding other alternatives, particularly the Western Route which appears likely to be environmentally responsible;
- (iii) calls on the NSW Government to require gas and petroleum companies to share the use of pipelines wherever technically possible, so as to minimise the total damage to the environment due to pipelines;
- (iv) calls on the NSW Government to take the substantive point of (iii) into account when enacting Third Party Access to energy infrastructure as part of the proposed COAG/Hilmer National Competition Policy.

Along with gas reforms, advances in photovoltaic technology and energy storage should also be vigorously pursued in research projects. The Government has already spent almost \$875,000 on completed energy storage projects via the State Energy Research and Development Fund, and some credit must also go to the previous Government for making available funding for such research in the past. The United States of America has recently announced a breakthrough by Texas Instruments and Arco Solar in what is known as silicon bead technology. Such advances are widely tipped to make solar technology fully competitive with coal and gas.

All that is lacking to date is a flexible method of energy storage, and this is the technology that we should be directing enormous amounts of money to in research grants and venture capital. Australia should show the world how it can develop more efficient clean and renewable energy rather than push for greater economic efficiency in the short term between two non-renewable fossil fuel sources. The \$65 million allocation announced by the Carr Government for the Sustainable Energy Development Authority - SEDA - is most certainly welcome, and many exciting new developments are likely to come from this commitment. Although the State Energy Research and Development Fund is to be abolished, the Australian Democrats have been assured that the recently approved \$2.2 million in funding for energy research projects currently funded will be continued for at least the next three years. I hope that the Minister will confirm that funding when he speaks in reply.

In relation to sustainable energy development funding, the Australian Democrats warmly welcome the appointment of Ms Cathy Zoi as Director of the Sustainable Energy Development Authority. Ms Zoi's previous work history includes a two-year stint as Deputy Director of the United States White House Office of Environment Policy, which advises the President and Vice-President of the United States on a wide range of environmental issues and will no doubt be of great benefit to SEDA in assisting the Government to reduce greenhouse emissions. Australia's greatest gift to the world would be to develop a solar power alternative that is silent, cheap and available for millions of years, rather than for the 150 years that Australia's gas supplies are currently projected to last. In the last 150 years we have progressed from the horse to the bicycle to the space shuttle, and from sailing ships to nuclear-powered submarines that can circle the globe underwater from icecap to icecap. Australia can teach the world how to boil water with the sun to make electricity, rather than to boil water with nuclear power, which by

anyone's measure is risky and uneconomical in the long term, when one considers how long it takes to clean up and cover a reactor and then stand guard over it for 500 years at the end of its short 30-year generating life span.

Thankfully, community pressure has ensured that Australia has not gone down the nuclear yellow cake road, and the Australian Democrats are proud to have played a key role since our inception in opposing the nuclear industry. The passage of this bill could have negative employment consequences within the decade for coal industry workers in the Hunter and Illawarra regions. The Australian Democrats believe that the Government must be mindful of these consequences and it must act swiftly to ensure that alternative employment proposals are seriously examined. If it does not, in the worst case scenario the Hunter and Illawarra regions will become like the United States' rust-belts with all the associated social problems. It is in the light of this possibility that the greenhouse benefits and the social and economic consequences of this legislation must be noted.

With the arrival of gas turbines and other technologies, the economies of scale traditionally viewed as essential are diminishing and the use of mini-mills in steel, glass and other industries have the potential to lead to increased decentralisation, which could well breathe new life into regional New South Wales in terms of improved quality of life and increased employment opportunities. Gas-fired power stations are a lot more flexible in terms of supplying power at peak times. A gas-fired turbine can be run from idle to generating capacity in a few minutes, whereas coal-fired power stations must be run slowly and steadily up to full generating capacity over several hours and then brought slowly down again in order to avoid the risk of damage to the turbines.

Estimated in 1994 dollars the replacement cost of a new turbine is around \$15 million, and about half that for a reconditioned turbine. Excess energy

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is simply run to ground via a cable if it cannot be utilised. Several recent technological developments will combine to make natural gas a real threat to electricity suppliers, not least of which is the conversion of coal power stations to gas. Natural gas powered ceramic fuel cells will make it possible for a house to generate its own electricity on site from gas. Large city office blocks and energy intensive buildings, such as hospitals, will be able to generate all their power requirements from a fuel cell in the basement and save considerably on energy costs. In the case of hospitals, of course, such costs are not insignificant.

The implications for transport are also great. A mid-size family sedan can already travel from Canberra to Sydney on a tank of compressed natural gas for less than \$5. In the not too distant future it will be possible, therefore, to rely on natural gas for household electricity, transport and heating. The major difference between the supply of electricity and the supply of gas will be that although governments have a stake in the supply of electricity because of State-owned corporations, gas supplies will be totally owned and operated by private companies. The Department of Energy has stressed that New South Wales has the most to gain from this process. The bill is welcomed by the Australian Democrats. However, at this time we reserve judgment on the proposed pipeline from Longford to Wollongong until we have had time to examine the environmental impact statement and to place on the record the concerns of Wagga Wagga City Council, which believes that its natural gas network should not be declared under the proposed Act.

The Hon. J. H. Jobling has raised the concerns of the Wagga Wagga City Council, but as I live in that area I should like to reiterate them. The council has made preliminary estimates of the costs of open access and believes there will be high cost-relative benefits because of the size of its network. The council therefore contends that its infrastructure is not significant in terms of the Trade Practices Act, its infrastructure can be by-passed, and the cost of open access to consumers could exceed the benefits. For these reasons the council believes its natural gas network should not be declared under the proposed Act. The council concedes that the declaration will be at the discretion of the Minister, but considers that the Act should qualify systems to be declared, rather than rely on ministerial discretion. By leave, the

second page of the letter from the Wagga Wagga City Council will be incorporated in *Hansard*.

Apart from declaration Council is concerned at the provisions of Clauses 20, 24 and 52 in the Bill.

Clauses 20 and 24 provide for access undertakings between suppliers and reticulators and access agreements between associated parties.

It is Council's understanding that it would be required to separate its reticulation and supply functions and provide an access agreement between its two divisions.

Council's concern is that the regulator may refuse to approve such an agreement even if it complied with Access Code (see sub-clauses 20(4) and 24(4)).

Council therefore suggests the bill be amended to ensure that an agreement will be approved if it complies with the Code.

Clause 52 is a provision that revokes Council's previous rights to charge network operators for access to public reserves and road reserves.

It is essential that representatives of Council have urgent discussions with the Local Government Association on this matter.

Council trust you can note its concerns on these issues and bring them to the Government's attention during debate on the bill.

The Hon. ELISABETH KIRKBY: I also propose to leave a copy of this letter with the Minister for Energy so that he will be aware of its full contents and so that, in his reply, he will be able to address the concerns that have been raised. The Australia Democrats seek to ensure that the people of New South Wales and, indeed, all Australians benefit from advances in alternative non-fossil fuel and energy technologies that can be exported to benefit people worldwide. I am mindful of the need to pursue and encourage truly ecologically sustainable technologies to make gas use cheaper and more widely available. The Australian Democrats support the bill.

[The Deputy-President (The Hon. Helen Sham-Ho) left the chair at 6.34 p.m. The House resumed at 8.00 p.m.]

The Hon. R. S. L. JONES [8.00]: I am pleased to support the Gas Supply Bill 1996 and to progress the delivery of a competitive energy services sector in New South Wales. The need for significant improvement in the economic efficiency of energy supply was first identified in 1992 by the ecologically sustainable development steering committee. I commend the Government for its efforts to address the recommendations of the ESD strategy. Unfortunately, I suspect that the achievement of ESD targets was entirely coincidental. I doubt whether any competition in the energy services market will compensate for the exorbitant greenhouse emissions the Government has sanctioned through its undying love of coalmines.

The ESD committee also identified the need to improve efficiency in production and distribution of energy by increased research, development and demonstration efforts in energy technologies. I understand that during the negotiations on the bill the Hon. Elisabeth Kirkby sought a more secure Government commitment to sustainable energy research funding. The Government responded with a verbal assurance that the availability of such funding would be reviewed in due course with a view to

continuing funding beyond the required three-year period. I commend the Hon. Elizabeth Kirkby for her efforts in this crucial matter and urge the Government to give maximum priority to this funding.

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The Hon. M. R. Egan: When are you rejoining?

The Hon. R. S. L. JONES: I am not allowed in. I am now an unaligned member of the New South Wales upper House.

The Hon. M. R. Egan: You are a what?

The Hon. R. S. L. JONES: An unaligned member of the New South Wales upper House. I represent all the people of New South Wales.

The Hon. M. R. Egan: I know you are a member of the upper House but you do not represent all the people.

The Hon. R. S. L. JONES: I do. That is my job, to represent all of the people of New South Wales without fear or favour and without bias, whoever they are: whether they are rich or poor - all races, all nationalities, all religious beliefs. Although gas obviously has environmental benefits over coal power, efficiencies in supply and distribution can only achieve so much and the significant role played by demand management should not be ignored.

Merely because gas energy is cleaner and greener than coal energy does not mean that it can be consumed without limits. It is imperative that consumers are made aware of the dire need for efficient energy use, regardless of the energy source. Demand management is essential to reduce energy demand, improve energy efficiency and conserve non-renewable resources. Given the domination of the gas market by private companies, responsibility for consumer education and strategy development obviously should not rest with the Government. Gas distributors and reticulators have a duty to implement strategies promoting the adoption of thermally efficient appliances and to educate consumers about efficient energy use.

I foreshadow an amendment that will ensure that the holders of authorisations will be required to develop and implement such strategies. In addition to the need for consumer education, the new energy services market creates a strong need for consumer protection. As honourable members may recall, the Electricity Supply Act 1995 contains highly commendable consumer protection provisions, including the appointment of customer consultative groups. Unfortunately the Government does not feel comfortable in forcing similar conditions on the gas market, given the terrifying overtones of market intervention. Consequently gas consumers are only afforded protection in the form of departmental promises that may or may not be realised after market deregulation is completed.

It has been reported that the Public Interest Advocacy Centre has been extremely disappointed with negotiations with the Treasurer's office on a variety of issues. In particular, it is alarmed at the failure to realise the importance of protecting domestic consumers of electricity and fear the same treatment for tariff consumers of gas. They hold grave fears that the Victorian experience will be repeated in New South Wales. In Victoria the privatisation process and the cessation of cross-subsidies from industry to domestic consumers was largely financed through a severe crackdown on domestic consumers' outstanding bills. Pensioners, for example, were given only two pension periods for payment of outstanding bills before disconnection. That is Victoria under the Kennett Government.

It is critical to remember that for average domestic consumers nothing much will change. They will largely be receiving a monopoly service. In the electricity industry franchise operators maintain geographic monopolies, but in the gas industry no-one will be seriously keen to supply gas to tariff

consumers at prices that have been held at artificially low levels by cross subsidies. I understand that these concerns have now been expressed to the Hon. M. R. Egan and he has addressed them in a letter to Michael Hogan of the Public Interest Advocacy Centre. Specific commitments include the establishment of a consultative process incorporating consumer and interest groups; the enforcement via regulation of minimum standards, including the mandatory development of customer service codes; the completion of all customer service codes within six months from proclamation of the bill; an independent complaints scheme; and standard form customer contracts.

I foreshadow that I will be moving amendments that will go some way towards ensuring that the interests of New South Wales consumers are protected. Before I conclude I must draw attention to one final concern. As honourable members are all aware, the gas market of New South Wales is currently a monopoly held by AGL gas company, and it has been necessary for the Government to make certain concessions to the company in the formulation of the legislation. However, there is no excuse for the extent to which some of the fingerprints of AGL have been left on some sections of the bill.

I am particularly concerned about clause 3(7), which removes any obligation for distributors and reticulators to act in accordance with the objects of the bill. I believe that the objects of this bill are extremely significant and warrant more than a cursory nod from a corporate giant hell-bent on maintaining its monopoly. As the bill is drafted, suppliers have no more than a moral responsibility to observe the objects of the legislation, and that is simply not good enough. I perceive this to be a classic legal double-shuffle, which I intend to address in Committee. I am pleased that finally there will be competition in the gas supply sector. That will be healthy for consumers and gas suppliers.

Reverend the Hon. F. J. NILE [8.10]: The Call to Australia party is pleased to support the Gas Supply Bill. The first object of the bill is to
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encourage the development of a competitive market in gas, so as to promote efficient use of gas and to deliver a safe and reliable supply of gas. The second object of the bill is to regulate gas reticulation and gas supply, so as to facilitate open access to gas reticulation systems and promote customer choice in relation to gas supply. The third object of the bill is to provide for the adoption of an access code in accordance with which the reticulation and supply of natural gas are to be regulated. The bill also amends certain Acts and instruments. The Minister for Energy has confirmed to me the value of this legislation. It will open up the New South Wales natural gas market to competition by giving third parties a right of access to facilities such as transmission pipelines and reticulation network systems. That will lead to the development of a competitive gas market with multiple buyers and sellers.

Similar legislation involving the electricity industry is now in force. The policy of the Commonwealth and the States has been to remove regulatory or legislative barriers to competition in the electricity and gas industries. It is to be hoped that other States will enact similar legislation. The Gas Council of New South Wales, at the request of the Minister for Energy, conducted a review of the principles, procedures and possible consequences of the provision of third-party access in New South Wales. It also conducted public hearings to allow adequate opportunity for community input into this important legislation. In its report the Gas Council recommended that, as the industry moves to a more competitive market in the initial years, there should be a State-based regime for third-party access to gas distribution networks. Such a regime is considered necessary to address the issues that are specific to the gas industry in this State.

The major proposals in the legislation are the creation of a third-party access regime to apply to reticulation networks authorised under the Gas Act carrying natural gas; the provision of necessary powers to the Independent Pricing and Regulatory Tribunal to regulate the New South Wales third-party access regime; the provision for the proclamation by the Minister of a New South Wales access framework and, when available, a national framework; the abolition of the Gas Council of New South Wales; the removal of pricing to be covered by authorisations under the Gas Act; the empowerment of the Government Pricing Tribunal to regulate the pricing of natural gas; the general amendment of the duties

of the Minister, review panels and IPART to be consistent with a competitive market; and the empowerment of the Minister, after considering advice from IPART, to require an authorised gas distributor to separate its distribution, pipes business, and merchant functions to ensure that end users are subject to fair and equitable transportation charges.

The legislation is consistent with earlier legislation passed by the Parliament reforming the electricity industry. That legislation laid the foundation for a new energy market in the State. The reforms in the bill will be of major benefit to New South Wales because it has no commercial reserves of natural gas. The bill will lead also to significant environmental benefits through increased use of environmentally friendly fuel over coal-fired electricity. I have studied the briefing papers supplied by the department. Mr Bob Neil, the Director-General of the Department of Energy, in presenting a proposal for the development of a national competitive gas market, emphasised the benefit of the proposal for New South Wales. He said that the proposal would provide additional and more diverse gas supplies, customer choice of supplier, and the opportunity for creative offerings to customers.

Combined with electricity reforms the proposal would enable gas to compete on a neutral basis. He anticipated the proposal would lead to the increased use of more environmentally friendly energy sources, and he anticipated lower prices. All of those matter will benefit consumers in this State. A similar promise was made when the electricity industry was reformed, so it is hoped that prices will be reduced as a result of the legislation. New South Wales does not have any indigenous gas resources so it has more to gain from this bill than other States would gain from similar legislation. Honourable members may have received a submission from the Local Government and Shires Associations of New South Wales expressing concern that the legislation will exempt gas network operators from section 611 of the Local Government Act 1993, which provides:

... council may make an annual charge on the person for the time being in possession, occupation or enjoyment of a rail, pipe, wire, pole, cable, tunnel or structure laid, erected, suspended, constructed or placed on, under, or over a public place.

Recently a great deal of public debate has taken place in relation to cable television companies such as Optus Vision erecting overhead cables. Some councils have sought to prevent the cables from being erected, while others are trying to work out how they can obtain some revenue from the companies. Local government bodies are unhappy that the legislation will take away the ability of councils to charge, as they have in the past. Councils argue that the right to impose the charge acknowledges that there is value attached to the commercial use of public property. Maintenance and repair may impinge on public amenity, and there may be public risks involved. The councils have asked Call to Australia to oppose the legislation. However, Call to Australia has discussed the bill with the Minister's advisers and with the Opposition, particularly the Hon. J. H. Jobling. It has been drawn to our attention that this provision is in the legislation dealing with the reform of the electricity industry. The Minister for Energy has sent us a copy of his advice to the Secretary of the Local Government Association, dated 18 June, in which the concerns of the association are addressed. The Minister stated:

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As you may be aware, the Government is committed to the implementation of free and fair trade in natural gas as part of COAG's Competition Policy Agreements.

Under the Competition Policy Agreement all jurisdictions are required to review and remove anti-competitive elements in legislation. The charges applied by Local Councils on gas pipelines operators and not on electricity suppliers creates an unfair competitive advantage for the electricity industry.

Accordingly Clause 52 of the Gas Supply Bill 1996 ends the payments by a gas network operator to Local Government Authorities.

