

LEGISLATIVE COUNCIL

Thursday, 20 June 1996

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

The President offered the Prayers.

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**.

PREVENTION OF CRUELTY TO ANIMALS ACT: DISALLOWANCE OF AMENDMENT TO REGULATION

Precedence agreed to.

The Hon. R. S. L. JONES [11.06]: I move:

That under section 41(1)(b) of the Interpretation Act 1987, this House disallows the amendment to the Prevention of Cruelty to Animals (General) Regulation 1981, published in *Government Gazette* No. 156, dated 22 December 1995, page 8711, notice of which was tabled on 16 April 1996.

The Royal Society for the Prevention of Cruelty to Animals, under the guidance of Charles Wright, attempted to minimise the cruelty to battery-caged hens. Regrettably, in attempting to compromise with the egg industry - as it might be called - Mr Wright facilitated the industry to regulate the legal allowance of cruelty to hens. I discovered on my desk this morning a leaked document from the Department of Agriculture. Conveniently, it came just in time for this contribution. The document did not come from the Minister's office; it came directly from the department. The document is entitled "Minimum Space Allowances for Battery-Caged Hens - Prevention of Cruelty to Animals Regulation (1981) (as amended in 1996)" and discusses the impact of battery-caged housing on layer hen welfare and the increased mortality in hens stocked at space allowances recommended for maximising the economic returns from the system.

The document refers to the effects of the battery-cage system on hens, including neuromas, of a type usually associated with chronic pain, in the beaks of layer hens as a consequence of the need to surgically amputate the beak to reduce the impact of stereotypic, repetitive, and aggressive pecking behaviours that result from crowding and inability of subordinate hens to escape from such pecking. It refers to long-bone fractures in 15 to 30 per cent of all so-called spent hens at the end of their useful egg-laying life as a result of depletion of skeletal calcium reserves to meet the high calcium demands on the hen for egg shell production. Disuse osteoporosis is also mentioned, particularly in the leg and wing bones, which is associated with the severe restriction of movement, absence of perches in battery cages, poor cage-door design and rough handling by unskilled labour removing spent hens with a low commercial value from cages at the end of their productive

lives.

Also discussed is the evidence of the repression of normal behavioural patterns and the occurrence of abnormal behaviours indicative of anxiety and frustration states, apparently as a result of the inability of hens to express certain normal behaviours when confined in battery cages. I could put on record the scientific evidence that I have available, but I will not have time to do so given that I am restricted to 15 minutes. The document refers to high rates of tissue injury, including damage to feet from wire flooring and severe injuries associated with the entrapment of heads, wings and feet between cage wires, and to periodic massive hen mortality associated with heat stress in inadequately ventilated battery-cage buildings. The document states that it is not unusual for thousands of caged hens to die from heat stress on a single summer day.

Incidentally, there is no regulation for ventilation or lighting, or for anything other than the minimum size of a cage. The Government at the time of making the regulation by amendment indicated that the regulation would improve the welfare of layer hens in battery-cage housing. The regulation was introduced to implement an agreed national standard arising from a recommendation of the 1994 national hen housing review. There is, however, a considerable body of scientific evidence now available to demonstrate that the recommendation for a minimum space allowance of 450 square centimetres per bird is not scientifically sound.

It is stated that the overwhelming weight of scientific opinion in Australia, New Zealand and Europe is that 450 square centimetres per bird is not an adequate space allowance for layer hens. That is based on a large body of scientific research data, some of which I have in my possession but which I may not be able to refer to given the time limitations on my speech. The document states that no acknowledged welfare scientist anywhere in the world has suggested that hen welfare is optimal at 450 square centimetres. The document states further that on the basis of available scientific evidence compliance with the regulation may actually be permitting the infliction of distress and suffering which in other circumstances or in other species would clearly constitute an act of cruelty sanctioned under this legislation.

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I put to the Regulation Review Committee that by allowing this regulation to remain it was in fact legally sanctioning cruelty. That is an unfortunate by-product of the regulation. The document states that the regulation will lead the courts to the finding that any evidence of pain, distress or suffering in caged layer hens must be associated with factors other than their cage space allowance in circumstances where the hens concerned have been given the arbitrary minimum required space allowance. In other words, this regulation inhibits people going to court to find evidence of suffering as a result of minimum cage size. There is abundant evidence, both locally and overseas, to show that this minimum cage size does in fact cause pain, distress and suffering in caged layer hens - which indicates that the regulation is worse than having no regulation at all.

In effect the regulation provides a statutory defence for egg producers against a general charge of cruelty - not the creation of an improved standard of welfare for layer hens. The regulation merely endorses what is already happening in the majority of cases; It merely endorses an arbitrary space allowance which approximates the existing industry practice. The document further states that by virtue of the way in which the regulation will be applied it may actually reduce rather than increase the statutory protection afforded in the past to caged hens by the Prevention of Cruelty to Animals Act. In effect the regulation authorises the ongoing confinement of layer hens at a level that scientists and other people in the community believe may be the cause of significant distress and suffering.

The regulation - as I have been trying to impress on the members of the Regulation Review Committee, many of whom I think would agree with me - gives credibility to, and will legally entrench, an animal welfare standard which is inconsistent with current informed community opinion. In fact the regulation, apart from preventing cruelty, will actually reduce the opportunities for the RSPCA and concerned citizens of New South Wales to prevent ongoing cruelty to battery cage hens by demonstrating publicly, through the courts, a relationship between confinement at space allowances above 450 square centimetres per bird and distress or suffering of hens used for battery egg production. The regulation has in fact protected egg producers from

being taken to court under the Prevention of Cruelty to Animals Act - which is an extraordinary by-product of an Act that is supposed to improve animal welfare. This restriction on the proper activities of the enforcement agencies appointed under the Act is against the spirit of the legislation. I quote from a passage in the document under the subheading entitled "Purpose of the Prevention of Cruelty to Animals Act":

This Act is "*an Act for the prevention of cruelty to animals*" and "*animal*" is defined to include birds. The Act regulates the confinement of animals. "*Confine*" is defined to include keeping any animal in captivity by means of a cage. It is clearly the intent of the Act to prevent the confinement of any animal, including any "*stock animal*", to the extent that the animal experiences pain, distress or suffering as a result of that confinement.

Whilst s9(1A) provides a statutory exemption of all "*stock animals*" (farm livestock) from the requirement of s9(1) that adequate exercise be provided to all confined animals, this exemption does not in any way authorise the infliction of pain, suffering or distress upon an animal as a direct or indirect consequence of the degree of that confinement. Confinement of any animal, including a layer hen, to the degree that the confinement causes pain, suffering or distress to the animal, constitutes an offence of "*cruelty*" under the Act.

There is no evidence, scientific or otherwise, that the regulation in question is giving effect in New South Wales to the provisions of the Prevention of Cruelty to Animals Act. The regulation is not preventing cruelty to animals. I would remind the House that this document comes from a senior scientist with the Department of Agriculture. It does not come from a clerk or from someone who does not know about these things. The document was leaked to me by someone in the Department of Agriculture. This scientific evidence really makes a mockery of the Government's insistence to retain the regulation. By simply entrenching existing industry practice -

The PRESIDENT: Order! Is the Hon. R. S. L. Jones quoting from a document?

The Hon. R. S. L. JONES: I am quoting from a document, yes.

The PRESIDENT: Order! The member will identify the document.

The Hon. R. S. L. JONES: The document is from the Department of Agriculture. It is an official document of the Department of Agriculture which refers to minimum space allowances for battery cage hens. The document states further:

By simply entrenching existing industry practice for the space allowed to caged layer hens or, at the very most, by legislating for a small increase in space allowance which provides no demonstrable improvement to hen welfare, this regulation fails to carry out or give effect to the purpose of the Act and thus may be *ultra vires*.

The regulation may well be *ultra vires* and challengeable in a court. I continue to quote from the document:

(It cannot be said that the regulation is providing any additional protection for caged hens above that in the Act itself because of the confinement of any animal to the extent that it experiences pain, distress or suffering as a result of that confinement is *already* an offence under the Act.)