However, your attention is drawn to Clause 8 of Schedule 2 of the Bill which allows a local authority to continue to impose a periodic charge provided a network operator was liable prior to the commencement of the Gas Supply Bill. In other words the status quo is maintained up until 1 July 1999 when Clause 8 of the Schedule will cease to operate.

I would welcome a discussion with the Local Government Association regarding the implementation of these provisions.

Yours sincerely

Michael Egan
Minister for Energy

That means that local government bodies can adjust their budgets. They will be able to anticipate income continuing until 1 July 1999, when it will cease. They will then have to make other adjustments in income and expenditure. They will have no excuse for being caught out because they will have had adequate warning. The legislation is important with the reform of the electricity industry. I accept the Government's position that there should be consistency and equal requirements of the electricity industry and the gas industry. Call to Australia therefore would not support an amendment to delete that provision from the bill. The Call to Australia Party is pleased to support the bill.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.20], in reply: I thank honourable members for their contributions to the debate and for their support of the bill. I should like to address some of the concerns that have been raised. In a number of instances several members raised the same concerns, and I shall therefore address the concerns rather than refer to contributions made by individuals. A major concern related to the possibility of an access declaration being made on the gas reticulation network owned and operated by Wagga Wagga City Council. I understand that honourable members have received correspondence from that council on this issue, as I have. I shall explain the content of my reply to the council for the benefit of the House, and in particular for the benefit of the Hon. Elisabeth Kirkby and the Hon. J. H. Jobling.

Under the Gas Supply Bill the Minister brings a distribution system under the third-party access regime by gazetting it as a declared distribution system. The reticulator must then establish an access undertaking with respect to the use of that system by third parties. The bill provides for an access code to be established by the Minister with respect to access distribution systems. The draft interim New South Wales access code provides for a schedule of distribution systems to be deemed to have been declared. It is not intended at this stage that the Wagga Wagga distribution system be included in the schedule, but it can still fall under the third-party access regime. The declaration procedure would be triggered if any person applied to the tribunal for access to the system.

The Hon. J. H. Jobling: Will that solve the problem for Wagga Wagga?

The Hon. M. R. EGAN: I believe that the provision will go a long way to solving the problem experienced by Wagga Wagga City Council. The tribunal would notify the reticulator and would consider submissions from interested parties before making its recommendations to the Minister on whether the system should be declared. The access code requires the tribunal to be satisfied on a number of matters in recommending the declaration of the system. Any appeal against the Minister's decision would be to the Supreme Court on a matter of law only. A major concern raised by the Hon. J. H. Jobling was the operation of clauses 20(4) and 24(3). The honourable member was particularly concerned about the regulatory discretion conferred on the Independent Pricing and Regulatory Tribunal in deciding whether to approve an access undertaking.

The Opposition in the lower House asked why the tribunal will have the option to not approve an access undertaking application even though it might comply with the code. It is somewhat naive to believe that it is possible for the national forum, the Gas Reform Task Force, to prepare detailed code provisions that would fully cover the need of a national market that is likely to change significantly in the next three to four years. Similarly, we are frankly not smart enough to address in this legislation all of the market-driven issues that could arise. For those reasons the tribunal must have discretion to take into account additional matters. In response to an industry request the Legislative Assembly has already agreed to a Government-proposed amendment to remove the weight of legislative force from the tribunal guidelines. In general, the access code is a broad document that leaves matters of detail to the regulator. It does not limit the regulator to the matters specified, but establishes certain minimum requirements that must be included in an access undertaking. As the access code is not comprehensive, it would be inappropriate for legislation to require the tribunal to approve an access undertaking that is consistent with the code.

The Hon. J. H. Jobling: We didn't ask for that, did we?

The Hon. M. R. EGAN: No. I have had advice on this matter from Professor Tom Parry, the Chairman of the Independent Pricing and
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Regulatory Tribunal. Professor Parry advised that it would be inappropriate to amend clause 20(4) in any way effectively removing the regulator's discretion in accepting an access undertaking and limiting any public process. The Government accepts that advice. I recognise that the issue is important and has been the subject of considerable discussion, and I therefore undertake to keep the matter under review. My department will prepare a report within a maximum of 18 months on whether that section of the Act and its operation, in conjunction with the code, is functioning as intended and in a manner consistent with the efficient operation of the national market. I shall also request the tribunal to similarly keep the matter under review and prepare a report.

The Hon. J. H. Jobling also raised the concerns of Albury City Council about pensioner concessions and community service obligations generally. I am not aware of the exact nature of that council's concerns, but I offer this explanation of the Government's intentions. AGL and the Albury Gas Company are currently required to provide pensioner rebates as a condition of their authorisation. The rebates are currently funded through cross subsidies. As a transitional arrangement, it is planned that those provisions will remain for three years. At that time the tariff market will be open to competition, and the requirement of current gas suppliers to fund pensioner rebates will cease. That will ensure that both current gas suppliers and new market entrants compete on equal terms. Gas pensioner rebates will be included in the review of social programs that is being undertaken by the Government to seek a common approach with the electricity industry in which pensioner rebates are funded directly by the Government. As the Hon. J. H. Jobling will appreciate, until recent times those subsidies were carried by the distribution authorities. The Government is making sure that all such subsidies come under a social program policy approach and are directly funded from the budget.

The Hon. J. H. Jobling: To that end, could I suggest to the Minister that in 18 months or two years there be some sort of statement to determine where we are going; to provide certainty for those involved?

The Hon. M. R. EGAN: Certainly, there is no problem with that. The Gas Supply Bill includes a mechanism that may be used to enable pensioner rebates to be provided in the tariff market beyond the transitional period. The Minister may impose a condition on authorisation holders to implement government policy on community service obligations to tariff customers. That could only occur, however, if the Minister had entered into an undertaking on behalf of the State to indemnify the authorisation holder with respect to the cost of complying with that condition. The relevant clause in the bill will not be proclaimed until the transition period ceases. Two principal concerns were raised by the Hon. I. Cohen. The first related to two proposals to transport Bass Strait gas from New South Wales, that being the eastern Australia pipeline proposal for a pipeline link between Wodonga and Wagga Wagga, and the

BHP-Westcoast proposal for a new pipeline between Longford in Victoria and Wollongong. In essence, the Hon. I. Cohen questioned the need for both pipelines. There is currently only one source of gas to the bulk of the New South Wales market, namely, the Cooper Basin gas reserves in South Australia, which are transported via the Moomba to Sydney pipeline.

The objective of the national competition policy is to provide a choice of supply to users of gas. In order for that to occur in New South Wales there needs to be gas from at least one additional substantial source, that is, Bass Strait. At least one more pipeline into New South Wales is needed to fulfil the objectives of the national competition policy. Bass Strait gas could be transported by a pipeline such as that proposed by BHP-Westcoast; it could be transported via an Albury to Wagga Wagga link, such as that proposed by AGL and its partners; or both. In other words, either pipeline would fulfil the requirements for increase competition. Both proposed pipelines are currently subject to environmental review processes. If both pass the stringent environmental tests required, their proponents will be able to make the investments. If both pipelines are installed, that will lead to a higher degree of competition, to the benefit of New South Wales consumers and a much larger supply of gas for New South Wales, with the associated environmental benefits.

The Hon. I. Cohen and the Hon. R. S. L. Jones raised concerns regarding consumer protection for gas consumers arising from this bill. I have received correspondence on this subject from the Public Interest Advocacy Centre, and for the benefit of the Committee I will explain the Government's intentions in this regard. The bill has been designed to give wide powers to the Minister to include conditions relating to consumer protection in the authorisations of gas reticulators and suppliers. These powers supplement the important role of the Independent Pricing and Regulatory Tribunal in relation to tariff market pricing. The bill also provides for wide regulation-making powers, and consumer protection measures will be dealt with by the regulations. The current regulations are being redrafted and expanded to enhance the present consumer-protection provision and will form part of the new gas supply regulation. Wide consumer-protection powers have been included in recognition of the fact that the bill has been drafted to meet the 1 July deadline, in the context of a national access code that is still being finalised, and with a view to further input from industry and interested parties.

It has been suggested that consumer protection measures applicable to the retail electricity industry should be replicated for the gas market. However, those measures are still being worked through. Not all will necessarily be directly applicable to the gas industry. Electricity is a government-owned

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essential service that has undergone very significant restructuring and governance change over the past year or so. For the predominantly privately-owned gas industry, the Government believes that consumer protection should be outcome driven. In other words, rather than the Government proposing what it thinks ought to be done, the industry will be given the opportunity to propose various means of achieving the desired outcomes. However, I would certainly be amenable to the establishment of a consultative process, and consumer and interest groups will be invited to participate. I would further expect that consumer protection measures to be developed by the electricity working group will be given full consideration. There are clear market-driven incentives to participants in the gas industry to develop consumer-protection proposals consistent with those developed for electricity. Where appropriate, measures developed in the context of electricity may be translated into regulations or authorisation conditions under the Gas Supply Bill.

There are minimum standards that the Government is committed to enforcing by regulation, notwithstanding industry proposals and outcomes in the context of electricity. These include the mandatory development of customer service codes, which will be audited by independent auditors. Further, customer service codes will include procedures for calculating charges for gas, reading meters, treatment of defective meters, content and rendering of accounts, collecting payments for gas supplied, and credit management. These regulations are to be developed within six months or from gazettal of gas supply regulations and proclamation of the Gas Supply Act. Further matters which are being developed in the context of electricity which are likely to be developed for gas markets will include an independent

complaints team and standard form customer contracts.

The Hon. Elisabeth Kirkby made a substantial contribution with regard to alternative energy research development and commercialisation. Without addressing all the points in her speech I would like to provide some information about the Government's intentions with regard to the State Energy Research and Development Fund. The AGL gas company has paid a State Energy Research and Development Fund levy. The maximum levy permitted under the Energy Administration Act is 0.5 per cent of gas revenue. The levy is presently set at 0.25 per cent and represents an annual payment of \$1.6 million in 1995-96 by the AGL gas company. On competitive neutrality grounds the levy is to be removed but the fund will be continued, using current balances. The Government recently approved \$2.2 million in funding for energy research projects under this fund, which will run for the next three years. I can guarantee that this allocation will be fully utilised for all current recipients.

The future of the State Energy Research and Development Fund will be the subject of a joint review undertaken by the Department of Energy and the new Sustainable Energy Authority. The Government recently announced the funding of \$65 million for the Sustainable Energy Authority, which will be one of the main mechanisms the Government will use for setting and delivering on targets for the abatement of greenhouse gas emissions in the energy sector in New South Wales. The use of natural gas results in the emission of less greenhouse gas than any other fossil fuels. As natural gas becomes more price-competitive, and as new technologies are developed, it will increasingly substitute for other traditional energy sources, further reducing greenhouse gas emissions. I believe that this shows the implicit environmental quality of this bill. The assertion that the Government has failed in its environmental responsibilities with this bill - a point the Hon. I. Cohen attempted to establish - is simply not correct.

This fact will be further borne out by the Government's support of the environmental amendments to be moved in Committee. These amendments have been developed in conjunction with my office, my department and environmental groups. Once again I would like to thank all honourable members for their support of the bill and those members who contributed to the debate. I would particularly like to place on record my appreciation of the sterling work undertaken by the Department of Energy in the past twelve months and longer that finally led to the introduction of this bill. It is fair to say that with its passage New South Wales will be leading all of the States in energy industry performance, as it should. I thank the officers of the Department of Energy, and those associated with the gas industry in New South Wales are to be commended for the contributions they have made. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Part 1

The Hon. R. S. L. JONES [8.39]: I move my first amendment:

Page 2, clause 3, line 11. Insert "the thermally" after "promote".

This amendment is designed to ensure the promotion of the efficiency of energy use and not just the efficiency of the energy markets, though I am keen that energy markets be highly efficient and highly competitive. The amendment should reduce costs all round. It is important that we ensure that gas is used thermally efficiently, to save costs and energy and to reduce the impact on the environment.

The Hon. J. H. JOBLING [8.40]: The Opposition supports the amendment. Thermal efficiency is critical, and improving thermal efficiency maximises benefits from energy, improves the use of appliances,

ensures maximum retention of the source of energy, and reduces cost.

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The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.40]: The Government supports the amendment.

Amendment agreed to.

The Hon. I. COHEN [8.41]: I move:

Page 2, clause 3, line 12. Insert "in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*" after "supply of gas".

The Greens strongly support ecologically sustainable development principles. The amendment will ensure that the objects of the legislation will embrace the principles of ecologically sustainable development, including the principles of intergenerational equity, use of the precautionary principle, and the protection of our biological diversity. At this point I thank members of my staff, particularly Graham Douglas, and Bill Frewen, a member of the Government's staff, for the support they have given and their forward-thinking attitude on this matter.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.42]: The Government supports the amendment.

The Hon. R. S. L. JONES [8.42]: Earlier I made a mistake in congratulating the Hon. Elisabeth Kirkby on introducing the amendment. I should have checked beforehand. However, I now congratulate the Hon. I. Cohen on introducing it. I also take the opportunity to congratulate members of staff - Nichole Hertogs, Graham Douglas, and Bill Frewen - and John Connor from Peter Macdonald's office. They have all worked together very satisfactorily and I congratulate them on the outcomes.

The Hon. J. H. JOBLING [8.43]: The Opposition supports the amendment, which is not dissimilar to an amendment made to the Electricity Supply Act 1995. We should look to the principles of ecologically sustainable development in relation to the Gas Supply Bill so that both developers of gas fields and consumers will benefit. People responsible for the provision and distribution of gas should be constantly aware of the need to observe the principles of ecologically sustainable development.

Amendment agreed to.

The Hon. R. S. L. JONES [8.44]: I move my second amendment:

Page 3, clause 3, lines 24 and 25. Omit all words on those lines.

I regard this as an important amendment. In my view the subclause is a classic legal double shuffle. The subclauses to which it relates articulate a range of duties that are to guide the implementation of the provisions of the legislation. They relate particularly to important duties such as ensuring that the public receives the benefit of a competitive gas market and taking proper account of the interests of tariff customers in respect of gas pricing and other terms of gas supply. Proposed section 3(7) states:

Nothing in subsections (2)-(6) gives rise to, or can be taken into account in, any civil cause of action.

That means that the duties are non-justiciable; they cannot be used in a court of law and are therefore

mere moral guides for the Executive in the administration of this legislation. I do not believe that the Executive should have it both ways. It cannot hide behind empty rhetoric. The duties should apply in full, with no weasel words such as are in this subclause.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.46]: The Government opposes the amendment. The Hon. R. S. L. Jones pointed out in speaking to the amendment that proposed section 3(7) states that nothing in proposed subsections (2) to (6) gives rise to, or can be taken into account in, any civil cause of action. Proposed subsections (2) to (6) set out the duties of the Minister, the tribunal and any review panel in enabling the objects of the proposed Act to be achieved. I can understand the concern that the Hon. R. S. L. Jones has expressed but I point out that remedies are available via administrative law if the objects of the bill are not adhered to. Therefore, compliance with the objects of the bill can still be enforced in the Administrative Division of the Supreme Court. I do not think anything would be achieved by the amendment.

The Hon. J. H. JOBLING [8.47]: The Opposition agrees with the view expressed by the Government. We do not agree with the argument put forward in support of the amendment. The bill will ensure a competitive market. As the Leader of the Government has pointed out, proposed subsections (2) to (6) detail the duties. I concur that the administrative law option will be available.

Amendment negated.

Part as amended agreed to.

Part 2

The Hon. R. S. L. JONES [8.48]: I move my third amendment:

Page 6, clause 9, line 9. Insert "the interests of consumers and" after "regard to".

The amendment will enable the Minister to consider the interests of consumers when determining an application for an authorisation. It is in line with the Government's commitment to consumer protection during the market transition.

The Hon. J. H. JOBLING [8.48]: The Opposition is happy to support the amendment. Among many important considerations, the interests of consumers are paramount.

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The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.49]: The Government supports the amendment.

Amendment agreed to.

The Hon. R. S. L. JONES [8.50]: I move my fourth amendment:

Page 7, clause 11. Insert after line 23:

(g) a condition requiring the holder of the authorisation to develop and implement a strategy promoting the adoption of thermally efficient appliances and efficient energy-use practices.

This amendment requires the holders of authorisations to encourage thermally efficient end use of gas.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.50]: The Government supports the amendment.

The Hon. J. H. JOBLING [8.51]: Again, the Opposition supports the amendment. It is imperative that a strategy to promote the adoption of thermally efficient appliances and energy use practices is in place. A similar provision is contained in the Electricity Supply Act.

Amendment agreed to.

The Hon. R. S. L. JONES [8.52]: By leave, I move amendments 5 and 7 as circulated in my name:

Page 8, clause 13, line 15. Insert "or negligently" after "knowingly".

Page 26, clause 42, line 27. Insert "or negligently" after "knowingly".

These amendments seek to impose a more realistic and rigorous regulation regime for gas and electricity authorisations and licences. This proposed legislation and the electricity legislation provide an impossible standard of proof to establish a breach of an authorisation or licence. Experience in the field of environmental litigation has clearly demonstrated that it is far more effective for breaches with sanctions, such as those proposed, to have a concept of strict liability with the ability for a defendant to establish a defence under due diligence provisions. Under this system the onus is on the operator to establish systems and management operations which clearly address the conditions of the authorisation or licence.

Unfortunately, due diligence provisions have not been utilised in this bill. I am disappointed that the bill contains such a weak regime. I do not see how there could be one single successful prosecution under this regime, which requires the establishment of a state of mind that a holder of an authorisation has knowingly contravened an authorisation or licence. This amendment aims to broaden the standards of proof to include negligent behaviour. I had expected the Government and the Opposition to support my amendment, but it seems that that support will not be forthcoming.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.54]: Clause 13(2) provides:

Action may be taken under this section only if the holder of the authorisation has knowingly contravened:

- (a) the requirements of this Act or the regulations, or
- (b) the conditions of the authorisation.

The amendment seeks to add the words "or negligently" after "knowingly". As a layman I understand the honourable member's concern. However, I am advised that the addition of the words "or negligently" will add nothing to the standard of proof that is required. In fact, to add the words would be make the provision tautological. Might I suggest that the problem referred to by the honourable member would be overcome if the word "knowingly" were deleted, so that clause 13(2) would then read:

Action may be taken under this section only if the holder of the authorisation has contravened:

- (a) the requirements of this Act or the regulations, or
- (b) the conditions of the authorisation.

I am advised that for an action to be successful there would need to be an element of intent required under the criminal law, whether the word "knowingly" was there or not. It could well be that if the word is deleted the concern of the Hon. R. S. L. Jones will be met.

The Hon. R. S. L. Jones: Do you wish me to move an amendment to delete the word "knowingly"?

The Hon. M. R. EGAN: I am advised further that if the word "knowingly" is deleted, the wording of the bill would be out of synchronisation with the wording of the Electricity Act. In a legal sense the provision has the same meaning whether the word "knowingly" is there or not. I would be happy to seek subsequent legal advice and if that is not the case I will bring the legislation back for further consideration at a later stage. In the meantime the Government opposes the amendment.

The Hon. J. H. JOBLING [8.56]: At this stage, the Opposition does not support the proposition by the Hon. R. S. L. Jones. I agree with the comments of the Leader of the Government in relation to the word "knowingly". I have no objection to the course suggested, should subsequent advice require a further amendment. The Opposition opposes the amendment in its present form, but would consider a subsequent proposition to delete the word "knowingly".

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and
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Vice-President of the Executive Council) [8.57]: I give the Opposition and the Hon. R. S. L. Jones an assurance that I will consult with them after the passage of the legislation and ascertain, to our mutual satisfaction, whether we need to amend the provision.

Amendments negatived.

Part as amended agreed to.

Part 3

The Hon. R. S. L. JONES [8.58]: I move amendment 6 as circulated in my name:

Page 24, clause 38, line 27. Insert "the interests of consumers and" after "regard to".

This is similar to amendment 3 circulated in my name. It will seek to apply the same conditions to liquefied petroleum gas application determinations as apply to natural gas application determinations because of acceptance of amendment 3.

The Hon. J. H. JOBLING [8.59]: The Opposition supports the amendment.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [8.59]: The Government supports the amendment.

Amendment agreed to.

Part as amended agreed to.

Part 4

The Hon. R. S. L. JONES [9.00]: I move amendment 8 as circulated in my name:

Page 29, clause 47, line 10. Omit "or public reserve".

This amendment prevents work connected with the erection, installation, extension, et cetera, of gas works from being carried out on public reserves unless in emergency circumstances or with the approval of the relevant local council, thus affording a decent level of protection for our public reserves and open space. The amendment will necessitate the future amendment of section 45 of the Electricity Supply Act 1995 in order to maintain competitive neutrality with regard to powers of entry. As a result energy services providers will no longer be able to tear up valuable community reserves at will - except with consent of the local council.

The Hon. J. H. JOBLING [9.01]: The Opposition is ambivalent about this clause. The Opposition believes there may be occasions when it will be necessary for work to be carried out on reserves and is concerned about their removal from the clause. Whether or not the Government will support the clause, it is important that the Opposition records its objection to it. I will not seek to divide the Committee on the issue, but I am concerned that if the reference to public reserves is removed from the bill we may well create major difficulties in respect of reticulation and emergency works in the future. The Opposition will not support the amendment.

The Hon. J. M. SAMIOS [9.01]: I state in support of my colleague the Hon. J. H. Jobling that the Opposition is sensitive to environmental issues and the need to protect public reserves. Lack of support by the Opposition for the amendment in no way detracts from its sensitivity or responsibility in respect of conservation.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.02]: The Government has given some commitments to a number of environmental organisations that have approached it about this issue, and for that reason will support the amendment.

Amendment agreed to.

Part as amended agreed to.

Part 5

The Hon. R. S. L. JONES [9.03]: I move amendment 9 as circulated in my name:

Page 43, clause 83. Insert after line 12:

(3) Without limiting subsection (2), the regulations must make provision for each of the following matters:

- (a) standard form contracts to be used in connection with the supply of gas to customers by suppliers and distributors,
- (b) the form and content of bills to be rendered to customers by suppliers and distributors in connection with the supply of gas,
- (c) the debt collection procedures to be observed by suppliers and distributors in relation to amounts owed by customers in connection with the supply of gas,
- (d) the standards of service to be provided to customers by suppliers and distributors in connection with the supply of gas,
- (e) the constitution and procedures of customer councils to advise suppliers and distributors on

matters concerning the supply of gas to customers.

(4) Regulations with respect to each of the matters referred to in subsection (3):

(a) must be made, and must take effect, no later than 6 months after the date of assent to this Act, and

(b) may only be made on the recommendation of the Minister for Fair Trading.

(5) Section 5 of the *Subordinate Legislation Act 1989* applies to an amending regulation with respect to a matter referred to in subsection (3) in the same way as it applies to a principal regulation with respect to such a matter, and applies to both amending regulations and principal regulations as if the reference in section 5(2)(a)(iv) of that Act to 21 days were instead a reference to 40 days.

I accept the assurances given by the Treasurer, but he may not always be the Treasurer or the Minister for Energy. Despite the assurances in his letter to the Public Interest Advocacy Centre, I continue to hold grave fears for the protection of consumers during the transition of the gas market and beyond. This amendment seeks to go one step further to lock in the Government to its commitment to protect

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consumer interests through regulation. It will lock in the Government's commitment to finalising such regulations within six months from proclamation of this legislation and will specify that such regulations must have the recommendation of the Minister for Fair Trading. Finally, the amendment will extend the period within which such regulations can be disallowed under the Subordinate Legislation Act 1989 from the standard 21 days to a more reasonable 40 days. In short, the amendment will provide that gas and electricity should operate on a level playing field with regard to consumer protection requirements.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.05]: For the reasons outlined in my response to the second reading debate, the Government opposes the amendment moved by the Hon. R. S. L. Jones. The amendment to some extent replicates the consumer protection provisions in electricity legislation. I point out that, whereas the electricity industry provides a government-owned essential service and is an industry which has undergone very significant restructuring and governance change in the past year or so, the gas industry, on the other hand, is predominantly privately owned. The Government hopes that consumer protection will be outcomes driven. In other words, instead of the Government proposing what it believes ought to be done, the industry will be given the opportunity to propose various means of achieving desired outcomes. Nevertheless, the Government will be amenable to the establishment of a consultative process, and consumer and interest groups will be invited to participate.

The bill will give the Minister very wide powers to include conditions relating to consumer protection in the authorisations of gas reticulators and suppliers. Those powers are supplementary to the role which the Independent Pricing and Regulatory Tribunal has in relation to tariff market pricing. The bill provides for very wide regulation-making powers and consumer protection measures will be dealt with under those regulations. The current regulations are being redrafted and extended to enhance the present consumer protection provisions and will form part of a new gas supply regulation. The Government hopes there will be further input from industry and interested parties in respect of these matters. I assure the Hon. R. S. L. Jones and the Opposition that the Government has no intention of allowing a situation in which the consumer does not have adequate protection or in which there are not adequate or proper consultative mechanisms.

The Hon. R. S. L. JONES [9.08]: I refer to one point which the Minister raised about the question of the electricity industry currently being government owned whereas the gas industry is privately owned. It is almost certain, in my mind at least, that the electricity and gas industries will both be privately owned in a matter of two or three years. The electricity industry in this State will be sold at some point. That is

on the agenda, and if it does not happen under the present Treasurer it will happen under a future Treasurer - we know for certain that it will happen under a future government. There should be a level playing field for the electricity and gas industries regardless of their current ownership.

The Hon. J. H. JOBLING [9.09]: The Opposition has considered this amendment at great length. It is obviously concerned about the wide powers given to the Minister. As the Minister stated, at this stage the regulations are still to be considered, indeed many of them are still to be drafted. The Opposition takes the view that there needs to be some degree of certainty at a lower level to ensure that the consumers are looked after. I note the point that the Minister made that it is not the Government's intention that the consumer should not be protected.

He may well argue that the amendment is of a motherhood nature. However, it is the view of the Opposition that the amendment represents a degree of certainty and consistency, and will ensure that standard form contracts are used and that the contents of the bill to be rendered to customers by suppliers and distributors are of a uniform nature. These issues are important, as are the constitution and procedure of the customer councils to advise suppliers. It is imperative that the regulations have the recommendation of the Minister for Fair Trading. I accept it is slightly prescriptive in advance of total regulation, and I accept also that the regulations in the gas industry are skeletal - they have very little flesh on their bones - in comparison with those in the electricity industry, in relation to which it was easier to bring down a thick raft of regulations to ensure compliance and requirement. I accept the argument that statutory authority State ownership was applicable with regard to the Electricity Supply Bill, but quite clearly with gas distribution there is a major private player. I am concerned about what will happen when access broadens to interstate, and for that reason the Opposition will support the amendment proposed by the Hon. R. S. L. Jones.

The Hon. J. M. SAMIOS [9.12]: There is ample evidence of statutes in relation to which implementation has been delayed. With regard to such vital utilities as gas and electricity it is important that the regulations be spelt out promptly.

Amendment agreed to.

Part as amended agreed to.

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

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TRANSPORT ADMINISTRATION AMENDMENT (RAIL CORPORATISATION AND RESTRUCTURING) BILL

In Committee

Schedule 1

The Hon. I. COHEN [9.14]: I move Greens amendment 1 as circulated:

Page 6, Schedule 1. Insert after line 7:

[15] Section 9

Omit subsection (3). Insert instead:

- (3) The persons appointed by the Minister must each or together have such expertise as the Minister considers necessary in order to realise the principal objectives of the State Rail Authority.

This amendment seeks to have appointed to the board of the State Rail Authority people with skills that are appropriate to the objects of the bill.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.15]: The amendment will not add anything to the bill. Nevertheless, as it is not objectionable, the Government is happy to support it.

The Hon. Dr MARLENE GOLDSMITH [9.15]: The Opposition does not oppose this amendment.

Amendment agreed to.

The Hon. Dr MARLENE GOLDSMITH [9.16]: I move Opposition amendment 1 as circulated:

Pages 8 and 9, Schedule 1[18], proposed section 19B, line 33 on page 8 to line 8 on page 9. Omit all words on those lines.

This amendment relates to consistency in the Transport Administration Amendment Bill. Section 78 of the Commonwealth Competition Policy Reform Act provides for a five-year phase in of coal haulage. The coal industry is the only industry to be exempted in this way from the legislation. Originally, I believe, this exemption was the result of deal struck between the former Federal Labor Government and the Queensland Government. The former Federal Labor Government did not want to exempt the coal industry from competition policy reform. That exception is now being used by this Government to frustrate competition policy and to frustrate the purpose of the legislation. Labor may claim that it cares about competition, openness and a fair go, but when the chips are down one needs to look at what it does. The former Premier, John Fahey, and the current Premier, Bob Carr, both spoke against the exemption of coal from competition policy reform. I am sure the Minister is not aware that the Premier spoke against the exemption in November last year.

I was surprised that in some of his comments the Minister appeared to be speaking against this important competition policy reform, yet the exemption will be entrenched in this legislation. Section 78 of the Commonwealth legislation already includes that exemption. Therefore, there is no need to entrench it in New South Wales legislation. Why does the Minister seek to include this exemption? The Government hastily introduced this change in the form of an amendment during debate in the other place only last week. Why the secrecy? Why the ambush? The Government's amendment negates the purpose of introducing open access to rail and is unnecessary as section 78 of the Competition Policy Reform Act already covers any special provisions. This whole aspect is ripe for challenge. It is contrary to the intent of the Federal legislation and of competition policy. The phase-in period also presents some concerns.

How far will this part of the legislation go towards meeting the Federal requirement to phase in the legislation? What capacity does the Minister have to thwart the phasing in of access? In other industries this process is almost complete. It is certainly complete in the electricity industry in New South Wales and is under way nationally in most other major monopoly industries such as gas, water, rail and telecommunications. It is puzzling that these exemptions have been specially written into this legislation when they are already contained in Commonwealth legislation and are, therefore, to some extent redundant and obviously contrary to the spirit of competition reform. If this section of the legislation is omitted, it will certainly benefit competition policy in New South Wales and will be consistent with what is happening nationally and in other industries. Those involved with the coal industry want this section of the legislation to be omitted.

The Hon. I. COHEN [9.22]: The Greens consider that this Opposition amendment seeks to bring competition with coal transport into line with other freight movements. Coal will be retained within the

natural monopoly for the next four years, at which time it will be on the same terms as other freight. The retention of the natural monopoly of coal is based on nationally agreed principles. The Greens oppose this Opposition amendment.

The Hon. R. S. L. JONES [9.23]: Although I sympathise with the coal industry I am also aware that if passed, this amendment will lead to further expense for the people of New South Wales. I have given careful thought to the amendment and regret to say that I must oppose it.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.23]: The effect of the proposed amendment is to delete all of subsection (3) of proposed section 19B of the Act. The purpose of that section is to provide a clear signal to existing and potential new line operators that the access regime may put in place specific access pricing principles for the carriage of

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coal on the New South Wales network for the period of the coal moratorium. The Coal Competition Policy Reform Act provided for the coal moratorium up to the year 2000 at the request of the Queensland Government, but with the agreement of the Council of Australian Governments.

Queensland intends prohibiting non-government coal operators from accessing the track for the period of the moratorium. Under the Commonwealth regime operators will not be able to apply to get access to the track. New South Wales intends to take a different approach. Coal operators will be allowed access from 1 July this year, subject to the passage of this legislation. However, that access will be on the basis of specific pricing arrangements, which will be phased out to the year 2000. The coal industry will certainly benefit from the opportunity to achieve rail efficiencies at a price that phases out the monopoly. The alternative is the Queensland model that denies access and charges the full price. Either New South Wales phases out the monopoly or waits until the year 2000. If the Hon. Dr Marlene Goldsmith believes that the monopoly can suddenly be eliminated on 1 July, I assure her that the Government does not have the revenue to provide for that shortfall. That is the sort of Howard-Costello hole that I spoke about in the House recently.

The Hon. R. S. L. Jones: How much will it involve?

The Hon. M. R. EGAN: I do not want to indicate what the figure might be, but the honourable member would be aware that it is a huge amount of money. If the Opposition wants to have the legislation withdrawn, it is on the right track. This is a silly amendment. The Government has introduced legislation to phase out that monopoly over the next four years. This silly Opposition says that notwithstanding the provision in the national competition agreement that allows it to remain in place until the year 2000, it should be withdrawn. Obviously the Opposition is being destructive. The Government opposes the amendment.

The Hon. Dr MARLENE GOLDSMITH [9.26]: As the Minister appears to assert that he knows all about this matter, he might enlighten the Opposition as to why the industry wants this amendment.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.27]: A few coal companies want it, but New South Wales has a huge coal industry and a huge rail industry. It also has lots of taxpayers. Of course some of the coal companies that use these Hunter lines want the amendment because it will mean a lot of money to them. If the honourable member cannot understand that, she should not be handling this legislation.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 16

Mr Bull	Dr Pezzutti
Mrs Chadwick	Mr Ryan
Mrs Forsythe	Mr Samios
Mr Gallacher	Mrs Sham-Ho
Miss Gardiner	Mr Rowland Smith
Dr Goldsmith	
Mr Hannaford	<i>Tellers,</i>
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Noes, 24

Mrs Arena	Rev. Nile
Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mr Shaw
Mr Dyer	Ms Staunton
Mr Egan	Mrs Symonds
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	
Miss Kirkby	<i>Tellers,</i>
Mr Macdonald	Mrs Isaksen
Mrs Nile	Mr Manson

Question so resolved in the negative.

Amendment negatived.

The Hon. Dr MARLENE GOLDSMITH [9.35]: By leave, I move Opposition amendments 1a and 1b in globo:

Page 8, Schedule 1[18], proposed section 19B, line 34. Omit "the carriage of coal". Insert instead "access to a government coal-carrying service (within the meaning of section 78 of the *Competition Policy Reform Act 1995* of the Commonwealth,".