By introducing a legislative standard which is inconsistent with available scientific data, the new regulation has introduced for the first time in New South Wales a mandatory minimum space allowance for hens kept in battery cages. The regulation entrenches a standard that is contrary to the purposes of the Act under which it was purported to be authorised. It can be expected that a continuing stream of scientific data concerning the impact of typical battery cages on the welfare of layer hens will emerge in the future. This will demonstrate the inadequacy of the minimal standard established by this regulation. The prescriptive standard in this regulation is already demonstrably inconsistent with

the purposes of the Prevention of Cruelty to Animals Act and, as the document states, "is possibly beyond the power of the Parliament to make as a regulation under that Act". I do not think the Regulation Review Committee has any idea that this regulation is ultra vires to the Prevention of Cruelty to Animals Act and that if it is not supported in this House may be struck down anyway in subsequent court action. The scientist states further:

It could be struck down in the courts on that basis in the future.

I will certainly be following that course and, if necessary, funding the court case with my own money. The people of New South Wales will ultimately see this regulation for what it is: a legal device for protecting the economic interests in the battery cage industry against the possibility of incurring the costs of improving hen housing in response to evidence of cruelty in existing battery cage production systems. It is unlikely that the average citizen of New South Wales could be convinced that this regulation is a legislative initiative for the prevention of cruelty to battery cage hens if he or she were fully informed about hen housing systems used for commercial egg production in New South Wales. The paper to which I have referred, which was prepared by a senior scientist in the Department of Agriculture, was suppressed and not forwarded to the Regulation Review Committee. Had the committee taken evidence from the author of the document, it would have had no alternative but to support the disallowance of the regulation. The final comment in the paper states:

Labelling of eggs at the point of wholesale and retail sale to indicate the hen housing system in which they were produced will permit consumers to exercise choice in the type of eggs they purchase. If this is to be the mechanism by which community opinion on hen welfare will be brought to bear in the future on the egg industry, the POCTA regulation concerning minimum space allowance is not only unnecessary, but may actually create a false sense that some action has been taken by government on behalf of the community to improve hen welfare. This may induce a belief that the signalling of community opinion to the egg industry through product choice by consumers will be less important as a means for improving hen welfare.

I shall make the document available to honourable members. It shows quite clearly that the leading scientist in the Department of Agriculture is opposed to the regulation as it stands because it is ultra vires - and that will be proved in court. Before this matter is fully debated the Regulation Review Committee will have the opportunity during the recess to interview the author of this paper and to obtain more scientific and legal advice about the effect of this regulation. It is clear that the regulation is ultra vires, is not in the spirit of the Prevention of Cruelty to Animals Act and is merely a device to legally entrench cruelty to hens. [*Time expired.*]

Debate adjourned on motion by the Hon. Dorothy Isaksen.

CONSTITUTION AMENDMENT (OFFICE OF GOVERNOR) BILL

[Council Bill]

Suspension of standing and sessional orders agreed to.

Motion by the Hon. D. J. Gay agreed to:

That General Business Order of the Day No. 1 relating to the Constitution Amendment (Office of Governor) Bill be called on forthwith.

Second Reading

Debate resumed from 6 June.

The Hon. J. M. SAMIOS [11.23]: The object of the Constitution Amendment (Office of Governor) Bill is to amend the Constitution Act to require legislation to be enacted before certain action is taken in relation to

the office of Governor or the role of Government House, to provide that a referendum is necessary before such legislation can be assented to and to provide machinery for provisions for such a referendum. I wish to refer to the interference with the democratic process by the Carr Government. The Hon. Elisabeth Kirkby put the issue succinctly in a press release of 17 January, which stated:

The Carr Government has announced these changes to the office of Governor . . .

Many citizens are justifiably outraged at being denied the opportunity to decide for themselves at referendum just what the future role of the Governor will be. Mr Carr has bypassed the democratic process.

To simply announce that the role of the Governor will be downgraded and the official residence turned into an art gallery, monorail station or other whim of the moment is the height of arrogance and will impact adversely on the likelihood of a smooth transition to Australia becoming a Republic. People will dig in their heels.

By seeking to cloak these changes in argument about the cost of the Governor's office to taxpayers . . . Mr Carr is insulting the intelligence of the people of NSW as well as trampling all over the democratic process.

The bill should be supported for many good reasons. A pivotal argument is used by the Hon. Elisabeth Kirkby in her press release: interference with the democratic process by the Carr Government. The Constitution Amendment (Office of Governor) Bill, which provides for a referendum on the issue, is constructive and pivotal, and I support it.

The Hon. J. S. TINGLE [11.27]: I support the Constitution Amendment (Office of Governor) Bill. I am bemused, not amused, by all the fuss surrounding the office of Governor and the function of Government House - mainly because none of it was necessary. The questions that are raised relate to, first, whether the change should have taken place and, second and importantly, the manner in which the change was effected. I ask honourable members to fantasise for a moment and hypothesise that Australia is a democracy. Of course, that requires an outrageous leap of imagination, but let us imagine for a minute that Australia is a democracy! Surely in a democracy the will of the people expressed or understood must determine what governments do.

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Governments are supposed to try to gauge the will of the people by consulting and asking the people. Governments do not govern by imperialist decree. It seems that these days consultation at the Federal and State levels takes the form of governments saying to the people, "This is what we will do. If you don't like it, tough, but this is what we have decided." I do not believe that form of consultation in any way underpins what Australians believe a democracy ought to be. There was no call for the change in the role of either the Governor or Government House. I am certainly not aware of mobs rioting in the streets demanding that these changes be made, but I am aware of a huge rally after the changes. The number of people at that rally demonstrated that people did not want the changes.

The move by the State Government was unnecessary. The Government claimed it was giving back Government House to the public, but it was giving back what the public had not said it wanted. At the time the Premier said that he was not changing the Constitution, and I agree. But he was certainly changing the way in which the Constitution is applied, and that is as serious an error as trying to change the Constitution without a referendum. Changes to the way the Governor functions, to the level of his role, and to the use to which Government House should be put are changes to the role of the Governor and of Government House as set out in the Constitution. Any decision to change the role of the Governor, the use to which Government House should be put, or the whole role model of Governor should be made by the people.

It is fairly well known that people are comfortable with recognised and familiar institutions. They become used to them. They feel safe and secure with them. They become disturbed when these institutions are changed without warning in a way that they do not understand. Surely the public outcry over these changes

shows exactly that they were not made in an acceptable way. I understand that the Premier believes that when bringing in reforms one should hit quickly and hard and then get out after having done it. That may be fine for governments, but it is extremely difficult for ordinary people to accept. People need time to adjust to change; they need to consider change and to accept it or reject it. Important issues of public disquiet are involved in this whole affair.

The office of Governor does not just involve the tea and scones circuit, as it was so scathingly described during the original debate on these changes, or the promotion and perpetuation of pomp and circumstance. Australian people are not great letter writers. They will ring up but they do not like to sit down, slug out a letter, seal the envelope, put a stamp on it and take it to the post office. Despite that, people who perceived the changes in the way the State was being governed sat down in their thousands and wrote letters. My office received many hundreds of letters. At the height of the controversy, my secretary and my staff were taking 90 minutes every day to open the letters protesting about what had been done to the role of the Governor and to Government House.

These letters came from all spectra of society: people who said they were republicans, people who said they were monarchists, and people who said they were neither. One common thread that ran through all of those letters can be summed up this way. In their letters people were saying to me that they have little respect for politicians. I am sure honourable members will be shocked and surprised to hear that. People do not have a great deal of respect for Ministers, or Premiers or Opposition leaders. Because they cannot respect those who are supposed to govern this State, people said that they need a figure to look up to; they need assurance that there is a backstop if the Government should ever go wrong.

People believe that the Governor not only needs to perform a role but needs to be seen to be performing a role. These events are a curious throwback to the events of November 1975 and to what might be called the interface between the Governor-General and the Government of the day. Having read the letters sent to me, I believe that the Government was absolutely out of step with the mood of the community when it decreed these changes to the role of the Governor. If the Government was out of step with what people wanted, surely it was out of step with democracy. The bill is not retrospective. For the time being it does not stop Government House from being used for purposes other than the Governor's official residence. However, the bill seeks to prevent the use of a imperialist decree issued from above that tells the people of New South Wales of a subtle but important change in the way the Government of the State is administered and then says to them that they can like it or lump it.