Page 9, Schedule 1[18], proposed section 19B, lines 1-3. Omit "section 78 of the *Competition Policy Reform Act 1995* of the Commonwealth". Insert instead "the latter section".

These amendments seek to achieve an objective similar to the objective that would have been achieved by Opposition amendment 1, had it been successful. I do not see any point in repeating the remarks I made in relation to that amendment at this stage.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.37]: When the Opposition moved this amendment in another place, it was claimed that the intent of the amendment was to make the internal wording of the clause consistent, that is, that the Government considered the words "carriage of coal" inconsistent with the phrase "government coal-carrying service". That demonstrates a misunderstanding of the

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intention of proposed section 19B(3). First, reference to "government coal-carrying service" in that

proposed new section refers to the five-year coal moratorium period provided for in section 78 of the Competition Policy Reform Act. Second, the reference to "carriage of coal" was a deliberate choice of words to clearly signal to existing and potential coal rail operators that special access pricing principles may apply during the moratorium period.

The CHAIRMAN: Order! Members should need no reminding that the Committee stage of the bill is an important procedure and that all members, and Hansard, must be able to hear contributions to the debate. I ask honourable members to be courteous and to refrain from conversing across the Chamber.

The Hon. M. R. EGAN: The Opposition's amendment invites confusion rather than clarification because it opens the argument that private coal-carrying operators would not be subject to any special access pricing principles. As I indicated when I spoke to the previous Opposition amendment, the coal moratorium was provided in the Competition Policy Reform Act at the request of Queensland, which intends prohibiting non-government coal operators from accessing the track. In New South Wales the proposed access regime will allow access to private coal operators. However, such access will be on the basis of specific pricing arrangements. These pricing arrangements will be phased out to the year 2000. There is no subterfuge in the Government's approach. It will be phasing out the monopoly on coal haulage. Proposed section 19B(3), which the Opposition seeks to amend, makes it clear that the access regime may phase out the monopoly rather than take the Queensland model, which is to prohibit access to non-government operators for the full moratorium period.

Amendments negated.

The Hon. Dr MARLENE GOLDSMITH [9.40]: I move Opposition amendment 2:

Page 9, Schedule 1[18], proposed section 19B, line 16. Insert ", except if the regime is not consistent with the Competition Principles Agreement" after "regime".

This amendment relates to consistency. The Leader of the Government has informed me that the Government's reasons for entrenching the five-year phasing of the application of the legislation to the coal industry is a replication of section 78 of the Commonwealth legislation, a replication forced on the Government by Federal Government threats to reduce funding to any States that do not comply with the legislation. In fact, the purpose of the funding threat is to coerce States into implementing national competition policy. Given that the amendment entrenches consistency with the competition principles agreement in relation to the rail access regime, I hope that the Government will see its way clear to support the amendment.

My comments in relation to the previous amendments also bear relevance in this regard. I point out that the provision was introduced by the Government long after the bill was tabled and enables the Government to create special conditions for the coal industry and, by so doing, negate open access to rail. The clause is unnecessary, as any special provisions for coal are already covered by section 78 of the Commonwealth Competition Policy Reform Act 1995. Section 78 was inserted into the Commonwealth-State agreement on third-party access regimes at the request of the Queensland Government, as both the Leader of the Government and I have stated. Both Premiers Fahey and Carr have said at COAG meetings, in August 1994 and in April 1995, that whatever the decision of COAG on this matter they rejected special treatment of coal.

It is interesting to hear the comments made by the Leader of the Government on this matter, when his own leader has stated specifically that he is opposed to such views. Unless deleted or amended, the section 78 provision gives the Government the ability to create unique conditions and provisions for major users of the State rail system. It continues the exploitation of the coal industry at the cost of jobs, mine development and the New South Wales economy. It will only further complicate and evade or avoid the notion of national competition policy. It will isolate the coal industry and hamper urgent economic reform. It is essential that in the new system the coal industry be treated the same as everybody else. Allowing

the clause to remain would deny New South Wales rail users the application of principles available to all other freight users in New South Wales and nationally.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.43]: The Government opposes the amendment. The Hon. Dr Marlene Goldsmith does not seem to know what she has moved, because the notes she has read have nothing to do with the amendment. The contribution made by the Hon. Dr Marlene Goldsmith reminds me of the maiden speech presented in this House many years ago by the Hon. Amelia Rygate, who, after sitting silent in the House for 13 years, stood to make her maiden speech and made it on the wrong bill. The Hon. Dr Marlene Goldsmith has just done the same thing. The Government opposes the amendment.

The Hon. Dr MARLENE GOLDSMITH [9.44]: The Minister is a past master at this kind of subterfuge. That is ridiculous.

Amendment negated.

The Hon. Dr MARLENE GOLDSMITH [9.45]: I move Opposition amendment 3:

Page 9, Schedule 1[18], proposed section 19B. Insert after line 38:

- (7) An access regime established in accordance with this section must provide that Rail Access Corporation is to make available to a person that has or is seeking to have access to the NSW rail network any information that:

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- (a) relates to the terms of that access, and
 - (b) is requested by that person, and
 - (c) is known to the Corporation, and
 - (d) is not information the disclosure of which would be contrary to law or if contained in a document would be such as to make the document an exempt document within the meaning of the *Freedom of Information Act 1989*.
- (8) Such information includes, subject to subsection (7), information about the following matters:
- (a) the management and operation of the NSW rail network by Rail Access Corporation,
 - (b) the use or proposed use of the network by the person that requests the information and by other persons,
 - (c) the traffic levels on the network,
 - (d) the capacity of the network,
 - (e) the costs, including capital costs, incurred by the Corporation in managing and operating the network,
 - (f) the pricing of access to the network.

This amendment relates to transparency. It would be stating the obvious to point out that there have

been gross inefficiencies in State Rail in the past, not least because of the secrecy with which that organisation was able to operate. The coal industry, along with all other industries, needs to know its base costs. If it is trying to operate, it has the right to find out the fundamental costs going into its monopolistic provider. A comparison would be the trucking industry, which is highly competitive. There are many basic given costs in that industry. Those costs are very much the same for all operators and they are widely known. Because of a competition policy, those fundamental base costs are a given. Therefore, the final price being offered by particular operators relates to how efficiently those operators can run on top of the given base costs. In rail we deal with a natural monopoly and the base costs are not known. Coal companies will have no way of knowing whether different companies are being given different quotes.

It was the intention of former Prime Minister Paul Keating that under Commonwealth legislation coming into effect in September the States would be penalised unless they complied with transparency principles. How far will the section 78 exclusion for coal protect New South Wales from being in violation of the national competition principles? That is a valid question. The amendment will ensure that the public benefit is served in the development of rail access policy. The bill as it stands does not require the Rail Access Corporation to provide open access transparency. This maintains a monopoly structure, which is a crucial issue. The amendment provides for transparency in the same way that it is provided in other regimes. In the electricity regime there are 400 pages relating to transparency. Transparency and openness are not just desirable; they are necessary. I am surprised at the wording of the legislation in relation to this matter.

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.48]: The Government opposes this amendment, which indicates that the Hon. Dr Marlene Goldsmith has no appreciation of the way in which commercial negotiations are conducted. It should be made clear that the Opposition amendments are coming direct from some of the Hunter coal industry interests. At one point the former Government was in exclusive negotiations with the coal industry for the sale of the Hunter Valley rail system. Such a sale would have included all track and associated rolling stock. The proposed sale was never made fully public, and would have resulted in the control of the system going to private companies. The present Government takes a completely different approach. It is not converting a public monopoly into a private monopoly; instead, it is separating the access function and, consistent with competition policy, is allowing for competition on the network.

The amendment is not acceptable because it would have the effect of enforcing upon the Rail Access Corporation the release of almost any information. That would make negotiation by the corporation almost meaningless. Indeed, that is the aim of some of the Hunter coal producers, who are seeking cost-based pricing rather than genuine commercial negotiations. The result would be to the significant disadvantage of all marginal operators - for example, passenger services, grain or intermodal services. As well, specific users would see all commercial information relating to other businesses. For example, coal producers would have full access to passenger or grain information. The Government's approach is to have a commercial model, consistent with the corporatisation of rail access, that is subject to appropriate regulatory controls.

Issues of transparency within this framework are matters for the parties or, if unresolved, for IPART. The amendment is also internally inconsistent. On the one hand, it provides that items protected under freedom of information provisions should not be released; but on the other it provides that the rail access should release details of costs, traffic levels and pricing - all of which are clearly commercially confidential and would normally be protected under the freedom of information legislation. The Hon. Dr Marlene Goldsmith seemed to be surprised that coal companies would not know if other companies were given different quotes. Of course, they would not - and of course they should not. That is how commercial business operates.

If I am doing business with the Hon. Duncan Gay, I do not tell the Hon. Ann Symonds or the Hon. Dr

Marlene Goldsmith about those arrangements; they are commercially sensitive details between the Hon. Duncan Gay and me. Equally, any arrangements made between the Hon. Ann Symonds and me are commercially sensitive

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between us. There is no reason why the Hon. Dr Marlene Goldsmith should know what price I have struck with the Hon. Duncan Gay or anyone else. That is the basis of commercial negotiations. The Government is trying to get away from the idea that it has publicly-owned monopolies running these businesses and it is trying to set these businesses up as not only commercial organisations but competitively commercial organisations. The Rail Access Corporation, which is the organisation which will provide the access regime, in dealing with competitors using its network -

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

The Hon. M. R. EGAN: The people will benefit from the national competition policy. The whole purpose of the amendment is to make all of our rail network operations more efficient, to reduce costs, to attract investment, and to attract business. The Hon. Dr Marlene Goldsmith shows that she has no understanding at all of competition principles.

The Hon. Dr MARLENE GOLDSMITH [9.53]: I remind the Leader of the Government - who, having spent most of his life working in the public service, might not understand these principles - that we are talking here about a natural monopoly. Of course, when one goes out into the commercial world, secret negotiations are the norm because fundamental competition principles are at work to ensure that parties operate as efficiently as possible in order to compete with each other. But here we are dealing with a natural monopoly, and the problem is that this legislation is not transparency; it provides for an agreement between two parties and IPART, but it is inconsistent with competition policy reform and it will perpetuate the rail monopoly in New South Wales. For example, one company would not be able to ascertain the terms that the rail authorities had given to other companies. This is secrecy -

The Hon. M. R. Egan: Absolutely. Precisely.

The Hon. Dr MARLENE GOLDSMITH: Yes, because the Government is dealing with a single monopoly. What is the rationale for offering different prices to different companies in this circumstance? All the information required by this amendment is freely given in the electricity regime and the interstate rail regime.

The Hon. Dr B. P. V. Pezzutti: And the gas regime as well.

The Hon. Dr MARLENE GOLDSMITH: I thank my colleague the Hon. Dr B. P. V. Pezzutti for reminding me that it is freely given in the gas regime as well. Already costs are coming down in both instances as efficiencies are created because of this transparency. The Minister needs to understand that there is a difference between a natural monopoly and the commercial system in which one has competition structurally built in. Here, transparency is necessary.

The Hon. R. S. L. JONES [9.55]: Superficially, this amendment looks quite attractive, but in fact it gives people like Lord Hanson an extra fillip - an extra way of making even more bucks out of his Bengalla coalmine. This amendment would lay bare all the State Rail and the Rail Access Corporation information, and Lord Hanson would know exactly how to screw them down to the very last dollar. If this amendment is passed it will cost the people of New South Wales an awful lot of money, and that is why I oppose it. I want to make sure that coal carriers make as much money as they possibly can, and are not stripped down to their last dollar.

The Hon. J. S. TINGLE [9.56]: I seek clarification on the amendment. I initially found myself attracted to it but now I am becoming a little concerned, having heard what has been said about it. I have to agree with the Hon. Dr Marlene Goldsmith that transparency is very important. But reading the

requirements that the amendment would place on the Rail Access Corporation, I seek clarification from either the Hon. Dr Marlene Goldsmith or the Minister. If the Rail Access Corporation is required to provide all this information, the result might be that it is obliged, in effect, to tell a party seeking access to the rail system how to tender to get the best price. If that were the case, would that in fact mitigate against competition rather than encourage it?

The Hon. M. R. EGAN (Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council) [9.57]: It is important that the Committee be aware that the proposed access arrangements are designed to meet all of this Government's commitments, and indeed this Parliament's commitments, with regard to competition policy and to provide a single approach for all of New South Wales. The Opposition seems to be captured by the coal industry and consequently is moving a series of coal industry amendments. The Government is also concerned about coal industry issues, but the Government's concern extends also to the southern and western coal industries, not just to those in the Hunter Valley. The Government is concerned also about other industries and about users of the rail system. The access regime has been designed to consider passenger, intermodal freight, and grain freight issues. The access regime being adopted by the Government is based on the negotiate-and-arbitrate model. Potential operators can negotiate with the Rail Access Corporation. If they believe that the result is unreasonable, they can take their case to IPART, which will arbitrate within the criteria of the New South Wales Rail Access Regime.

The Government has already indicated that the New South Wales Rail Access Regime will be submitted to the National Competition Council for declaration as an effective regime. A public consultation process will be conducted and all operators can put their case to the National

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Competition Council. There has already been formal consultation and the council has been supportive of the approach taken in New South Wales, including the draft access regime. The objective of the Hunter coal industry in proposing amendments to this legislation is to move away from the negotiate-and-arbitrate model. They would prefer a fixed-price or average-price approach to access. Let there be no doubt that such a model would disadvantage other elements of the coal industry and certainly other operators, including the State Rail Authority, that is passengers, and grain producers. The reason for that is that inevitably a fixed-price approach would result in there being some operators who could not afford to pay the fixed price. Those operators would move their businesses directly to the road transport industry. If today's marginal operator is not given a regime that encourages him to expand, he will never become a major operator who effectively challenges the dominance of road transport.

The amendments would lock in an advantage for the Hunter coal operators but not address growth for marginal, passenger and other freight. Public coal interests have argued that the Government's model will result in cross-subsidisation. That is not possible, as it is contrary to the national competition policy requirements. The regime could not be accredited if it allowed cross-subsidisation. Hunter coal industry interests have argued for transparency. The Government's approach is to leave the extent of transparency to the parties, or, if unresolved, to IPART. To enforce a particular approach would threaten the negotiation model. What is there to negotiate on if all the information has been revealed? IPART, the National Competition Council and the Australian Consumer and Competition Commission have all been consulted about the proposed New South Wales approach and have not raised any concerns.

Comment from potential rail operators has been overwhelmingly positive, with the exception of the issues raised by the Hunter coal industry, and those issues should be raised in the public consultation process. Industry is currently moving to take advantage of the proposed access regime to apply from 1 July. Those who may support the Opposition amendments should ask themselves whether they are acting in the interests of other operators, including passengers and grain producers. They should ask whether the Hunter coal approach will do anything to attract new business to rail, or whether it will just lock in a favourable arrangement for those currently using rail, such as the Hunter coal industry. The Government is putting in place reforms which are being widely supported by current and potential rail users. We have consulted widely and we believe that the proposed approach balances all New South

Wales interests. Amendments proposed to favour one industry - and unashamedly promoted in the Parliament - will not be accepted by the Government. Delay to the passage of the legislation will not be in the interests of the coal industry or another other industry.

The Hon. ELISABETH KIRKBY [10.01]: I am well aware from conversations my office has had with the advisers of the Minister for Transport that he is absolutely against the idea of open access to the Rail Access Corporation's records so that any third party could work out how the RAC arrived at the price it was charging a customer. However, it has to be admitted that the Hilmer process has been accepted by both the coalition and Labor at the Federal level. Both sides believe that open access and transparency are an absolute must. It has been explained to me that the Government believes that the RAC will be picked off if coal companies are able to work out pricing structures.

I do not deny that it may well come to pass that mining companies knock down transport prices, but I would argue that royalty payments to government will also increase as a result of increased exports. These are the figures that I have been able to ascertain. There would be benefits to the State through open access to the tune of \$20 million in direct royalties to government and additional payroll tax over and above the current receipts by the State; \$300 million in additional export income; flow-on benefits of \$670 million in port charges; and \$500 million spent on the construction phase of new mines, with a total flow-on benefit of \$1.3 billion in the Hunter alone. With the passage of the legislation last night, now that the Bengalla project will be permitted, at least five more mines will be permitted in the Hunter, which is why I opposed that legislation. But of course this will mean a lot of jobs and that is why the Government was fighting for Bengalla last night. It will mean jobs in the mining industry and for additional railway operations staff such as train drivers and guards.

It has been put to the Australian Democrats that rail access should be on the same basis as access to electricity. In all other access regimes access terms and prices are fully transparent. As the Treasurer, Minister for Energy, and Minister for State and Regional Development said, prices will be overseen by the Independent Pricing and Regulatory Tribunal until 2001 and after that by the Australian Competition and Consumer Commission. He also said that access charges are based on economically efficient operating costs and capital costs determined from optimised deprival values. I know that the Greens support optimised deprival values and specific market-linked rates of return. According to the advice I have received, which appears absolutely reasonable, all that access regimes should do is give effect to the competition principles agreement and facilitate open access to the rail system for all users - passengers and freight. Unless that happens there will never be a fair deal. It will never be open and transparent.