Perhaps one day the Constitution will be changed. Perhaps one day the office of Governor will be done away with. But I emphasise to members of this House that they will be matters for people to vote on; they will not be matters for one politician to simply issue a decree about. Until the day the people of this State decide that they want to change the way they are governed, this bill will provide protection against a repetition of that sort of decree. It should not have been done in the way it was done or at the time it was done. My advice to the Government in relation to the office of the Governor is that it should have remembered the old adage "If ain't broke, don't fix it".

Reverend the Hon. F. J. NILE [11.35]: The Call to Australia Party is pleased to support the Constitution Amendment (Office of Governor) Bill. We congratulate Hon. D. J. Gay for preparing and presenting the bill to the Parliament. We appreciate the initiative and the leadership he has shown. The overview of the bill reads:

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The object of this Bill is to amend the *Constitution Act 1902* so as:

- (a) to require legislation to be enacted before certain action is taken in relation to the office of Governor or the role of Government House, and
- (b) to provide that a referendum is necessary before such legislation can be assented to, and

(c) to provide machinery provisions for such a referendum.

Everyone was shocked when the Premier - without any mandate, without discussion or consultation with the former Governor, Rear Admiral Peter Sinclair, without consultation with the public or with the Parliament - unilaterally announced that he, to all intents and purposes, was closing down Government House, kicking the Governor out and putting him into a little office at 120 Macquarie Street, the old Chief Secretary's building. To those of us who strongly believe in our Constitution, constitutional democracy and constitutional monarchy, that was clearly creeping dishonest republicanism, a back-door way of trying to create a particular atmosphere in which the downgrading of the Governor's office would make it easier for some future date to eliminate the position altogether.

An argument is apparently going on in the Premier's mind. He claims that nothing very important has been done. He has misunderstood completely the role and the position of the Governor. The most important aspect of the Governor's position is his role as an independent authority in this State. He must be independent of the Labor Party, the Liberal Party, and the National Party. He must have the ability to exercise his role without fear or favour and to exercise his constitutional duties with complete confidentiality. So, it is not a question of bricks and mortar; it is not a matter of saying that the Governor can still perform his official duties in an office in Macquarie Street.

Recently Queensland and Tasmania had constitutional crises. The Governors of those States played a key role in resolving those crises. They had confidential consultations with the leaders of the political parties. They had confidential consultations with senior legal advisers who were advising the Governors; the Governors were not legal experts. When constitutional crises arise, Governors need to be able to get expert advice without the scrutiny of the media, and without people looking over their shoulders. That is why it is essential that Government House should be the Governor's headquarters, the place where he can carry out his official duties.

The same problems arose in 1932 when Sir Philip Game removed the Labor Government, which had been involved in illegalities, from office. The same thing happened in 1975 regarding the Governor-General, John Kerr. That Governor and Governor-General had to be able to speak to people confidentially so they could then make reasonable thought-out decisions. The closure of Government House directly affected the ability of the Governor to carry out his constitutional duties, both in the illusion and in the reality. The Governor needs to have his own personal headquarters, Government House, and his own staff. As part of his duties he receives ambassadors and consuls, and he must have the necessary prestige to do that. I do not want the Governor of New South Wales receiving an ambassador in an office in Macquarie Street.

The ambassador from Indonesia or any other country should be able to drive up to Government House and be received in a manner befitting his position. The Governor should be able to receive him on our behalf in the prestige provided by Government House. Government House is not New South Wales Government House. Government House is the Governor's headquarters. I believe the Premier and some members of the Australian Labor Party, particularly those with a republic bent, regard Government House as the New South Wales Government's house. It is not the New South Wales Government's house; it is the Governor's house, the Governor's headquarters. It is a disgrace that these arrangements have been interfered with. A conflict has arisen between the duties of the Governor and the duties of the Premier.

The Governor is the protector of the Constitution, the protector of the people's rights and freedoms, and the protector of the people against dictatorial political leaders. Mr Carr may not be the worst kind of dictatorial leader but down the line New South Wales could have such a leader and people who now wish to remove the Governor may then wish for a Governor to protect the Constitution and the people against such a political leader. I regarded with irony the Governor of New South Wales making important announcements regarding Commonwealth Day in the dining room of Parliament House at the same time that Mr Carr was at Government House making announcements about Seniors Week. He had reversed the roles: he was playing Governor and the Governor was here in Parliament House, in Mr Carr's territory. That showed the stupidity of the Premier's decision and his arrogance at Government House in acting like a puffed up politician who is too big for his

boots. I support the bill 100 per cent.

The Hon. ELISABETH KIRKBY [11.42]: At the start of my remarks I clearly state that I am a member of the Australian Republican Movement and that I wish for Australia to become a republic, but that will have to be done by due process of law. Unfortunately, there has been no consultation on the matter. My Federal leader, Senator Cheryl Kernot, has been calling for at least two years for conventions to be held so that people may understand how a republic will come about.

[Interruption]

In spite of what the Hon. Franca Arena says, there is so much confusion that, unless there is further public discussion when the referendum is held, it will be lost. We are yet to decide whether our first president will be elected by the people or

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by Federal parliamentarians. People want to know what sort of a republic we are likely to have. They are naturally very suspicious when they think governments are trying to impose something, or even to take something away. Discussion has been missing so far. There should be more discussion so that people understand the constitutional situation. The constitutional situation of this State depends on the Australia Acts of 1986: legislation introduced by a Labor Prime Minister and legislation which is binding on all the States.

The links between the States and Britain were severed by the Australia Acts in 1986. To make certain the legislation was effective, the same Act, in substance, was passed by the United Kingdom at the request of the Commonwealth and States and by the Commonwealth at the request of the States pursuant to section 51 of the Commonwealth Constitution. Section 1 of the Australia Act terminates the power of the United Kingdom to extend its legislation to become part of the law of the Commonwealth, a State or a Territory. Section 3 of the Act releases the States from the effects of the Colonial Laws Validity Act of 1865 and declares that no law shall be deemed void because it is repugnant to the law of England. Section 8 provides that once the State Governor has assented to State legislation it is not subject to disallowance by the Queen or suspension of operation pending her consideration.

Section 9 provides that no law shall be of any force to the extent that it requires the Governor to withhold or reserve assent to any bills. Section 10 terminates the responsibility of the Government of the United Kingdom for the government of any state. Section 11 terminates appeals to the Privy Council from any State. I do not think people realise the provisions of the legislation. Ironically, the Australia Acts initiated by the Labor Government in Canberra, while breaking some ties between the States and the Queen, entrenched the position of the Governor as the representative of the Queen in the State. Section 7 of the Australia Acts - this is not an archaic piece of legislation; it is only 10 years old - sets out the relationship between the Queen, her representative and the state. This section provides:

- (1) Her Majesty's representative in each State shall be the Governor.
- (2) Subject to subsections (3) and (4) below, all powers and functions of Her Majesty in respect of a State are exercisable only by the Governor of the State . . .
- (4) While Her Majesty is personally present in a State, Her Majesty is not precluded from exercising any of Her powers and functions in respect of the State that are the subject of subsection (2) . . .

There are very differing views about this section. Professor Winterton argues that section 7 is not specific enough to entrench the monarchy. However, there is other legal opinion that argues that the Australia Acts will have to be amended, in addition to the Commonwealth Constitution, for Australia to become a republic. That is what people should be considering and should understand. As long as there is a Queen of Australia - and that will be the case until we have the referendum - it would appear that any legislation by a State which amended its Constitution to cut the links between the Governor and the Queen would be repugnant to section 7 of the Australia Acts, which expressly provides that "Her Majesty's representative in each State shall be the Governor".

This means that it does not matter what the Premier of a State may do or attempt to do, the Premier is still bound by the Australian legislation, not foreign legislation - the Australia Acts of 1986. When the Premier fiddled around the edges it evinced an enormous backlash. The size of the rally of 15,000 people protesting about the role of the Governor was second only to the size of the rally of extreme right-wing groups representing extremists of the gun lobby - certainly not the Shooters Party represented by the Hon. J. S. Tingle. The Government should consider very carefully what it is going to do if it attempts again to downgrade the role of Governor. I do not think it will succeed in further downgrading until there is a referendum.

The Commonwealth Parliament alone does not have the power to abolish the office of Governor in this State. To abolish the position of Governor in a State changes will have to be made to the State's Constitution. The constitutions of New South Wales, South Australia and Tasmania refer to the position of Governor but my legal advice is that the position is not entrenched in our State Constitution. Had it been entrenched, any change to the position would require a referendum in New South Wales, just as a referendum was necessary to change the Constitution of this Chamber. That will not be necessary, but State legislation will be necessary. As I said a few moments ago, neither a special majority nor a referendum will be required. The way Mr Carr acted earlier and the disgraceful way he prorogued the Parliament evinced a strong backlash, of which he is now well aware, and that had a great deal to do with the drop in his popularity. It also probably had a great deal to do with the Labor Party losing the Federal election in March.

I do not believe that the leaders of the Federal Labor Party are too happy about what the Premier of this State did, particularly as it was a unilateral action. Mr Carr did not even discuss the changes with his Cabinet colleagues; it was not a decision of the full Australian Labor Party caucus. It was simply a whim. As time is pressing, and the House wishes to divide on this bill before question time, I will not read all the legal advice I have received. Because the Australia Acts prevail, because the Australia Acts protect the position of Governor in this State, and because it is evident that the position of Governor in this State cannot be abolished without legislation, I believe that the legislation, although the Hon. D. J. Gay introduced it with the best of intentions, is not necessary.

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The Hon. Franca Arena: Would you please leave me some minutes to speak? Would you be considerate for once and let somebody else speak, as we have to finish before 12 o'clock?

The Hon. ELISABETH KIRKBY: This House has a list of speakers. I had not noticed that the Hon. Franca Arena had decided that she wished to speak in this debate.

The Hon. Franca Arena: After hearing all the rubbish that you have been saying -

The PRESIDENT: Order! The Hon. Elisabeth Kirkby has the call.

The Hon. ELISABETH KIRKBY: I have cut my remarks to the bone. Previous speakers spoke only for a short time, and I do not believe it is up to the Hon. Franca Arena to dictate to me for how long I can or cannot speak on this bill.

[Interruption]

The PRESIDENT: Order! The Hon. Elisabeth Kirkby has the call and is entitled to proceed uninterrupted.

The Hon. ELISABETH KIRKBY: I know that the Hon. D. J. Gay is worried that unless his bill is passed further attempts will be made by the Government to tamper with the role of Governor. I do not believe that will happen because the State is protected by the Australia Acts. If the State Government of the day introduced legislation to abolish the role of Governor, as it would have every right to do, that would not alter the

effect of the Australia Acts of 1986. Those Acts will remain in force until a referendum is held. No-one, not even the most ardent republican, can do anything about that. However much they may hate the present situation and however much it may irk them, they cannot change it.

The Australian republican movement should be gathering more strength and demanding the sorts of conventions that were held more than 100 years ago, so that people are informed and will demand a referendum. Time is perilously short. It is now June 1996. In 1997 a public relations campaign will be needed to make the result of the referendum clear cut. The Hon. Franca Arena has a close commitment to the Australian republican movement. I wish the movement was doing more to advance that process before the referendum because, sadly, it does not appear to be doing very much. Every year I pay my subscription to the movement, but I do not hear much from it otherwise. Much as I appreciate the views put forward by the Hon. D. J. Gay, and much as I appreciate the reason he introduced this legislation, I do not believe it is necessary. When the House divides I shall not support the bill.

The Hon. FRANCA ARENA [11.54]: God save the republican movement from members like the Hon. Elisabeth Kirkby because with friends like her who needs enemies? I am proud to be a founder member and director of the Australian republican movement. The bill has nothing to do with the republican movement. I do not deny that the Premier did not handle this issue too well. I will not defend the process which, perhaps, could have been better handled. There is no doubt in my mind that that is true. The House was prorogued well before the new Governor was announced and these steps were taken. This House was prorogued in December 1995 because of the Federal election. Neither the Liberal Party nor the Labor Party wanted the State Parliament to sit.

The Premier in his wisdom, thinking that the people of New South Wales would support him - and, indeed, they have supported him - decided that the Governor should be only a part-time Governor and that Government House should be open to the people. I was absolutely dismayed to hear what Reverend the Hon. F. J. Nile said. He is generally a sensible person, but he has been blinded by his monarchical ideas. He said that the process had been reversed: that the Premier was in Government House while the Governor was in Parliament House. The reality is that as a member of the Government, I have been down to Government House on many occasions. I have been there during Seniors Week, with the Ethnic Communities Council, and with members of the community. I have been there for the Australia Foundation Awards.

Government House has always been open to the people. It is not only the purlieu of the elite group in our community who have got the nod from the Governor to go there to have tea while wearing hats and gloves. It is for everybody, and that is how it should be. I pay my deep respects to former Governors of this State and to the present Governor for the excellent work they have done and are doing. I have nothing but the greatest esteem for them. During my work I have always accepted the kind invitations that have been proffered to me. I have been to Government House in Canberra and to Government House in New South Wales, but only on official occasions. I have been invited to dinner by Mr Hayden and I told him that I was not prepared to go to Government House as a guest until Australia becomes a republic. To be two-faced is unacceptable to me.

It is important to look in historical terms at this bill and to decide what we are going to do today. What we vote on today is absolutely irrelevant. The Hon. D. J. Gay and the monarchical group will boast and skite about having support for this bill. But where will this bill go? Nowhere! After it is passed through this House it will be discarded in the dustbin of history. In the dustbin of history will be the names of all the monarchists who do not stand up for their own country. They look on a person like me, who is as Australian as you, Mr President, as coming from a lawless country. I have a right to my own background, as you do, Mr President. You have no right to impose on me your monarchical system.

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The people will decide on these issues. The pyrrhic victory today of the Hon. D. J. Gay will be just that: a pyrrhic victory. I know that I have to finish my speech, and I have been told I should not be speaking on this bill because it does not really matter. But I want to put on the record my absolute opposition to this bill and my

contempt for the crossbenchers who told me that the bill is not really important, it does not really matter. It does matter. Their pyrrhic victory and their names on the record of history will show future generations what a scam this bill is.

The Hon. D. J. GAY [11.59], in reply: I thank honourable members for their contributions and for the spirit in which the debate has been conducted. I commend the bill.

Question - That this bill be now read a second time - put.

The House divided.

Ayes, 21

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

Noes, 19

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

Question so resolved in the affirmative.

Motion agreed to.

Council Bill read a second time and passed through remaining stages.

QUESTIONS WITHOUT NOTICE

ROYAL COMMISSION INTO THE NEW SOUTH WALES POLICE SERVICE POLICE VICTIMS REVIEW

The Hon. J. P. HANNAFORD: My question without notice is directed to the Attorney General.

Following the decision of the police royal commission to review more than 100 deaths in which New South Wales police are suspected of being involved, has the Attorney General considered the possibility of the entitlement of families of the victims to compensation?

The Hon. J. W. SHAW: As the Leader of the Opposition knows, the royal commission proceeds without any particular consultation with the Government. So what I know of the foreshadowed evidence, or possible evidence, is really revealed to me by the daily newspapers. I have not given any serious or sustained consideration to the notion of compensation arising from police wrongdoing in the specific respect mentioned in the question. I have, of course, turned my mind to more general considerations about compensation. I have indicated that if anybody claims to have been wrongfully convicted or otherwise wrongly treated by the criminal justice system and has a legitimate claim based on wrongdoing, compensatory payments can be considered on their merits, on a case-by-case basis. Obviously, if the very serious and profound wrongdoing that seems to be foreshadowed by this morning's newspapers is backed by evidence put before the royal commission, all of us will be bound to give thought to what redress ought to be available to those who have been the victims of such wrongdoing.