As long as conditions are set and deals are made in secret and negotiations are conducted without full disclosure of details, I am afraid the rail system in New South Wales will never be reformed. The Minister has said, and the bill provides, that

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passenger transport will be protected. If I thought the amendment would give everything to freight and passenger transport would be affected, I would not support it. But, as well as the provisions of the bill, many assurances in this place and another place have been given that passenger rail will be protected. That is essential. I fail to understand why the amendment is so distasteful to the Government. We are talking at great length about transparency but how can we have transparency if we are still demanding that some deals or negotiations are to be secret?

The Hon. Dr MARLENE GOLDSMITH [10.06]: The Minister's comments are quite extraordinary. For all his bluster - we know how good he is at blustering - he did not address the nub of the issue: why, when transparency is a feature of other monopoly industries, is the Government fighting to prevent transparency in the monopoly rail industry? It is indeed deeply mysterious. One has to question why the New South Wales transport ministry wants to create a different system for access to New South Wales rail. The Minister maintains that it is normal commercial practice. However, the rail system has the monopoly, controls the prices and makes the rules. Transparency will not change this as it is a

monopoly: customers cannot go elsewhere. All that the amendment would mean is that the rail system would have to charge a fair price with a proper return on assets. It cannot be forced to negotiate and it can refuse access if prices are not satisfactory. So it still carries most of the cards and it still has most of the clout.

The amendment would only implement the principles of national competition policy reform and provide closer to a level playing field, which is what is necessary if any natural monopoly is to adopt those principles. The concern in the coal industry, which accounts for 85 per cent of all freight in New South Wales, is that the bill is the result of a lack of consultation. I am informed that the coal industry has dealt with rail authorities over many years but there was no consultation on this bill. Consequently we have to go through the amendment process now to deal with major problems with the legislation. The Hon. J. S. Tingle was concerned about whether the amendment will actually keep costs down. The only chance to keep costs down, to prevent cross-subsidisation and to prevent artificially high floor charges that no operator could find out about is to have transparency clauses.

I remind honourable members that the provisions in the amendment are fairly restrictive. The information is to be provided only to a person who has or is seeking to have access to the New South Wales rail network. It relates only to the terms of that access. It is not information the disclosure of which would be contrary to law or, if contained in a document, would be such as to make the document a consent document within the meaning of the Freedom of Information Act, as has been alleged. Similarly, only references to specific matters as in proposed section 19B(8) have to do with competition and setting fair prices to ensure that the price charged to the industry is fair.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 21

Mr Bull	Rev. Nile
Mrs Chadwick	Dr Pezzutti
Mrs Forsythe	Mr Ryan
Mr Gallacher	Mr Samios
Miss Gardiner	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	Mr Tingle
Mr Kersten	Mr Willis
Miss Kirkby	<i>Tellers,</i>
Mr Lynn	Mr Jobling
Mrs Nile	Mr Moppett

Noes, 20

Mrs Arena	Mr Obeid
Dr Burgmann	Mr Primrose
Ms Burnswoods	Ms Saffin
Mr Cohen	Mr Shaw
Mr Corbett	Ms Staunton
Mr Dyer	Mrs Symonds
Mr Egan	Mr Vaughan
Mr Johnson	
Mr Jones	<i>Tellers,</i>
Mr Kaldis	Mrs Isaksen
Mr Macdonald	Mr Manson

Question so resolved in the affirmative.

Amendment agreed to.

Progress reported from Committee and leave granted to sit again.

AJC PRINCIPAL CLUB BILL

Second Reading

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [10.20]: I move:

That this bill be now read a second time.

By leave, my second reading speech will be incorporated in *Hansard*.

With this bill the NSW thoroughbred racing industry begins an historic transition to a modern, representative and accountable structure. The specific purposes of the bill are fourfold, namely:

- to establish the AJC Principal Club (AJCPC) as a representative body to govern thoroughbred racing in NSW
- to establish a Racing Industry Participants Advisory Committee (RIPAC) to give advice to the AJCPC on industry policy and strategic direction, as well as nominating 1 member of the AJCPC

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- to provide for the establishment by the AJCPC of a separate appeal panel to hear appeals from decisions of race stewards, and
- to provide for the transfer of relevant functions, assets, rights, liabilities and employees from the Australian Jockey Club (AJC) to the AJCPC.

The Government's initiative will implement the essential aim of the recommendations by Ian Temby QC, namely to create a broadly representative governing body able to carry out its functions independently from individual race clubs.

This bill is a result of the most extensive consultation process ever undertaken by an Australian Government in relation to the thoroughbred racing industry. Mr Temby's final report was itself the outcome of a four-month review involving comprehensive consultation with all sections of the industry, by means of public calls for submissions, production of a detailed issues paper, and meetings and interviews with a wide range of individuals, race clubs and industry associations.

After receiving Mr Temby's report in October last year, the Government consulted extensively with the AJC and the industry before deciding on the framework outlined by the Premier in this House on 15 May.

Consultation with the AJC on the detail of this bill has been particularly important because the AJC has been the controlling authority for thoroughbred racing in NSW for more than 150 years. The Government has also consulted with other race clubs and industry groups concerning provisions of particular concern to them.

The AJCPC will consist of 10 voting members:

- 4 nominated by the AJC
- 2 nominated by the Sydney Turf Club
- 1 nominated by the Provincial Association of NSW
- 2 nominated by the Country Racing Council – 1 from the north of the State and 1 from the south, and
- 1 nominated by RIPAC.

The Chief Executive of the AJCPC will also be a participating member of the new body, but without voting rights.

Mr Temby recommended that members of the new governing body not be allowed to serve simultaneously on race club committees. He believed this would encourage members to take a broad view of their responsibilities, and not just the interests of the body which nominated them. However, in view of strong opposition from the race club sector, the Government has not included this restriction in the bill.

Nevertheless, the Government encourages all the nominating bodies to put forward members they consider best qualified to lead the industry, and to look outside their race club committees as appropriate. The Government has included clause 11 which provides, as recommended by Mr Temby, that each member of the AJCPC must act in the public interest and in the interests of the thoroughbred racing industry as a whole, rather than just in the interests of the body which nominated them.

The AJCPC will be the new controlling authority for thoroughbred racing, and its functions and powers in clauses 13 and 14 are appropriately comprehensive. Its functions include traditional "principal club" functions, but also the promotion, strategic development, and welfare of the industry. Specific mention is made of the key functions with respect to the insuring of participants in the industry, including those presently exercised by the AJC in relation to workers compensation and sporting injuries insurance.

The AJCPC and its operations will be funded from registration fees and the industry's share of TAB revenue, in the same way as the AJC is presently funded to carry out those functions. During the consultation process, concerns were expressed by many in the industry that a cost-effective approach be taken so that the additional call on industry revenue, if any, is minimal.

For this reason, it is intended to locate the AJCPC at the Randwick premises of the AJC, so that facilities and administrative staff may be shared where appropriate. However, the bill recognises the importance of separate and accountable administration by the AJCPC. The chief executive will be responsible solely to the AJCPC and not allowed to be the employee of any race club. The AJCPC will also be required to produce an annual report. This must be provided to the Minister by 1 November each year for tabling in both Houses, and the AJCPC must make it publicly available. The annual report must contain financial statements prepared by an independent auditor.

These measures will help ensure separate and accountable administration. Where the AJC and the AJCPC share staff, as is likely with some administrative functions, their responsibilities and accountabilities, together with payment arrangements, will need to be clearly defined.

Conflict of interest was a major theme of Mr Temby's review and report. He identified potential conflicts of three kinds. Firstly, there was potential for conflict between the AJC's responsibilities on behalf of the thoroughbred racing industry, and its private interests as a race club. This has been addressed by the creation of the AJC principal club.

Secondly, Mr Temby pointed out the problems inherent in the AJC, as employer of the stewards, also being the body which hears appeals from the stewards' decisions. This has been addressed, with the full support of the AJC, by providing for the establishment of a separate appeal panel.

Thirdly, individual members of the governing body may have private interests which conflict with aspects of their functions. For example, obvious problems arise when substantial horse owners are involved in the hearing of appeals or in close monitoring of the stewards' activities.

The bill takes a three-point approach, based on the Temby recommendations. First, clause 21 will require all AJCPC members to disclose direct or indirect pecuniary interests in any matter under consideration by the AJCPC or its committees. The AJCPC will itself decide what action is necessary in response to those disclosures.

Secondly, clause 23 requires the AJCPC to establish an integrity assurance committee, with primary oversight of those functions relating to race stewards, drug testing and control, licensing, handicapping, and the appeal system. The AJCPC will be required to determine necessary disqualifications for membership of the committee, having regard to the need to minimise conflicts of interest which may arise from ownership of active racehorses, professional involvement in race preparation, or professional or commercial dealings with licensed persons.

Thirdly, AJCPC members are prohibited from membership of the appeal panel, and the AJCPC must also determine any other necessary disqualifications, having regard to the same factors as for the integrity assurance committee.

The overall intention of these provisions is to minimise conflicts of interest while ensuring that experienced people actively involved in the industry are not unnecessarily precluded from serving on the governing body.

The Government recognises that industry participants are entitled to a say in their industry and greater opportunities for involvement than is presently the case. Since last century it has been traditional for race clubs and race club

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committees alone to govern thoroughbred racing. As thoroughbred racing has evolved from a sport to a major industry, the need for greater industry participation in policy development and future planning has become increasingly recognised.

In the past five years, both Queensland and Tasmania have created statutory principal clubs with some provision for industry representation. At the racing Ministers' conference on 3 May 1996, I received unanimous support from my counterparts for a resolution which read in part:

This meeting of racing ministers ... supports the trend towards broadening the membership of governing bodies to include representation of stakeholders other than race clubs.

This Government's approach to industry representation has evolved during the consultation process. Ian Temby recommended 2 industry representatives on the governing body, namely 1 joint nominee by the three categories of licensed persons and 1 nominee on behalf of punters. After his report was released, the Government received strong representations from many industry stakeholders arguing for additional or separate representation.

During this process, seven major stakeholder groups were identified: owners, breeders, trainers, jockeys, bookmakers, stablehands and other industry employees, and punters. No sensible structure could provide separate representation for each of these groups on the governing body.

The Government decided to take a different and innovative approach. Firstly, the bill creates a

statutory advisory committee, RIPAC, consisting of representatives nominated directly by each of the seven stakeholder groups. RIPAC will be required to meet at least four times each year with administrative support to be provided by the AJCPC. Most importantly, a minimum of two of these meetings must be joint meetings of the AJCPC and RIPAC with a quorum from each required.

The bill also provides for RIPAC to nominate one member of the AJCPC, thereby giving industry stakeholders as a whole direct representation on the governing body. Obviously the RIPAC member on the AJCPC will not be solely responsible for raising every issue of concern to the industry. A key part of his or her role will be to ensure that RIPAC functions effectively, is listened to by the AJCPC, and that the AJCPC opens itself up to industry participation and involvement in other ways.

For example, clause 22 authorises the AJCPC to involve non-members of the AJCPC in any committees it establishes, including the Integrity Assurance Committee. Involvement in relevant committees and working groups provides an important potential avenue for industry stakeholders to participate effectively and fruitfully, and this should be a high priority for the AJCPC member nominated by RIPAC.

The bill will require the AJCPC to appoint a separate appeal panel, including a principal member who is to be a legal practitioner of at least seven years standing. The appeal panel will consist of a pool of members who will be drawn upon to establish hearing panels for individual appeals.

Appeals from decisions of race stewards now heard by the AJC committee will be heard by a hearing panel of three members or more, including the principal member who will preside at the appeal as convenor. Where the principal member is unavailable or already sitting on another appeal, the bill provides for another member to be designated as the convenor, provided that person is also a legal practitioner of at least seven years standing. The appeal panel will have the same procedural powers and protections as those previously enjoyed by the AJC committee in its appeal role.

The AJC committee has delegated its appeal powers in relation to country appeals to the various country racing associations. The bill will enable the AJCPC to continue this delegation as it chooses. Where it does so, country appellants will continue to be able to appeal to their local racing association, thereby assuring a quick and inexpensive hearing of their appeal.

However, country appellants will also be given the option of appealing directly to the new appeal panel, but may not appeal to both bodies. Their further right of appeal will be only to the racing appeals tribunal, in the same way as metropolitan and provincial appellants. This will bring to an end the present lopsided arrangements in which country appellants have three tiers of appeal, while metropolitan and provincial appellants have only two.

I move now to the transition process. If the bill is enacted this session - and the government welcomes the support of the Leader of the Opposition for the initiative in this House on 15 May - the Government anticipates that the AJCPC and RIPAC can be in place by early October. The first task of the AJCPC will be to hire its chief executive and begin preparations for the takeover of the industry functions. This will include negotiations with the AJC on arrangements to share its Randwick premises and to transfer relevant assets, liabilities, rights, and employees to the AJCPC.

The transitional provisions are set out in schedule 1 to the bill. The Government anticipates an outcome negotiated between the AJCPC and the AJC over several months. Clause 9 provides for the entering of voluntary agreements, including payment of compensation where appropriate, covering these matters. Clause 8 places a duty on the AJC to facilitate the transition process, including providing information and access to relevant records and documents.

Clause 9 also requires the consent of the AJCPC before the AJC may transfer or otherwise deal with any asset which is concerned with the exercise of principal club functions. This will ensure

preservation of the status quo until negotiations are complete. Clause 9 also provides for the making of regulations directing the transfer from the AJC to the AJCPC of relevant assets, rights, liabilities or employees.

The historical intermingling of the AJC's race club and industry functions means that some related assets are also intermingled. Difficult issues are likely to arise in relation to these during the negotiations. For example, the extent of private ownership, if any, by the AJC race club may take some time to establish in relation to the AJC laboratory and the workers compensation insurance funds.

However, clause 7 of the schedule makes it clear that private AJC race club interests must be preserved or justly compensated, and also that AJC employees whose employment may be transferred must be treated fairly. Clearly the regulation-making power would only be used as a last resort in the event of complete breakdown in negotiations between the AJC and the AJCPC. To further protect the private interests of the AJC race club, clause 9 ensures that any transfer by regulation will not take effect until after the period in which either House may disallow the regulation.

Taken as a whole, these provisions create a balanced framework for a timely and effective transition, with appropriate safeguards for the private interests of the AJC race club.

Schedule 1 also provides for the takeover of functions by the AJCPC on a staggered basis pursuant to ministerial order. This will ensure that the AJCPC only assumes responsibility for industry functions as and when it is ready to do so.

The establishment of the AJCPC and RIPAC marks the beginning of a new era for a great NSW industry. The Government acknowledges the enormous contribution of
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the Australian Jockey Club during its 150 year stewardship of the industry and looks forward to its constructive cooperation in the transition process. From the race clubs and industry groups who will directly participate for the first time in the control and management of their industry, the Government looks forward to a contribution characterised by vision and enthusiasm. This initiative will provide a modern structure for the industry to plan its future into the next millennium.

The Government acknowledges that different sections of the racing industry have been critical of several aspects of the bill, including the composition of the AJCPC. During the consultation process, the Government has listened carefully to all race club and industry sectors, and has brought forward the initiative which it considers best takes all competing considerations into account.

In conclusion, the Government recognises that the structure and supporting arrangements established by this bill will require review in the light of experience. For this reason, clause 53 requires a ministerial review after five years to assess the success of the initiative, and identify any changes which may be necessary.

I commend this bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [10.21]: This is landmark legislation with regard to the history of thoroughbred racing in this State. It is the result of an inquiry commenced last year by Mr Ian Temby which was initiated by the Government following allegations about the so-called jockey tapes. The allegations were unravelled by the New South Wales Crime Commission and referred to Mr Temby for inquiry. In his terms of reference, Mr Temby was also asked to inquire into the rules of racing. This legislation is the result of that inquiry, after considerable consultation and negotiation with all facets of the industry over the past six to eight months.

The Opposition has pleasure in supporting the legislation. It represents a fundamental change in

the administration of racing - which has occurred already in other States of Australia. New South Wales is one of the last States to recognise this change, but in so doing has had the benefit of seeing how change has developed in the other States and of learning from the mistakes and successes of other systems. It has been a combined effort to establish what changes are necessary and what changes will work in New South Wales. The Temby inquiry was instigated after scandalous allegations about the racing industry. Fortunately for the industry, much of that talk was unsubstantiated, as were the allegations of the Premier and the Minister in another place.

From time to time suggestions of alleged corrupt activity arose, but people in the racing industry were confident that the thoroughbred racing industry in New South Wales had been well managed and that the performance of the stewards and administrators had been of a very high standard indeed. That confidence was supported by the finding of the Director of Public Prosecutions that no charges could be sustained. The Temby inquiry was essentially into the rules of racing. It served a very useful purpose once it settled down. It found that a number of major issues needed to be faced by the industry, and it recommended changes that the industry agreed should be undertaken.

Considerable consultation took place during the life of that inquiry. On several occasions I represented the Opposition at meetings with Mr Temby and I was delighted to have the opportunity to talk frankly and at length about the industry. Mr Temby was very cooperative and had regard to what industry participants had to say about the industry and its future. A number of recommendations of the inquiry have been accepted by the industry and will be implemented or were implemented during the course of the inquiry.