ROYAL COMMISSION INTO THE NEW SOUTH WALES POLICE SERVICE POLICE VICTIMS REVIEW

The Hon. J. P. HANNAFORD: I ask the Attorney General a supplementary question. In view of the Attorney's comment about providing a system for compensation, and since the United Kingdom established an independent miscarriage of justice unit to deal with all such matters, will he reconsider his refusal to establish an independent miscarriage of justice unit, and will he be prepared to pursue the establishment of such an independent unit as a matter of urgency?

The Hon. J. W. SHAW: I think the word "refusal" is incorrect. I do not have a closed mind on the issue. I shall explain to the House the proposal and the thinking that the Government has undertaken on this important matter. In October 1995 I announced that I had settled a procedure for reviewing the conviction of persons who complained that their conviction had been obtained wholly or partly on the testimony of police officers discredited before the Royal Commission into the New South Wales Police Service. This procedure is similar to that in place for dealing with petitions for review, using the processes of section 474 of the Crimes Act 1900. So far as possible, the applications will be fast-tracked. In addition to inviting individuals to apply, an arrangement has been made with the royal commission that the commissioner will refer any matters to me that cause him any disquiet in relation to a conviction being permitted to stand.

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Applications when received are forwarded to the Crown Solicitor or Crown Advocate for advice, and information about the particular case is obtained from the Director of Public Prosecutions. In addition, applicants are given details of a contact officer at the Legal Aid Commission if they raise the question of legal aid, and the Crown Solicitor routinely refers each application received from a private individual to the royal commission for advice. In more recent times the Crown Solicitor has been using the private bar to assess these cases. That process has been effective and appropriate. The available outcomes of the applications are as laid down in section 474C of the Crimes Act. These include a direction by the Governor that an inquiry be held into a conviction, or in appropriate circumstances I can refer a whole case to the Court of Criminal Appeal.

It is useful to note that the Parliament is presently considering a more circumscribed process whereby particular matters or specified aspects of evidence can be referred to a judge for examination, rather than the whole of the conviction being referred, as has historically been the case. To date I have received approximately 48 applications which fall into the category of matters for which the initiative was announced. I believe they are being satisfactorily processed in the way that I have outlined. If I become persuaded that additional mechanisms are needed, that will be properly considered. But, as honourable members will have noticed, there has been an expeditious process whereby two convictions have been set aside by the Court of Criminal Appeal.

That judgment was announced yesterday. Although, obviously, that does not deal with all of the questions arising from the Royal Commission into the New South Wales Police Service, that process does show a capacity in the criminal justice system to review and reconsider verdicts that have been wrongly arrived at or that are tainted by some element of corruption. I welcome the decision of the Court of Criminal Appeal in the case of McBride and Gudgeon. I was interested in the remarks made by the Chief Justice and other members of the court about the police evidence and the processes involved in that case. That is an instance in which the royal commission and I acted expeditiously and appropriately to turn the spotlight on convictions about which there were problems.

OCCUPATIONAL HEALTH AND SAFETY LEGISLATION BREACHES

The Hon. A. B. MANSON: Could the Attorney General, and Minister for Industrial Relations inform honourable members of increased penalties imposed by the courts on those who breach the Occupational Health and Safety Act?

The Hon. J. W. SHAW: In the year 1990-91 a total of \$799,605 in fines was imposed by the courts for breaches of occupational health and safety laws. In the following year those fines totalled \$952,313, and in the year 1994-95 fines totalled \$1.22 million. For the year to date, the occupational health and safety prosecutions branch of WorkCover has prosecuted 278 cases, and the courts have handed down approximately \$1.8 million in fines and costs. An examination of the figures since 1990 shows, with the exception of 1993-94, that the average fine has slowly increased year by year. However, in the year to date the average has jumped from \$3,227 to \$5,413. In other words, the average penalty is now three times the rate of 1990-91.

If one takes into account those matters that went to the Industrial Court, which accounts for 40 per cent of cases, the average penalty increases to \$27,200. The Government expects the penalties imposed on companies to increase even further when the maximum penalty of \$500,000 for first offenders and \$750,000 for repeat offenders begins to make its mark in the courts. In the financial year to date 432 new files have been sent to the WorkCover prosecutions branch, 309 summons were filed and 278 matters were finalised in court at the end of May. In fact, 75 new files were referred for prosecution last month. The prosecution branch achieved a 100 per cent success rate for last month and a 95 per cent rate for the year. Those companies that continue to flout the law and place their workers at risk should take note that New South Wales has already achieved the highest penalties in Australia for breaches of occupational health and safety laws.

PAYROLL TAX

The Hon. R. T. M. BULL: Does the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council know that the Premier wrote to the Chief Executive of the State Chamber of Commerce in February last year giving an assurance that he would not impose payroll tax on superannuation contributions? In view of the fact that the Treasurer changed his mind on Tuesday, does he now agree that more prudent fiscal management by former Prime Minister, Paul Keating, would have avoided the need for him to break even more promises?

The Hon. M. R. EGAN: I do not know whether the Deputy Leader of the Opposition follows my practice in keeping up with the newspapers, but if he does he probably has not caught up with yesterday morning's papers. I think both the *Sydney Morning Herald* and the *Daily Telegraph* reported that the honourable member's Federal colleagues at a party room meeting in Canberra one after another condemned Peter Costello and John Howard for dumping taxes on the States. That was not a party room meeting of the Labor Party; it was not even a party room meeting of the Liberal and National parties in various States; it was a party room meeting of the Liberal and National parties in Canberra. According to

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newspaper reports, one after the other, coalition members - 10 of them, according to the *Sydney Morning Herald*

- denounced Mr Howard and Mr Costello, their own colleagues, for dumping taxes on the States. The policy that this Government took to the people of New South Wales at the last election was for no new taxes and no increases in taxes. I am very proud that the only tax change that this Government has made at its own instigation has been a reduction in tax rather than an increase in tax.

The Hon. R. T. M. Bull: What about the tobacco tax?

The Hon. M. R. EGAN: I point out again, as I did at the time, that the tobacco tax was not increased at the instigation of this Government; it resulted from a very silly decision by the former Labor Government in Queensland to halve the stamp duty it charged on share transactions. The revenue lost through that decision of about \$8 million or \$10 million did not mean much to Queensland, but New South Wales and Victoria, where all the share transactions take place, stood to lose enormous amounts of revenue. To plug that hole, the Government raised the franchise fee on tobacco and, at the same time, reduced the stamp duty on share transfers. Therefore, the tax increase occurred not at the Government's instigation. The only other change the Government made to taxation was to remove the tax on the refinancing of loans, which, as I have pointed out to this House on many occasions, led to an enormous interest rate war amongst banks and lending institutions. As a result, the people of New South Wales and Australia - whether they be home buyers or business people - now do not have to pay that tax and in some cases a full 1 per cent has been slashed off their interest rates.

The Government is proud that it has cut the tax and interest burden for the people of New South Wales and Australia. The third change that the Government has introduced is the package of measures contained in the HAC legislation - the Howard and Costello tax legislation - which is now before the lower House. As all State Premiers have pointed out - Mr Borbidge of Queensland, Mr Kennett of Victoria, Mr Brown of South Australia and Mr Court of Western Australia - these things have been forced on the States because Mr Howard and Mr Costello broke their promise to the Australian people and to their Liberal and National Party colleagues. The changes that the Government has been forced to introduce to fill the Howard-Costello \$900 million black hole necessitate an extension of the payroll tax base to cover the employer contribution to superannuation.

In exchange for the tax base covering superannuation contributions, which of course are part of the remuneration package of an employee, the Government will reduce the payroll tax rate from 7 per cent to 6.85 per cent, but in two years time - if Mr Howard and Mr Costello keep the promise they made to the States last Friday - the Government will reduce the rate further so that it will start off revenue-neutral. I would not be surprised if some of the other States did not follow suit. South Australia has already introduced these measures on a revenue-neutral basis.

The Hon. J. F. Ryan: What if they don't?

The Hon. I. M. Macdonald: We will give them advice on the title of the bill.

The Hon. M. R. EGAN: I have given the other Premiers and Treasurers advice on the title of the bill, and they seemed most enthusiastic about it. I can assure the House that within the next few days or couple of weeks the other States will produce their own versions of our very own HAC legislation.

EARLY INTERVENTION COORDINATION PROJECT

The Hon. PATRICIA STAUNTON: Will the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services inform the House of the progress of an early intervention coordination project designed to improve the access to services of children with a disability?

The Hon. R. D. DYER: I am happy to inform the House that it is estimated that in New South Wales between 5 per cent and 10 per cent of children are born with disabilities or developmental delays. When I say I am happy to inform the House, I am not happy about the disability, but honourable members must realise that that is the proportion of children who are affected in this manner throughout the State. These children access

services funded or provided by departments within my portfolio, along with services provided by other government and non-government organisations within the early intervention system in this State. The Government is committed to building a disability infrastructure to support these children and their families. The Government will continue to aim towards a service system that is more accessible, coordinated and accountable. The early intervention coordination project, which is administered by the Ageing and Disability Department, will continue to support areas in the statewide implementation of the early intervention policies, best practice standards and operational framework. The Department of Community Services -

The Hon. J. H. Jobling: Are you having trouble with this one?

The Hon. R. D. DYER: I am fixated on the Hon. Virginia Chadwick. The Department of Community Services, the Department of Health and the Department of School Education fund the project and continue to work collaboratively with non-government service providers, to ensure that services are more accessible and coordinated for

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families. Various local areas throughout the State have now produced documentation that clearly outlines operational procedures and protocols agreed upon by both government and non-government service providers within the area. This has led to greater coordination of services and has resulted in both families and providers gaining a clearer understanding of the local service system.

In order to assist families and caregivers to make more informed decisions, information brochures about child development concerns and early intervention support services are being prepared in 31 community languages, Aboriginal and Torres Strait Islander colours and in the alternative formats of braille and large print. A manual titled "Recommended Practices in Family-Centred Practice Early Intervention" will shortly be released and will enable service providers and families to better understand and implement the philosophy of family-centred practice, which underpins this project. Strategies and supports that aim to further increase coordination and improve outcomes for young children with disabilities or developmental delays and their families will continue to be put in place during 1996.

LONG-TERM RESPITE CARE

The Hon. PATRICIA FORSYTHE: My question without notice is addressed to the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services. Does the department have a policy that no person will be placed in respite care for long-term placement? Are there examples of persons with behavioural problems being placed in respite care homes on a long-term basis? Are respite care homes underutilised because other people will not use these homes because of the behaviour of such residents? Do such placements suggest that the department's behaviour management strategies are not working?

The Hon. R. D. DYER: Respite care is undoubtedly important to disability services throughout the State. It is not a need that developed in the past 12 months. One of the reasons I persuaded the then Opposition to adopt as a policy the devotion of \$50 million to creating 300 supported accommodation places was that I was well aware that throughout the State many clients who were either permanent or semi-permanent were clogging up places in respite care facilities. The previous Government did nothing to address this matter. Those places were clogged when the previous Government left office, and some of them have been freed by moving people out of respite care and into permanent supported accommodation places.

I would be the first to agree that the need for respite care is still very real. However, I can say to the House that in addition to the 300 supported accommodation places the Government created last year via funding in the budget delivered by my colleague the Treasurer last October, the Treasurer was kind enough in this year's State Budget to deliver funding for many hundreds of additional respite care places, therapy places and day program places for children throughout the State. The respite care services to which I am referring will be provided by about nine centre-based facilities at locations to be selected throughout the State.

I am the first to acknowledge the importance of respite care facilities. I well recall attending a dinner organised by a respite care organisation shortly after I became Minister. I thought I would never be able to leave the dinner because I had a queue of people wanting to speak to me about respite care problems. The queue never seemed to diminish; at any given time there were six people in the queue and as one would leave another would join the queue. Respite care is undoubtedly a very serious problem but the Government has shown it is prepared to provide funding to create respite care places. The Hon. Patricia Forsythe referred in her question to more or less permanent clients and people with difficult behaviours being in facilities.

It is true that difficult circumstances sometimes do arise, and it may be that the Hon. Patricia Forsythe is referring to a particular facility that I have in mind. If so, I am aware that representations have been made in regard to that matter, and I am having it investigated. It is of no comfort to me that a client in one of the facilities operated by the department might exhibit difficult behaviours that cause discomfort or worse to other clients within the facility. That is a matter of concern, and I will have it investigated. It must be said, however, that people with challenging behaviours - to use the expression that is used within the Department of Community Services - are not easily placed in the system. They are not exactly popular with either government or non-government service providers.

The Hon. Virginia Chadwick: What are you going to do about it?

The Hon. R. D. DYER: The Hon. Virginia Chadwick wants to know what I am going to do about it. As a former Minister for Community Services she would well recognise that there were people with challenging behaviours in the system when she was Minister. There is absolutely no doubt that such people are a problem within the system. Staff have to be trained to cope with the behaviours exhibited by these persons.

The Hon. Virginia Chadwick: Where will you place them?

The Hon. R. D. DYER: The person that the Hon. Patricia Forsythe mentioned is currently placed.

The Hon. Patricia Forsythe: I did not mention anybody.

The Hon. R. D. DYER: No, she did not mention anybody, but I have a very strong suspicion that she is referring to a particular client within the system. If so, I can assure the Hon. Patricia Forsythe that I have given an undertaking to have that matter investigated.

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SUPREME COURT FUNDING

The Hon. B. H. VAUGHAN: I ask the Attorney General, and Minister for Industrial Relations a question without notice. Has the Chief Justice of the Supreme Court of New South Wales recently released the court's annual review for 1995? Is the Attorney General prepared to comment on certain funding problems that the Chief Justice suggests he might have?

The Hon. J. W. SHAW: Any Attorney General would give close attention to what is said by the Chief Justice touching the administration of his or her court. I think it is fair to say that the current Chief Justice, Mr Justice Gleeson, is a particularly persuasive advocate and, of course, what his honour has said will be given appropriate weight and consideration by me. I am aware that in the Supreme Court review for 1995 the Chief Justice did make certain comments about the funding of the Supreme Court.

At the outset, it needs to be pointed out that the revenue derived from court filing fees is not absorbed into the consolidated fund. This fee revenue, as with all court fee revenue, is allocated to the benefit of the courts. The Government allocates additional funds to make up the difference in the cost of running the court system. A review is currently being undertaken of court filing fees. It is expected that a discussion paper will shortly be released examining the rationale for the payment of court filing fees and the general issue of how courts should

be funded. In particular, the paper will include a full examination of the "user pays" approach, together with an examination of the appropriateness of the Government paying for services rendered.

The Government accepts that there is a backlog in the Court of Appeal. To address this problem, the Government proposes to temporarily increase the resources of the court by providing an additional \$1 million for 1996-97 to the Court of Appeal. This increase will allow the appointment of up to four acting judges from July 1996 to address this backlog. It is expected that this level of additional funding will reduce the number of active matters within the court in real terms by 23 per cent. The Government is committed to ensuring that the court system of New South Wales is run efficiently. To this end the Government will continue to work closely with the Chief Justice and the other heads of jurisdictions to ensure that the resources available to the courts are used appropriately.

BANKSTOWN CITY COUNCIL BROTHEL POLICY

Reverend the Hon. F. J. NILE: I wish to ask the Attorney General, and Minister for Industrial Relations a question without notice. Is it a fact that Bankstown City Council is considering a draft policy to legalise brothels in the enclosed shopping mall - sex while you shop? Is it a fact that the Government is overriding the objections of suburban and country councils and directing them to permit brothels, and even directing them where to locate the brothels? Will you as Attorney General urgently amend your legalised brothel legislation, the Disorderly Houses Act, and allow the democratically elected councils to represent the wishes of their ratepayers and maintain high moral values in their area of responsibility?