Although there has been a lot of negative comment about the Temby inquiry, I believe its findings are a useful barometer of what has been going on in the thoroughbred racing industry; it served to highlight many of the issues that have resulted in the introduction of this legislation. Following the report of the Temby inquiry the Thoroughbred Racing Review put forward a proposition which engendered considerable comment - not all of it favourable. However, I believe Mr Temby reported the issues as he saw them. Although Mr Temby did not have a racing background, the final composition of the AJC Principal Club shows that he was not far off the mark with his recommendations with regard to the Thoroughbred Racing Council.

There were some problems with the original proposal. The Australian Jockey Club should have had greater representation given its successful administration of racing in New South Wales over the past 150 years. I was also of the view that, as important as it is to know how the consumer feels about the industry, there was not room for a consumer representative on such an important body. The consumer is an important component of that industry, but providing a seat at the table for the consumer was going a little too far, in my view. Similarly, it would not have been an easy task to find someone to represent all three licensed groups in the industry. If a seat were found for the licensed groups, a seat would have to be found also for the owners and breeders.

The consultation process that took place after the review was highly successful. I acknowledge the work of Ken Brown, Darrell Loewenthal and Craig Sahlin, who have engaged in negotiation and consultation since the report was brought down last November. They came up with the measures proposed in this bill. I was delighted to have been included in those discussions, and I believe that my involvement was beneficial to the outcome. The Opposition expressed ideas that were closely aligned to those of the Minister. I thank the Minister for including me and the Opposition in the process. The AJC Principal Club Bill has the widespread support of the racing fraternity and will ensure that the transition of administration from the Australian Jockey Club to the AJCPC will be a success.

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I should like to refer to the membership of the principal club. It was recommended that licensed persons and consumers be represented on the committee of the club. However, in an effort to keep the

new committee at a workable level, it was considered advisable to limit the representation. As a result the Racing Industry Participants Advisory Committee - RIPAC - will comprise seven representatives who are not on the AJCPC, and those members will have an input via regular committee meetings in nominating one of their own members for a place on the AJCPC. In essence, all industry participants are represented in the decision-making process. Unfortunately, a place could not be found for them all - and I acknowledge that owners, breeders and licensed persons, in particular, are disappointed not to be represented. If the Government appointed one, it would have to include them all, and the committee at best would be unwieldy; at worst, unworkable. A sensible compromise has been reached, though I acknowledge the disappointment of those who will not be represented.

Importantly the AJCPC will be established at Randwick. This will enable the transition to be achieved more smoothly than would otherwise have been the case. Under the Temby recommendations, the AJCPC may have been established elsewhere at considerable cost to the industry. That would have been a waste of money and would have caused problems during the transition period and beyond. Establishing the principal club at Randwick, where it has been since its inception, is sensible and a step in the right direction. It will facilitate the transition period, and I suspect that those intimately involved in the industry will detect little change. Randwick already has laboratories to test swabs, and it can accommodate all other administrative requirements.

The appeal panel is an important initiative and is a further step in the right direction. The new AJCPC will establish an appeal panel of experts who will from time to time hear appeals from decisions of the stewards. In the past, concerns have been expressed about the presence of certain AJC committeemen at appeal hearings. However, quite properly, in most cases those with interests in specific races have disqualified themselves from hearing appeals relating to those events. Nevertheless, there has been disquiet registered in this regard. This measure will ensure that the appeal process is above reproach.

The Racing Industry Participants Advisory Committee will meet as regularly as it wishes but it will have an opportunity to meet with the AJCPC. Without that mandatory meeting provision RIPAC members would feel isolated from the general decision-making process of the AJCPC. I know that some RIPAC members feel that unless regular meetings are conducted their views will not be considered. In essence, most of the concerns in that regard have been overcome in that the committee will meet at least four times a year, and more often if it can be negotiated.

I wish to comment on the transitional arrangements, which were referred to during the consultation process. Because of the AJCPC's concern for its proprietary interests, the transfer of assets, rights and liabilities of employees has been a major contention. At some stage during the transition period discussions and negotiations will have to take place to ensure that those interests that are the responsibility of the principal club will be transferred to the new AJCPC and those interests that are primarily AJC activities will remain with the AJC. Unfortunately, some grey areas will exist, and they will have to be negotiated. It will be a difficult period for the industry as a whole, but particularly for the AJC. Those involved in the negotiations will need to ensure that the sole proprietary interests of the AJC are protected and that principal club functions are automatically transferred with the minimum of fuss and with the concurrence of all involved.

The Minister will authorise the AJCPC to assume various functions. As a consequence of intense negotiation and consultation the Minister will publish in the *Government Gazette* his authorisation for the AJCPC to assume the functions and responsibilities of the principal club in this State. I am pleased that several amendments have been negotiated with the Government and consensus has been reached in relation to them. In that regard I should like to thank the Government for being patient with the AJC and the Opposition.

The concerns of the AJC about the transfer of the assets, rights, liabilities and employees have been addressed and the Opposition is happy with the result; I trust the Government is also pleased with the

result. Of major concern has been the workers compensation insurance scheme. The Opposition has examined the clauses in the bill to ensure that the AJC will retain its proprietary rights with regard to the insurance fund. There must be provision in the proposed Act for the negotiators and the decision makers to investigate those proprietary rights, which include responsibility for the insurance fund and the register of racehorses.

I have deep concerns about the ability of the Australian Jockey Club Principal Club, when it assumes its principal club functions in the State, to continue with workers compensation insurance. I would be very concerned if the AJCPC were to undertake that role. I acknowledge that the Australian Jockey Club has over the years successfully undertaken workers compensation insurance on behalf of industry participants, but I question whether that is an appropriate role for the principal club. I am concerned about the track record of workers compensation insurance in the past couple of years and I am particularly concerned about the performance of and problems associated with WorkCover. I am not sure that it would be advisable for the AJCPC to maintain such insurance on behalf of the industry's employees.

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One can certainly extol the virtues of the scheme when all is going well - when premiums are at a relatively low level and the scheme is in credit - but one can only envisage what might be around the corner if as a result of several serious injuries there is a run on funds. Premiums will increase and the insurance scheme will be in deficit. Under those circumstances the industry would have to find hard-won dollars from its distribution funds. There could well be a call on country racing clubs, the Sydney Turf Club, provincial clubs and the Australian Jockey Club to find whatever funds are needed to maintain the workers compensation program. I sound that word of warning, and I know that I am not alone in that view. The AJCPC should consider carefully its options in this regard.

Owners and breeders in particular have lobbied me - as I know they have lobbied the Government - about the inclusion of an additional representative on the AJCPC from the Racing Industry Participants Advisory Committee and about further meetings between the RIPAC and the AJCPC. After serious consideration the Opposition came to the view that more than one representative of the RIPAC on the AJCPC would unbalance the committee, which would necessitate additional members being appointed to the committee. The committee's membership of 10 is large enough; additional representation would make it unwieldy. The Government has acceded to a RIPAC request for an extra two meetings a year with the AJCPC. The RIPAC will have four mandatory meetings if that is what it wants. That may alleviate some concerns it has about the consultation process. I thank the Government for including the Opposition in the consultation process; it has been a worthwhile exercise. I have certainly enjoyed the rigours of discussion over the past months, and especially in the last week. I again thank the Minister, Ken Brown, Darrell Loewenthal and Craig Sahlin.

The Hon. R. B. ROWLAND SMITH [10.44]: Whilst I do not believe that it is necessary to change the status quo as it relates to the thoroughbred racing industry in this State, the measures contained in this bill are considerably better than the proposals recommended by the Temby commission of inquiry. The inference that the industry is corrupt has no foundation. The Labor Government, hell-bent on claiming that there is corruption, has been blown out the window. Sure, there have been a few minor problems, but that hardly justifies an inquiry. The suggestion that there has been race fixing is ludicrous.

Reverend the Hon. F. J. Nile: What about Fine Cotton?

The Hon. R. B. ROWLAND SMITH: Reverend the Hon. F. J. Nile should be careful, or I might mention Jim Nile. It was last year, after the Temby report was completed, that the Minister issued a press release on the report into the thoroughbred racing industry. The Minister for Gaming and Racing stated:

You will recall, Mr Speaker, that on June 7 the Premier announced a review of the rules governing the conduct of racing in this State. . . . The review followed a Crime Commission investigation which uncovered evidence indicating a wide network of race fixing.

I have never heard anything so incredible. The commission found that there was evidence of jockeys flouting racing rules and of unprofessional relations between jockeys and some large-scale punters. But that is hardly race fixing. Such behaviour has been going on, I should think, since time immemorial: a jockey will indicate to a punter who bets in sizeable amounts that he believes his mount will win. In point of fact, jockey Jim Cassidy admitted that he said that his mount would win. As I have said, that is hardly what one would describe as race fixing. If there were a two-horse race, I concede that the two jockeys could agree between themselves which horse would win. But when there are eight, 10 or 12 horses in a race, how does one get every jockey to agree to allow one horse to win the race?

I go to the races often, whether they be metropolitan races or country races, and have been doing so for the past 45 years. I know most of the jockeys. I often walk out to the saddling enclosure to look at the horses as they are paraded. I see the jockeys come out of their change room. Sometimes they come up to me and I ask, "How are you going Darren?", or John or whomever it may be. I might inquire what their mount is in the race. If they tell me, I might ask, "How do you think you'll go?". They always reply that they believe they will go very well. I do not think that any of them have ever said, "This is a good thing." The fact remains that that is what they say - and they say it to anyone who asks. But that is hardly race fixing. Minister Face went on to say:

It is, I believe, a blueprint, (the Temby report) for the regulation and administration of racing, not only in this State, but in Australia.

The bill contains a section devoted to the powers of the principal club. There is very little there that does not exist already. I shall not refer to all of the points, but if one examines the rules of racing one finds that all of the provisions in the legislation are already covered by the Australian Jockey Club rules of racing. Minister Face stated further, "The racing industry is an important one to the State" - a well-known fact - "and one that is carefully looked after by the communities of the various race clubs be they metropolitan, provincial or country." He then made the following ridiculous remark:

Public confidence is vital to the continued prosperity of the racing industry. I want to make it very clear that this Government is serious about cleaning up this industry and protecting the integrity of New South Wales racing.

The people that have screamed the longest and the loudest are a very small minority of disgruntled punters and others who object to the Australian Jockey Club as the principal club. Objection has come from such quarters as the Sydney Turf Club and from individual people, and the racehorse owners' association has been critical. But to talk

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about cleaning up the industry and restoring public confidence is a load of hogwash! At the races many years ago if a favourite was beaten the punters would stand outside the saddling enclosure and boo and jeer. Sometimes they got overenthusiastic and threw empty beer cans. Today one hardly hears a whimper from the punters when the favourite is beaten, so how could anybody say that there is a lack of confidence in the industry? It is just not true. The hype has been made worse by the news media. Those who cover racing have done the industry immeasurable harm. They have to write a story and, as I have always said, a good story beats the truth any day. They ought to wake up to themselves. Instead of knocking the industry and knocking the status quo, they ought to support it. Mr Face went on to say:

A new body to control thoroughbred racing will be called the New South Wales Thoroughbred Racing Council. It would be representative of industry interests.

He went on further to say:

On a reading of the hundred plus page report Mr Temby and his small team have produced a very worthwhile document, but it is still up to the Government to implement the recommendations.

Interestingly, very few of the Temby recommendations are incorporated in this legislation. The Government decided that it would listen to the views of the industry, which is, of course, what Mr Temby was supposed to do. The Government has listened to the views of the industry and has come up with this legislation, which is, as I said earlier, a much better proposal than that suggested by Mr Temby. When making his ministerial statement on the thoroughbred racing industry the Premier said:

Each year ordinary punters like you and me spend more than \$3,600 million on the races in New South Wales.

I was absolutely amazed when I heard this. I did not think Mr Carr had ever been to the races; I would not think he would bet on the sun rising. The Premier went on to say in his ministerial statement:

The Government has an obligation to keep racing healthy and viable, and to do this by democratising and modernising the industry's largest self-regulating body.

The Premier's ministerial statement continued:

When punters place a bet they should be confident that the race on which they bet will be fairly run, that every horse will run on its merits, and that every jockey, trainer and owner is there to have a go. As much as possible corruption and interference should be eliminated from the track. The State's punters deserve a fair go and that is what the legislation will deliver them.

The Premier was suggesting that at present punters do not get a fair go. Obviously he has not been to the track and he has not talked to many punters. Some punters who back a beaten favourite think the horse or the jockey did not try, but there are many imponderables in that situation. Mr Carr went on to say:

Early in 1995 the media published reports linking a number of Sydney jockeys with alleged race fixing.

That was not what was alleged. It was alleged that jockeys were handing out tips to punters, not fixing races. Recently the Harness Racing Authority disqualified the Gleeson brothers for life - and so they should have been. They acted deliberately to take the favourite out of the race, not so much to fix the race. They cut the strap that ensures the horse maintains a pacing gait and does not gallop. They backed every Superfecta combination, excluding the favourite, and won about \$10,000 or \$12,000. On investigating the matter the stewards discovered the strap had been cut and disqualified the Gleesons for life. A similar thing happened in the Fine Cotton affair, after which the bookmaker Robbie Waterhouse was also warned off, I hope for life. The stewards do a marvellous job. They can suspend or penalise jockeys for bad riding or for causing interference. The jockeys can appeal to the Australian Jockey Club committee against the stewards' decision. The committee has been fair and impartial. When I was Minister I sat in on many stewards' inquiries, and I was absolutely amazed at their impartiality.

The Hon. I. M. Macdonald: Oh, really!

The Hon. R. B. ROWLAND SMITH: Yes, really. The Hon. I. M. Macdonald has never been to a race meeting. Some people believe that Jack Ingham, an owner of many racehorses who is also a member of the committee, should not participate in appeals involving any of his horses. I know Jack Ingham, and I know that he disqualifies himself from all appeals relating to his horses. I am sceptical about this measure because I believe it is change for the sake of change. However, I will closely monitor it and inform the Minister if I consider that the new body does anything wrong. The new appeal tribunal

comprises three members with legal backgrounds. For many years the Racing Appeals Tribunal has been chaired by such distinguished jurists as Judge Alf Goran, Judge John Cahill and, more recently, Justice Bill Perrignon. One could not find better people; all three were very knowledgeable in racing matters. Those who have appeared before the appeals tribunal have rarely been critical of its decisions.

My colleague the Deputy Leader of the Opposition has dealt with most of the important issues contained in this legislation, so I will not reiterate what he has said. Suffice it to say that the Opposition will not oppose the legislation but will monitor it closely when it is implemented. As I said at the beginning of my contribution, I cannot understand why change is needed. But as Mr Face has said, the bill implements the Labor Party's policy when it was in opposition. I cannot for the life of me understand why the change is needed. There are problems in the racing industry today that revolve around taxation. Mr Face admitted this when he spoke in the Parliament, but what has he or the Government done? They have done nothing. After the furore in Canberra recently, can we expect any relaxation of the commission that the Government receives from racing? I think not.

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Reverend the Hon. F. J. NILE [10.57]: The Call to Australia party supports the AJC Principal Club Bill, which makes provision for the establishment, management and functions of the AJC Principal Club as a representative body to control thoroughbred horse racing in the State and for other purposes. As honourable members know without my emphasising it, Call to Australia is deeply concerned about the amount of gambling in this State, whether it is on horse racing, the Totalizator Agency Board, or casinos. The legislation is not directly related to gambling; it seeks to clean up the industry. For that reason, we support it.

The Hon. R. B. Rowland Smith said that the legislation was not really needed because there was no race fixing to any great extent; he thought there had been one case. I remind him that the State Crime Commission investigation uncovered a wide network of race fixing. I emphasise the words "a wide network". The Hon. R. B. Rowland Smith may go to the track, and he may talk to the jockeys. If the jockeys were involved in race fixing, I am certain that they would not give the slightest hint to someone like the Hon. R. B. Rowland Smith of their involvement or tell him which horses will win. He would have to be fairly naive if he thought they would reveal to him that he was talking to jockeys who were part of a race-fixing racket.

There is no doubt that race fixing has occurred. There may still be race fixing in spite of the legislation's attempt to clean up the industry. Following the Temby inquiry, the bill is attempting to do that, and therefore we support it. Corruption in the racing industry becomes associated with other areas of society. It becomes associated with police corruption. A number of police officers have been involved in corruption and that corruption overlapped into race fixing. I believe there has been judicial corruption involving race fixing in this State. I am not suggesting that the AJC is central to the corruption. I assume that it has been honestly trying to eradicate race fixing through its system of stewards. There is no doubt that clever race-fixing operators are operating not only in Sydney but all over the world. Special types of drugs that can be used to either slow down or speed up horses are readily available. Many of those drugs are difficult to identify even after having been tested.