The Hon. J. W. SHAW: I am not in any position to provide any first-hand or direct information about this Bankstown Council proposal. I have seen press reports about it, but I think it would be inappropriate of me to simply repeat what members have no doubt read in the media. As to whether the Government is, as the question indicates, overriding the wishes of councils in this respect in relation to legalised brothels, I have no information about that but I would have thought, to the extent there is interaction between the State and local governments on these issues, that this matter would fall within the planning portfolio. I have no such knowledge of any such conflict between State and local governments in this respect.

The final aspect of the question really concerns whether the Government is prepared to countenance any changes to the disorderly houses legislation. I said in the debate on that bill that, yes, finetuning changes could and should be considered after the community has had the experience of the legislation for some time. So, it is something that I am certainly prepared to revisit if there are said to be areas of the legislation that need correction or attention.

RACING INDUSTRY TAX RATE

The Hon. J. M. SAMIOS: I ask the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council if he is aware, as reported today, that the New South Wales TAB will have established record sales turnover, up at least another \$100 million on last year's record sales figure of \$3.492 billion? Given that the racing industry is delivering the goods to Treasury, can the Treasurer please explain why the Government insists on punishing the racing industry by withholding any tax relief?

The Hon. M. R. EGAN: I did see at least the headline of an article today. I did not have time to read the article but I will -

The Hon. J. F. Ryan: Don't your staff bring these things to your attention?

The Hon. M. R. EGAN: My staff do not sit around all day reading the Bullamakanka Gazette. We are running the ship of state, I will have you know. We do not have time to sit around reading the comics. I will

refer the question to the Minister for Gaming and Racing for a detailed reply.

DOMESTIC VIOLENCE

The Hon. A. G. CORBETT: I ask a question of the Attorney General, and Minister for Industrial Relations, representing the Minister for
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Police. In reply to a question relating to firearms and domestic violence yesterday the Minister advised that any weapons held by a person against whom an apprehended violence order is taken out are confiscated and that the weapons may be disposed of by the owner to a licensed dealer or a licensed person or they may be forfeited, and that if the firearm is forfeited it is destroyed. Further to the answer, can the Minister advise what, if any, conditions are placed on the disposal of confiscated firearms to a "licensed person"? Can the Minister also inform the House whether assault in a domestic context which does not occasion actually bodily harm is sufficient grounds for the revocation of a firearms licence?

The Hon. J. W. SHAW: The Hon. A. G. Corbett is to be commended for asking questions on a very serious topic, questions which show the detail of his consideration of these matters and the attention he has given to the legal and other practical difficulties associated with apprehended violence orders. I am happy to respond and to provide information which I hope will be useful to the honourable member. Under the current law, once a person's licence is suspended or revoked - in this case, after the granting of an apprehended violence order, an AVO - that person is no longer authorised to possess or use firearms. Further, the Crimes Act gives police powers of entry, search and seizure of firearms in domestic violence cases.

Currently, a person who is subject to an AVO could dispose of the firearm to a close relative or friend with a licence. However, if firearms are seized under the Crimes Act domestic violence provisions, section 48 of the Firearms Act 1989 states that a court hearing can be held to determine whether the firearm was properly seized by the police and whether the firearm is to be forfeited to police, returned to the person or otherwise disposed of. As I said yesterday in answer to the Hon. A. G. Corbett, once an AVO is granted the person's firearms licence is revoked. That means that if a close relative or friend makes a firearm available to that person a criminal offence is committed under existing law.

As all members know, it is illegal to own or shoot a firearm without holding the appropriate licence or permit. The Hon. A. G. Corbett is genuinely concerned about the possibility of persons subject to an AVO having access to firearms. The laws currently in place are designed to prevent this. If people choose to break those laws they are liable to criminal prosecution. The current penalties provide a maximum gaol term of 10 years, depending on the type of firearm involved. Whilst I do not wish to canvass the Firearms Bill 1996, which has been introduced in the Legislative Assembly, I simply place on record that the provisions concerning AVOs will be further tightened under Australasian Police Ministers' Council resolutions encapsulated in that proposed legislation.

I know that the Hon. A. G. Corbett is aware of this. Other honourable members may care to examine yesterday's *Hansard* and the bill itself for more detail on the matter. In relation to the revocation of licences after conviction of a person for a domestic violence offence, I can advise that section 4 of the Crimes Act defines a "domestic violence offence" as a "personal violence offence" committed against:

a person who is or has been married to the person who commits the offence; or

a person who is living with or has lived with the person who commits the offence as his wife or her husband, as the case may be, on a bona fide domestic basis although not married to him or her, as the case may be; or

a person who is living with or has lived ordinarily in the same household as the person who commits the offence (other than merely as a tenant or boarder); or

a person who has or has had an intimate personal relationship with the person who commits the offence.

Personal violence offences are specifically scheduled in section 4 of the Crimes Act and range from assault to attempted murder and, of course, murder itself.

STATE BUDGET SHORTFALL

The Hon. D. J. GAY: I ask the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council: should the so-called Howard and Costello Act not more properly be titled the hidden agenda Carr Act? Is it not the case that the tax increases were always on the agenda as a result of your bodgie by-election budget? How else could the detailed changes have been arrived at in such an incredibly short time?

The Hon. M. R. EGAN: That really is a silly question from the Hon. D. J. Gay. Last Thursday and Friday we discovered that the general purpose assistance grants from the Commonwealth to New South Wales over the next three years would be cut by a total of \$542 million. This week we announced measures which will raise \$540 million. I can assure the honourable member that Treasury is able to make such calculations, if not overnight, certainly within 24 hours.

WOY WOY TAFE SITE

The Hon. M. J. GALLACHER: My question is directed to the Attorney General, and Minister for Industrial Relations, representing the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs. Is the Attorney aware that following a commitment by the education Minister that a working party would be established to examine alternatives for the sale of land in Woy Woy formerly proposed for the building of a TAFE, a working party has been created consisting of two Australian Labor Party

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members, a ministerial representative and a TAFE bureaucrat? Why have no representatives from a local community group or other interested members of the public been invited to sit on the committee? How long will the Government continue presenting a facade that it is interested in the views of the local community to decide the future of higher education on the Woy Woy peninsula?

The Hon. J. W. SHAW: I am happy to refer that question to the relevant Minister and to obtain a reply.

OUTWORKER STRATEGY

The Hon. HELEN SHAM-HO: Is the Attorney General, and Minister for Industrial Relations aware that there are more than 300,000 outworkers nationally, 95 per cent of whom are migrants from non-English speaking backgrounds? Is the Minister also aware that they are lowly paid, receiving less than award rates, and work under most unsatisfactory conditions? What has the Minister's department done and what is it going to do to address the problem of the exploitation of these workers?

The Hon. J. W. SHAW: That is a very well directed question. The problem of outworkers and the exploitation of workers - often migrant women, people in a vulnerable situation - is endemic and serious. It is not only a problem in Australia, as I am sure the honourable member appreciates; it is regarded as a major problem in the United States, for example, and the Clinton administration is developing strategies to grapple with it. I am looking at those developments with great interest. Over the years, under governments of different political colours, the Department of Industrial Relations has used various strategies to grapple with the problem. It has to be said that they have not been very successful.

There were a number of task force investigations - in November 1993, then further investigations in

March-April 1994 and again towards the end of 1994. Our assessment of those processes within the Department of Industrial Relations is that they were not terribly productive. I can inform the honourable member and the House that the department has adopted a multifaceted strategy for development and implementation during 1996. We will tackle this problem, hopefully in a way that is more productive than previous efforts. There will be primary emphasis on establishing links and close working relationships with employee, employer and community organisations and other relevant government agencies.

The strategy involves three key elements: education and enforcement, encouraging self-regulation, and industry monitoring. In relation to education and enforcement, there will be increased emphasis on reaching outworkers by working closely with the relevant union and community organisations to increase their awareness of their rights, and to overcome the barriers that impede outworkers from seeking assistance from the department to obtain their legal entitlements. General investigations will be preceded by an extensive education campaign and publicity aimed at employers in the industry. The intention is not only to enforce compliance with industrial laws but to obtain valuable data to assist in identifying employers and outworkers in the chain of production.