The Hon. R. B. Rowland Smith mentioned the well-known and, I would say, senior bookmaker Robbie Waterhouse, who was involved in the Fine Cotton matter. That did not involve giving a horse a drug but substituting another horse. That matter involved major corruption. George Freeman, who has passed on now, was head of the SP racket in Sydney for many years. People on the inner network were able to get information from him about which horses would win races in Sydney. He could only do that because the races were fixed. According to former Chief Stipendiary Magistrate Murray Farquhar, who has also passed on, the information he received from George Freeman was about 90 per cent accurate.

The Hon. R. S. L. Jones: That is bribe money.

Reverend the Hon. F. J. NILE: Murray Farquhar's court attendant would put money on the horses recommended by George Freeman. As has been said, this is a form of bribe. It is a way of allowing somebody to get thousands of dollars without the handing over of cash. It also makes it difficult to prove. That is the trouble the inquiry had in proving there had been corruption: all it could prove was that Murray Farquhar was getting tips from George Freeman and that George Freeman was very accurate in tipping horses. To me that revealed a network of race fixing.

I am pleased that the Government has brought about this reform. Horse racing is a major industry in New South Wales, generating \$350 million income and employing 50,000 people. It provides a great deal of pleasure for many thousands more who like to watch horse racing. People who gamble are mugs or fools because they cannot win; only the bookmakers win. Those who run the gambling industry win, not the punter - unless he is an exceptional person or has inside knowledge about races that have been fixed. We hope that the reorganisation of the industry will eliminate race fixing.

The bill is a result of lengthy discussions and consultations. I have received numerous reports and documents from various sources. The thoroughbred racing review issues paper of August 1995 was put out by Ian Temby near the beginning of his inquiry and his final report was presented in October 1995. The legislation is based on the final recommendations in that report. The Australian Jockey Club wrote to me on 24 November 1995 expressing some of its concerns. Even at that stage it indicated that the Australian Jockey Club agreed in principle with 59 of the 68 recommendations of the Temby review, 27 of which had been initiated by the AJC. An attachment to the letter stated:

1. *There is conflict, or potential conflict, between the AJC's interest as a race club and its duty to control and manage thoroughbred racing in the best interests of the industry as a whole.* (Conflict between club and industry interests)
2. *Current arrangements deny key industry groups and club sectors adequate opportunity to participate in decisions affecting their interests.* (Lack of direct representation)
3. *There is conflict, or the potential for conflict, between the private interests of some AJC Committee members and the functions they perform.* (Personal conflicts).

The AJC also recommended:

An industry representative body known as the AJC Principal Club Committee would be established to operate as the Principal Club in NSW.

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This major recommendation has been adopted and has given its name to the bill. The Minister has said that the operation of the bill will be reviewed over a five-year period. I urge the Government to maintain close supervision of it. I have said before that there are many bodies to uncover corruption - by police, local government and so on - but crime commissions must ensure that top priority is given to cracking down on the corruptors, not so much the persons who have been corrupted. Call to Australia urges the Government to maintain that priority. We support the bill.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [11.06], in reply: I thank the Deputy Leader of the Opposition, the Hon. R. B. Rowland Smith and Reverend the Hon. F. J. Nile for their contributions to the debate. The bill will establish a modern, representative accountable structure to govern thoroughbred racing in New South Wales. The initiative taken in the legislation recognises the industry's wish to remain in control of its own affairs but on a more representative and accountable basis. For the first time in the New South Wales industry stakeholders other than race clubs will participate in industry governance through Racing

Industry Participants Advisory Committee representation on the AJC Principal Club, through RIPAC itself and through participation in AJCPC committees.

The separate appeal panel will ensure that racing appeals are properly handled without perceptions of conflict of interests or undue influence. The Government has consulted with race clubs and industry associations in relation to the overall framework for the initiative and on the detail of the bill. Constructive criticism and input from many quarters have generated numerous improvements to the final initiative. The constructive and bipartisan approach of the Opposition has been particularly welcome and I thank the Deputy Leader of the Opposition for his participation and cooperation in that regard.

The bill, with several further amendments to be moved in Committee - I understand with the support of the Opposition - will create the basis for as smooth a transition as possible over the next six months or so. Sensitive issues will arise in relation to the transfer of assets and staff from the AJC to the AJCPC and the Government looks forward to a constructive and fair-minded approach from all concerned. The transitional provisions provide the framework for a timely and effective transition while safeguarding both the private interests of the AJC race club and the rights of its employees. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.09]: I move:

That this bill be now read a second time.

By leave, my second reading speech will be incorporated in *Hansard*.

The Statute Law (Miscellaneous Provisions) Bill continues the well-established statute law revision program which commenced in 1984. The bill is the 26th bill to be introduced in the program. The statute law revision program is recognised by all members as a cost effective and efficient method of dealing with amendments of the kind included in the bill.

The form of the bill is similar to that of previous bills in the statute law revision program. However, honourable members may recall that the Statute Law (Miscellaneous Provisions) Bill 1995 introduced a new schedule 4 that transfers savings, transitional and other provisions of possible on-going effect from certain amending Acts to the relevant principal Acts. This bill continues that process. The transfer of such provisions permits the repeal of the amending Acts concerned because their other provisions have been incorporated in reprints or are spent. Those repeals mean that the obsolete legislation concerned need not be included in any database of New South Wales legislation in force.

The remaining schedules to the bill are well-known. Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. The schedule contains amendments to 39 Acts. I will mention some of them to give honourable members an indication of the kind of amendments that are included in the schedule.

The amendments to the Area Health Services Act 1986 validate the actions of the chief executive officers of four area health services during a period when the officers had not been validly re-appointed after their term of office expired. The relevant officers were re-appointed 14 months later. As a result

of the amendment, any act, matter or thing done by such a chief executive officer during the relevant time will be taken to have been validly done.

The Charitable Trusts Act 1993 has been amended so as to make the procedure created by the Act available to more people. The Act introduced a system whereby the Attorney General could establish schemes for the administration of certain charitable trusts, in particular those where the value of trust assets is relatively small. This removed the need for lengthy and expensive proceedings in the Supreme Court. At present, the Attorney General is prevented from establishing a scheme of administration in respect of a charitable trust if court proceedings in relation to that trust had commenced before the Act commenced. This bill amends the Charitable Trusts Act 1993 so as to allow the Supreme Court to refer such matters to the Attorney General.

The bill makes numerous minor amendments to the Community Services (Complaints, Appeals and Monitoring) Act 1993. They include many amendments that reflect the way in which community welfare legislation is now administered. Since the Act deals with the provision of all types of community services, including services provided to the aged and the disabled, references in the Act to services provided by the department are

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amended to make it clear that such services can be provided by the Department of Community Services or by the ageing and disability department. Similarly, references to the Minister for Community Services are, where appropriate, extended to include the Minister for Disability Services and the Minister for Aged Services. The amendments also extend the terms of appointment of community visitors and confer on them immunity from personal liability for things done or omitted in good faith in the exercise of their functions as community visitors. Also, several amendments are made to the provisions of the Act dealing with the assessment and investigation of complaints and the description of "solution facilitation" is changed to "conciliation".

The Electricity Supply Act 1995 is amended so as to enable the distribution districts of electricity distributors to be described in detail in a regulation. This will be helpful in cases where distribution districts include part only of a local government area and that part is not described in detail in the Act.

Amendments are also made to the Energy Services Corporations Act 1995 so as to enable the board of an energy services corporation to determine both the conditions of employment and the remuneration of the corporation's chief executive officer. At present, a board may determine the remuneration of a chief executive officer, but requires the approval of the Minister for Energy to fix the conditions of that officer's employment. The proposed amendments also provide for an acting chief executive officer of an energy services corporation to be appointed only by the board of the relevant corporation. At present, the Minister for Energy also has the power to appoint an acting chief executive officer. The bill also repeals some uncommenced provisions of the Energy Services Corporations Act 1995 that were intended to make consequential amendments to other Acts.

The amendments to the Independent Commission Against Corruption Act 1988 may be of particular interest to honourable members. The amendments extend from 31 July 1996 to 30 September 1996 the deadline for the ethics committee of this House - and the relevant committee of the other place - to draft a code of conduct for honourable members and to present it for honourable members' consideration.

Other amendments in schedule 1 include amendments to the Property, Stock and Business Agents Act 1941. The amendments are intended to alleviate financial hardship caused when the Act was amended in 1992 so as to replace the system of annual licences with three-year licences for which fees had to be paid up-front. At that time special provision was made for existing licensees to opt for one-year licences, and correspondingly lower fees, for a three-year phasing-in period. That period ended on 1 March this year.

The amendments contained in schedule 1 to this bill extend the phasing-in period for another three years and allow new licensees to have the benefit of the exemption, as well as existing licensees who renew their licences. Because the phasing-in period lapsed in March, the amendment makes provision for those licence holders who have been issued with a three-year licence since March but would prefer to hold a one-year licence. Such licensees may choose to have their licences changed and to have two-thirds of the fee paid refunded.

Several amendments in schedule 1 relate to obligations imposed under the Subordinate Legislation Act 1989. The amendment to the Australian Mutual Provident Society Act 1988 excludes regulations made under that Act from the operation of the Subordinate Legislation Act 1989. The Subordinate Legislation Act 1989 is also amended to postpone the repeal of four regulations - the general traffic regulations 1916, the motor traffic regulations 1935, the general traffic (pedestrian) regulations 1937 and the factories (health and safety) general regulations 1913 - until 1 September 1997. Those regulations will otherwise be automatically repealed on 1 September 1996.

The last schedule 1 amendment that I will mention is the amendment to the Sydney Cove Redevelopment Authority Act 1968. That amendment allows the Governor to make a proclamation with the effect that the Sydney Cove Redevelopment Authority will be prevented from compulsorily acquiring certain land. At present the authority can acquire certain land vested in the Crown or a public authority compulsorily without payment of compensation. The amendment will protect landowners, including the Sydney City Council, who have made improvements to their land. The land will still be able to be purchased by the authority, but only if the owner is willing to sell and is satisfied with the purchase price.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those correcting typographical errors or cross-references, those omitting unnecessary material and those updating references to office-holders.

Schedule 3 continues the process of removing the gender-specific language that remains in many current statutes that were enacted before the policy of using gender-neutral language in legislation was implemented. That policy has been in force in this State for more than 12 years.

Like schedules 1 and 2, schedule 3 amends Acts in alphabetical order. However, the schedule retains the two approaches to selecting Acts for gender-neutralising that were taken when it was first brought into the bill. Firstly, it selects certain Acts for amendment chronologically, beginning with the Water Act 1912. Secondly, it amends particular categories of Acts - on this occasion, those relating to employment and employment conditions, such as the Occupational Health and Safety Act 1983, and Acts relating to health administration. It is intended that similar approaches will be continued in future schedules dealing with gender-specific language.

I have already dealt with schedule 4. Schedule 5 contains repeals. It repeals three categories of amending Acts: those that are no longer of practical utility, those whose amendments have been incorporated in reprints or that amend repealed Acts, and those whose savings, transitional and other provisions of possible on-going effect are transferred to their parent Acts by schedule 4 to this bill.

Schedule 6 contains provisions dealing with the effect of amendments on amending Acts, savings clauses for the repealed Acts and a power to make regulations for transitional matters, if necessary.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts concerned. Rather than repeat the information contained in those notes, I invite honourable members to examine the various amendments and accompanying explanatory material and, if any concern or need for clarification arises, to approach me regarding the matter. If necessary, I will arrange for government officers to provide additional information on the matters raised. If any

particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill.

I commend the bill.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [11.09]: The Statute Law (Miscellaneous Provisions) Bill provides a mechanism for government to rectify errors or problems identified in many different statutes. The mechanism was initiated by Attorney General Sheahan and its usefulness for tidying up statute law has continued to be adopted by Attorneys General. Usually one or two of these bills are introduced

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each year to tidy up statutory oversights. It has become an accepted mechanism within Parliament to support these statutory changes. However, if controversial items are identified within a piece of legislation, those controversial provisions are not pursued. At this time the Opposition is concerned with a particular amendment in this legislation. The Government has agreed to delete the amendment, which is consistent with its approach to other miscellaneous provision bills.

Schedule 1[b] relates to electricity generators, in particular First State Power and Macquarie Generation. At present the Government Pricing Tribunal Act allows for the tribunal to determine whether the prices of corporatised generators and corporatised electricity distributors should be reviewed. When the coalition Government introduced the Electricity Transmission Authority Act in 1994 it intended that the pricing tribunal would review the prices of the corporatised electricity distributors and the two corporatised generators if it was considered that there was not genuine competition. The provisions in relation to electricity distributors have been proclaimed and the tribunal has a standing reference in relation to the six distributors, but that reference has not been used.

The provisions have never been proclaimed in relation to the two corporatised generators. The Government proposed, therefore, to delete those provisions. Whilst the corporatised generators are meant to be in competition, electricity competition is still in its infancy. Victoria also has problems in relation to electricity competition. At this stage it could not be said that our corporatised generators are competitive generators. Therefore, it might be desirable to trigger the standing reference so that there is genuine competition. The Opposition has told the Government that it is premature to remove the potential power for the pricing tribunal to exercise this oversight and, therefore, this potentially controversial issue should not be included in the bill. The Treasurer, being the responsible Minister, has agreed that the provisions should be deleted. Perhaps in 12 months when genuine competition has developed between the corporatised generators the pricing tribunal will have no overseeing role. At that stage the Opposition may not regard the issue as controversial and the change may be made. However, it should not be made at this time.

The Hon. ELISABETH KIRKBY [11.13]: The Leader of the Opposition has raised the same point about schedule 1[b] to the Statute Law (Miscellaneous Provisions) Bill about which I wished to ask a question of the Government. From the phrasing of the bill it appears that the two generators could strike a deal and fix higher prices by agreement. The Act certainly contained an anomaly in that the provision applied to both electricity distributors. The inconsistency was that the tribunal would not have a standing reference in relation to corporatised generators. This was quite wrong because if the Independent Pricing and Regulatory Tribunal was to have a role in the new gas supply structure and in the new structure of State Rail, surely it must also have a role in relation to electricity generators. However, the Government has accepted the Opposition's amendment and that will clear up the anomaly. I am pleased that the matter has been resolved so quickly and successfully.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.16], in reply: The matter raised by the honourable member will be dealt with by amendment in Committee. In the grandest traditions of these types of bills, the matter will proceed in a non-controversial fashion.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. J. P. HANNAFORD (Leader of the Opposition) [11.19]: I move:

Page 34, Schedule 1, lines 12-14. Omit all words on those lines.

I move this amendment for the reasons outlined in my contribution to the second reading debate.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.19]: The Government agrees to the amendment.

Amendment agreed to.

Schedule as amended agreed to.

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

POLICE INTEGRITY COMMISSION BILL

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

STATUS OF CHILDREN BILL

Second Reading

Debate resumed from 29 May.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [11.22]: The alternative Government supports the Status of Children Bill. There is a need in dealing with the rights of children to ensure that the tests that apply in the Family Court of Australia also apply in the State courts. There should not be confusion; the rights of children should not be the subject of legal claims driven by lawyers and they should not be exploited by adults for the purposes of determining the interests of parents in preference to the rights of children. In 1992 the Attorneys-General agreed nationally that the rights of children should be

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uniform across Australia. This legislation manifests that uniformity. For the reasons outlined in the Attorney General's second reading speech the Opposition supports these changes.

The Hon. Dr B. P. V. PEZZUTTI [11.24]: I support the Status of Children Bill. When this bill was first developed by the previous Government it was designed to overcome many of the difficulties faced by people because of in vitro fertilisation as much as any other cause. For many years it was obvious that there had been a definition of "fatherhood" under both Commonwealth and State legislation, but there had never been a definition of "motherhood". Although we often think of motherhood as being a given, under current technological arrangements motherhood is not a given. It became obvious that there was a need to define motherhood, and basically that is the main purpose of this bill. The bill clarifies the status of fatherhood and the status of motherhood substantially.

The Hon. J. R. Johnson: Does it give fathers any rights?

The Hon. Dr B. P. V. PEZZUTTI: It certainly does. It gives fathers more rights than many of them may wish to have. It defines fatherhood in a way that makes it perfectly clear that there are some contestable fatherhoods and some non-contestable fatherhoods. I congratulate the Attorney on introducing such an exhaustively clarifying bill, because it was needed. In spite of its long gestation it is a bill of enormous importance, not only to current fathers and mothers but also to future parents. The bill does not quite go far enough in dealing with surrogacy - another issue that needs to be challenged - but it is an important step forward in facing the realities of the modern technological world. It clarifies the legal status of children and parents. I look forward to the next bill that the Attorney will bring forward, dealing with the difficult but essential next step in the process of recognition of the technological changes: surrogacy. I offer my help to the Attorney in the development of such a bill.

The Hon. J. P. Hannaford: That will be in about three years.

The Hon. Dr B. P. V. PEZZUTTI: Well, it is the obvious next step in this trilogy of fatherhood, motherhood, and surrogacy. The Attorney General may think that the transgender bill is important; but I wish him well as he copes with the issue of surrogacy. I also wish him well on this important bill.

The Hon. ANN SYMONDS [11.27]: I note from the Attorney's second reading speech that the emphasis in this bill is on deeming parentage for the purposes of the law, and the presumption of parentage for the purposes of the law, for the purposes of determining guardianship and custody and therefore responsibility, and, to a further extent, probate and other financial arrangements within the context of the bill. It is of enormous importance that we actually acknowledge at law, for the benefit of children who are the product of IVF procedures, that one can deem all one likes about who may be the legal parent, but there is a genetic parent.

There is the genetic composition of the sperm and the ova; and the product of that donated sperm or ova - a human being - has the right to know its genetic inheritance. It is a matter of extreme importance and urgency that this House deal with that as soon as possible. From the Standing Committee on Social Issues inquiry into adoption, honourable members know that the main focus of those who appeared before the committee was that they simply wanted to know about their genetic inheritance.

I will not go into any of the details of relationships with birth parents or adoptive parents. Uppermost in the minds of adopted children was their genetic background, and the Standing Committee on Social Issues decided they had the right to know. Health issues as well as human rights issues are involved; people need to know whether they may have inherited genetic difficulties or diseases. Another enormously difficult problem is that in their efforts to deal with the desires of people to have children and the technology that is now available, some members of the medical profession have developed a level of unscrupulous, uncaring and unethical behaviour. An example is the helpful doctor in the United States of America who donated his sperm to women who were seeking sperm donation, as a result of which there were 70 children within a small radius of his practice who were related.

Members of the committee also know from its inquiries that one of the terrible dreads of adopted children is to unwittingly enter into a sexual relationship with a person to whom they are biologically related. These matters are very serious. I understand the current necessity for this presumption and deeming of paternity and maternity before the law, but I seriously urge the Attorney General to insist that children who are born as a result of technological advances in our society have the right at some future stage to know exactly who is their real mother and father. I leave aside the question of parenting because that is a practice, but the genetic material is a reality. We must overcome those problems.

Reverend the Hon. F. J. NILE [11.32]: Call to Australia supports the Status of Children Bill, which focuses on the rights, recognition and status of children. The breakdown of marriage, the breakdown of

family life, the number of children born outside marriage as dealt with in part 2 of the bill, ex nuptial children, the number of unmarried mothers who have been rejected by their fathers, children who always pay the price of what I call the permissive society or the selfish adult society - these are all of growing concern to our society. Clause 9 sets out the four rebuttable presumptions of

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parentage arising from marriage, which seem to be acceptable in describing the relationship of a child to a woman. For example, the first presumption is that a child born to a woman during a marriage is a child of the parties to that marriage, which is obvious. The second presumption is that a child born to a woman within 44 weeks after her husband's death is a child of her deceased husband.

The third presumption is that a child born within 44 weeks after a purported marriage is annulled is the child of her purported husband. The fourth presumption is that a child born to a woman after the dissolution of a marriage, but within 44 weeks after the period of resumed cohabitation on at least one occasion, is a child of her former husband. Call to Australia hopes that the bill will assist families in a practical way, particularly children in our society who are often confused about who their parents are. We hear more and more reports of children who go to school trying to relate to other children their family background, who their father is, their surname, and other practical difficulties that have been created by adults; through which children have to live, and as a result of which they often suffer anguish. Call to Australia supports the bill.

The Hon. Dr MARLENE GOLDSMITH [11.35]: I strongly support the remarks of the Hon. Ann Symonds, from the same perspective and the same experience gained as a member of the Standing Committee on Social Issues. I support the legislation because it solves an important need. But given the problems raised by the Hon. Ann Symonds, which I will not advert to because she raised them with clarity and cogency, I stress that the legislation is only the tip of the iceberg in dealing with the legal, ethical, social and political problems created by modern medicine with regard to egg donation, sperm donation and surrogacy. Sooner or later we will have to address these issues at law. The longer they are left the harder it will be. It will not be easy to try to deal with issues arising not only from adoption and surrogacy but from interventionist areas of medicine that are creating enormous ethical problems. This is an extremely important problem because we are dealing with people's lives, people's heredity, people's health, people's future spouses and the right of people to know where they came from.

The Hon. A. G. CORBETT [11.36]: I support the Status of Children Bill, which is the product of an agreement by the Standing Committee of Attorney's-General and complements recently adopted Commonwealth legislation. The bill is especially welcomed because it acknowledges that children, whatever their origin, are of equal status. It acknowledges their fundamental human rights to be seen as people in themselves, to be treated with dignity and respect, and to be entitled to benefits formerly reserved for children within a marriage. The legislation is also of value because in a world in which medical technology, as pointed out by other speakers, is creating more and more ethical, political, religious and moral dilemmas, and legislation is increasingly falling behind in dealing with the many unforeseen social implications at the time of the introduction of technology, it brings simplicity, be it only legally, to the fundamental question of who is to be seen to be the parent of a child. For example, the legislation contains a presumption that the mother of the child is the woman who gives birth to the child, whether the child is the outcome of a fertilisation procedure or a surrogacy arrangement. The bill will provide certainty and consistency in dealing with the legal interests of children, and this can only be of benefit to the community, the child and the family to which a child belongs. However, I do not doubt that we will have to revisit this, or similar, legislation at some time in the near future.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.38], in reply: I thank honourable members for their thoughtful support for the bill. The debate has demonstrated sophistication and understanding. I particularly thank honourable members who have suggested that further reforms might be needed and who have provided some guidance in that regard. The Government is cognisant of the need for children to be made aware of information relating to their biological or genetic heritage. It is also conscious of the need to protect the privacy of ovum and sperm donors. The

Government is examining this complex issue and will consult with the Department of Health and other relevant agencies on how best to resolve the difficult matter that honourable members have adverted to. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADJOURNMENT

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.40]: I move:

That this House do now adjourn.

TRANSGENDER DISCRIMINATION LEGISLATION

The Hon. Dr MARLENE GOLDSMITH [11.40]: On 3 June I had an article published in the *Sydney Morning Herald*. The article was entitled "The politics of correctness" and the first three paragraphs read as follows:

The NSW Legislative Council is about to debate new transgender vilification legislation that will, in effect, allow transsexuals free access to most female sport. In spite of a theoretical exemption for women's sport, the legislation will, by providing female birth certificates to transsexuals, allow them to compete in all but the elite levels, where chemical testing may occur.

If women should have separate sporting competitions from men because of their different physiology, then this legislation is grossly unjust. While transsexuals identify as female, they have the physical characteristics that give males an advantage in sports.

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Yet in 1991, when sportswomen tried to point out the unfairness of allowing Ricki Carne, a transsexual, to compete in female sports, they were howled down and attacked by the media.

I have read those details on to the record because of a letter that was subsequently published in the *Sydney Morning Herald* some days later. The letter was written by Neil Harris of Newtown and stated:

I wonder if Marlene Goldsmith has ever met a transsexual (*Herald*, June 3). The example given of the possibility of transsexuals participating in female sports resulting from the transgender vilification legislation is a cheap shot. It's not the major concern of transsexuals I know.

I've never met a tranny who hasn't been the victim of frequent and severe harassment. Most trannys have been bashed and raped by so called "normal" men. Unemployment is extremely high, due in part to having to leave school early from threats and violence from peers, and the consequent lack of vocational opportunity.

The letter continued to discuss problems faced by trannys and concluded:

I doubt many trannys want to represent the country on the sporting field if the legislation is passed. It will, however, provide a measure of protection for a group of extremely marginalised citizens of our State. If that's PC, then I'm all for it.

I took objection and I was extremely distressed by the letter because it implied that my concern was simply to have a cheap shot at transnys, as the letter stated - indeed, the *Sydney Morning Herald* entitled the letter "A cheap shot". The implication was that the only reason I raised the matter of transsexuals participating in women's sports was to have a go at transsexuals, that I wanted to condone their being beaten up, and that I was simply looking for an excuse to oppose the legislation, none of which was true in any sense. As a consequence, on 10 June I wrote to the Letters Editor, Ms Geraldine Walsh, as follows:

Madam,

Women's bodies are different. That is why we have women's sports. Transsexuals retain a number of male biological advantages in sports, and the new transgender vilification legislation will, in spite of a theoretical exemption clause, give transsexuals free access to women's competitive sports at all levels up to the most elite.

I would have thought such comments were simply stating the obvious, and defending a fair go for women. Instead, Neil Harris (Letters, June 8), implies that I condone the harassment and bashing of transsexuals.

So, who's having "a cheap shot"?

The *Sydney Morning Herald* chose not to run my letter. I rang Geraldine Walsh on Friday, 14 June to find out why and she said that she could not see any connection between calling my article a cheap shot, especially with the heading given to the letter, and my concern about what was actually written in the letter from Neil Harris. I simply wanted to clear my name - to remove an imputation that I condoned and promoted violence, which is a repugnant suggestion. The *Sydney Morning Herald* would not print my letter. It is fascinating that the letters editor, Geraldine Walsh, said that the *Sydney Morning Herald* would not print my letter because a transsexual wanted to take legal action about my previous article and offered an article to the opinion page instead. That was the reason given to me by Geraldine Walsh not to run my letter - in other words, blackmail from a transsexual. [Time expired.]

TAFE BONDI JUNCTION LAND DISPOSAL

The Hon. I. COHEN [11.45]: I draw the attention of honourable members to a matter of particular concern to many residents in the eastern suburbs of Sydney and, indeed, to all Australians who are concerned about the protection of scarce and precious remnants of urban bushland. I refer to the proposed sale of 1.9 hectares of land located at York Road, Bondi Junction, adjacent to Centennial Park and Queens Park. The site is currently in the possession of the TAFE commission. Despite protestations by and representations from numerous groups and individuals, the responsible Minister, the Hon. John Aquilina, has persisted with his deplorable plans to strip the community of a precious and irreplaceable asset. The land contains the last significant remnant of botany sand dunes and banksia scrub in the Waverley and Woollahra municipalities - a plant community that once extended from Port Jackson to Port Hacking. Only 0.3 per cent of the original plant community now remains.

The 30 or more indigenous plant species found on the site are not rare or threatened Australian plants, but they form one of the few remaining banksia scrub associations of plants. Although the bushland is in a degraded condition at present, many local residents and professional bush regenerators have shown interest in restoring the site. All those who have expressed concern are united in their view that the land should be returned to the Centennial Park and Moore Park Trust. This humble parcel of land formed part of the original Macquarie Common dedicated in 1811. In 1887 it was established as part of Centennial Park. It was only in 1930 that the land was transferred to the Eastern Suburbs Hospital under the Centenary Celebration (Amendment) Act. In the 1980s, the land was transferred to the TAFE commission, which has recently identified it as surplus to requirements. Apparently the

commission is determined to sell the land for a few fast bucks - despite its outstanding natural and cultural heritage value.

The consequences of selling the land will extend beyond the obvious loss of precious remnant urban bushland and public open space in one of the most densely populated areas of the city. I am informed that the Centennial Park and Moore Park Trust has grave concerns about the biological viability of the pond system if the sale proceeds and the hard surface on the site is extended. There is a fear that any extra stormwater runoff will be the proverbial straw that breaks the camel's back and pushes the already highly stressed and funding-

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starved pond ecosystem over the edge. Further, the extra traffic congestion and parking pressures that would be associated with development of the site would place further strain on the local community, increase pollution and displace patrons of the park.

It defies any reasonable faith in the Government's self-professed Green credentials that the Hon. John Aquilina is persisting with the sale of the land in the face of the representations made to him to keep the site in public ownership. Members of the Eastern Suburbs Community Gardens Association have written many letters to the Hon. John Aquilina and Premier Carr. The Mayor of Waverley, Barbara Armitage, wrote to the Premier on behalf of the council as early as 15 February 1996 to oppose the sale and to urge the Government to hand back care and control of the land to the Centennial Park and Moore Park Trust. The member for Coogee, the Minister for Local Government, the Hon. Ernie Page, and the honourable member for Vacluse, Mr Debnam, also met with the association and made representations to the Minister for Education and Training on this matter. The Acting Minister for the Environment, the Hon. Bob Debus, wrote a letter dated 17 April 1996 to a local resident in the following terms:

Please be assured that the Minister has noted your concerns in relation to this matter. I am advised that Centennial Park and Moore Park Trust also shares your concern as the site contains extensive remnant vegetation unique to the area.

Consequently, I have taken the liberty of referring your correspondence to the . . . Hon John Aquilina MP, asking that he gives consideration to protecting this vegetation by transferring ownership of the site to the Centennial Park and Moore Park Trust, so that it can be enjoyed by all members of the community for future generations.

If Premier Carr is at all concerned to prevent any further loss of this Government's rapidly peeling Green veneer, I call on him to immediately intervene and have the Minister for Education and Training order that the TAFE Commission withdraw this land from sale and hand it over to the Centennial Park and Moore Park Trust. Even Premier Carr himself, in a letter dated 15 May, informed a local resident that he had specially acquainted the Hon. J. J. Aquilina with the terms of their letter asking that the site be saved. Yet in spite of this impressive list of advocates for preserving this land I am informed that correspondence has been received from the TAFE Commission, as recently as 5 June, which unswervingly states that the land is surplus to requirements and is due to be sold. Quite simply, the Government's handling of this issue is a disgrace, and makes a mockery of the Premier's commitment to the greening of Sydney.

TELSTRA PRIVATISATION

The Hon. P. T. PRIMROSE [11.50]: The proposal by the Federal coalition Government to sell one-third of Telstra will have disastrous effects for the people of New South Wales. I urge the Senate committee examining the Telstra (Dilution of Public Ownership) Bill to recommend that the bill be rejected. Key concerns have been raised by the Communications Electrical Plumbing Union - CEPU - the trade union representing the 170,000 workers in the telecommunications, postal, electrical and plumbing industry. Ian McCarthy, Secretary of the New South Wales Telecommunications and Services Branch of the union has pointed out that the plan to sell Telstra threatens the standard of service and the

affordability of service currently provided by Telstra and will also substantially reduce Australia's ability to utilise all the benefits offered by current technological developments.

It also places in jeopardy the jobs of the 30,000 Australians employed by Telstra, many of them in New South Wales. The Federal coalition Government has said that it will use most of the proceeds of the Telstra sale to retire debt. But Telstra is set to make profits of about \$2 billion next year and more in the years ahead. What sense does it make to sell such a profitable asset? Ian McCarthy and the consumers telecommunications network have pointed out that there are considerable concerns for consumers in the privatisation proposal. Though the Federal Government says it will retain the right to untimed local calls, it will apply only to standard telephone services, which are strictly defined as a fixed voice telephone line. This standard definition does not cover lines with decent data carriage capacity. It fails to cover teletypewriter users.

Under the Federal coalition's bill rural and remote users will never get access to new information technology as it will not be financially viable for a private operator to provide the service, and the universal service obligation will only require provision of a voice telephone. In addition, competitors to Telstra will be able to make up their own local call zones, which may be smaller in area than the existing zones. Consequently, untimed local calls may only be made available in a small area or in different areas for different carriers - all very confusing for consumers. Many of the so-called consumer protections apply to carriers but most consumers will be dealing with service providers who are not covered by the regulations and who may therefore be able to get away with poor quality and unfair pricing. Telstra should remain in public ownership.

MUSEUM OF CONTEMPORARY ART

The Hon. J. M. SAMIOS [11.53]: I wish to draw the attention of honourable members to the achievements of the Museum of Contemporary Art and the need for more gallery and exhibition space. The Museum of Contemporary Art is a great flagship of the visual arts in New South Wales and in Australia. It was established in 1989 by the University of Sydney and the coalition Government, with Nick Greiner as Premier and Peter Collins as
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Minister for the Arts. The University of Sydney acted in the role of trustee of the John Power bequest, which has resulted in an important collection being available to the museum. Since that time the Museum of Contemporary Art, which is established at the Old Maritime Services Board Building, has been blessed with a number of achievements as the result of good works and dedicated staff and a committee of directors who have served under the capable chairmanship of the foundation chairman, Michael Sinclair, who was succeeded by Geoffrey Cousins and presently by John Reid. Throughout that period since 1989 the director has been Leon Paroissien, who has distinguished himself in his important role, ably assisted by the chief curator, Bernice Murphy, and a dedicated staff.

Although largely self-funding, the Museum of Contemporary Art has in a short space of time established itself as a prominent gallery with a national and international profile. It has enjoyed a number of important donations, including the Arnott's collection of Aboriginal works and the Loti and Victor Smorgon collection of contemporary Australian art embracing 150 works of Australian artists. Last year the program of the Museum of Contemporary Arts in exhibition celebrated past achievements and future potential, for example, in the works of John Kaldor and the internationally acclaimed work of the Jeff Koons' Puppy outside the Museum of Contemporary Art that has so caught the imagination of the people of Sydney.

More recently the museum has sought the exhibition and gallery space that could be available if it were to succeed in obtaining the fifth and sixth floors presently leased by the State Government. Dialogue has been entered into with the State Government. It is to be hoped that the Government will move promptly to assist this fine Australian institution in obtaining the necessary exhibition space so that

it can provide a greater array of exhibitions of contemporary work for the benefit of overseas visitors as well as a large Australian group of dedicated supporters.

Motion agreed to.

House adjourned at 11.58 p.m.