This information will be exchanged with key players in the industry. The second element is to encourage self-regulation. The department will work with the union, employer associations, retailers and designers to encourage and promote self-regulation through deeds of cooperation. Information will be exchanged which will assist both the parties to the deeds of cooperation and the department in identifying employers in the chain of production. Additionally, it is anticipated that the union strategy of naming employers who are engaged in exploitative practices will be effective in encouraging self-regulation. Recently there was a so-called outing campaign in relation to the garment industry in California. The United States Secretary of Labor, Mr Robert Reich, said in a speech on February 1996 that that campaign was successful.

Thirdly, I mention industry monitoring. The issue of outworkers and their families goes beyond the administration of industrial legislation. To this end the Department of Industrial Relations will monitor trends, issues and activities in the industry through research, contact and exchange of information with key organisations; for example, unions, employer associations, accountant associations and government agencies. Industry monitoring will form part of the process of encouraging self-regulation and the department's compliance activities. The department has recently contributed to the New South Wales Government's submission to the Senate inquiry into garment industry outworking.

The department's strategy was outlined in the submission. It is suggested that a major recommendation of the Senate inquiry be that all relevant Government agencies coordinate their activities because it is essential that all key players exchange information and work together. This answer is not intended to suggest that there is a single or simple answer to these serious problems which affect ordinary working people in the community. But the answer is at least intended to indicate that the Government is giving serious consideration to the problems, and that the department and I have consciously sought to develop a strategy. In due course I hope to report to the House that some progress has been made as a result of that strategy.

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SOUTH SYDNEY SEWERAGE INFRASTRUCTURE

The Hon. ELISABETH KIRKBY: My question without notice is addressed to the Treasurer, representing the Minister for Urban Affairs and Planning, and Minister for Housing. With regard to the extensive urban redevelopment currently under way in the South Sydney City Council area can the Minister inform the House as to the ability of the sewerage infrastructure to cope with the extra loads on the system? Can the Minister provide details of the sewer main replacement and resleeving programs that are either under way or are urgently required to meet the current pace of urban development in this area?

The Hon. M. R. EGAN: I thank the Hon. Elisabeth Kirkby for her question. I am happy to refer it to my colleague the Minister for Urban Affairs and Planning.

TEACHER SALARIES

The Hon. VIRGINIA CHADWICK: I direct my question without notice to the Attorney General, and Minister for Industrial Relations. Given the failure of the Minister for Education and Training to successfully negotiate a pay deal with teachers, and given that today's strike is the seventh in 12 months, what is the Minister for Industrial Relations doing to ensure that there are no further disruptions to schools? Has the Minister intervened to make an assessment of the teachers' offer of a 10-point peace plan as a possible basis for negotiating settlement?

The Hon. J. W. SHAW: The honourable member well knows that the role of the Department of Industrial Relations in these matters is to provide advice and guidance where it is sought. Over the past few months the department has provided certain advice to the relevant department, and that is ongoing. Despite the stoppage today, to which the honourable member refers, consideration of teachers' salaries is currently before a properly constituted tribunal that is considering competing applications as to the quantum of any increase that ought to be awarded. There are also competing views as to what, if any, changes and conditions ought to accompany those alterations in salaries. There is nothing new with industrial action or turbulence about teachers' salaries; that has been going on for as long as I can remember. The steps taken by the Government are essentially to put in place an orderly process. There have been negotiations about TAFE and school salaries. Every industrial dispute and conflict is settled, sooner or later. I am sure this one will be.

VETERINARY RESEARCH FACILITIES CLOSURE

The Hon. JENNIFER GARDINER: 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. Does the Minister recall the Australian Labor Party policy document issued in February last year titled "Labor Governing: Reviving and Improving Public Administration in NSW"? Does the Minister recall that in that policy the Australian Labor Party promised it would "continue the program of relocating departments away from the Sydney CBD to outer suburbs and regions"? Does the Minister also recall that that Labor Party policy promised that government office relocation would only occur after a full cost-benefit study had been undertaken? Why is it that the Government failed to undertake a full cost-benefit study prior to deciding to centralise the Biological and Chemical Research Institute from Rydalmere?

The Hon. M. R. EGAN: I will refer that question to my colleague the Minister for Agriculture. I would have thought it was fairly obvious that for a long time country and regional New South Wales would have thought it very odd that such an establishment was located in Sydney and not in a country or regional area. I am staggered that people who claim to be representatives of a rural-based party are so opposed to decentralisation. For years they have pretended to be the champions of decentralisation. But when they are put to the test they are city-based members.

National Party members have lost their links with the bush; they no longer live in the bush. They all have mansions in the city with harbourside views. All the Nats, from Kersten to Gardiner to Moppett to Smith, are city dwellers. Of course they cannot understand why the Government would want to decentralise. The Government is assisting the country, assisting the great rural regions. It will continue on that path because its policy has great support from country people.

CARAVAN PARKS RETIREMENT VILLAGE CONVERSION

The Hon. Dr B. P. V. PEZZUTTI: I ask the Minister for Community Services, Minister for Aged Services, and Minister for Disability Services, representing the Minister for Fair Trading, and Minister for Women a question without notice. Can the Minister explain why it has taken more than seven months to issue

a public warning about caravan parks promoting themselves as retirement villages, given that I wrote to the Hon. Faye Lo Po' on 8 November last year raising my concerns on this matter? What actions are being taken to prevent caravan parks circumventing the law and converting to retirement villages but not providing aged care services and facilities specifically for the elderly, as required by the Residential Tenancies Act? What action is being taken to protect the residents of caravan parks that are converted to retirement villages?

The Hon. R. D. DYER: From recent publicity I am aware that the Hon. Faye Lo Po' has made statements about the problem to which the Hon. Dr B. P. V. Pezzutti referred. It is clearly an abuse for a caravan park to promote itself as a

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retirement village. I am sure the Minister intends to deal with that abuse and I shall refer the honourable member's question to her for a reply.

LANE COVE RIVER VALLEY FREEWAY CORRIDORS

The Hon. I. COHEN: My question without notice is directed to the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council, representing the Minister for the Olympics, and Minister for Roads. Can the Minister inform the House, in light of a report on page 9 of today's *Sydney Morning Herald*, what nature conservation values have been identified for the road reservations within the Lane Cove valley? How many of these road reservations will be transferred from the Roads and Traffic Authority to the National Parks and Wildlife Service? When will this occur?

The Hon. M. R. EGAN: I do not know whether the honourable member was in the House yesterday when I answered a question from the Hon. Jan Burnswoods on the same subject. I am not sure that my answer yesterday covers the details which the Hon. I. Cohen is seeking. If it does not, I will take up the matter with the Minister and obtain additional details.

WESTERN SYDNEY SCHOOL BUS CHARGES

The Hon. C. J. S. LYNN: My question without notice is to the Treasurer, Minister for Energy, Minister for State and Regional Development, Minister Assisting the Premier, and Vice-President of the Executive Council. I refer to a report in today's *Daily Telegraph* that the cost of bus passes for students who are ineligible for free bus passes is set to rise by 25 per cent. Bearing in mind that the residents of western and south-western Sydney are already being slugged more than \$1,000 a year to use the M4 and M5 motorways as a result of the Government's broken promise to remove tolls, will the Government consider exempting school students in western Sydney from any increase in the cost of school bus travel?

The Hon. M. R. EGAN: I find it amazing that the Hon. C. J. S. Lynn would say that the residents of western Sydney are being slugged by the Government for use of those toll roads. Those privately owned tollroads were put into place by the former Government. The honourable member obviously does not remember the deals that were done with the private tollway operators. Obviously, he was not around when the previous Government hid from the people of New South Wales the fact that some very lucrative tax deals were involved in those contracts. If the honourable member had been here, I am sure that he would have insisted that Mr Fahey and Mr Collins, and the then Minister for Roads - whoever that was - make those contracts public. Unfortunately, the honourable member's colleagues who were here did not take that view at the time, and the people of New South Wales were lumbered with contracts that will cost a lot of money to buy out. The then Government was apparently prepared publicly to concede that, because when it did its costings of the then Opposition's promises it agreed with the Labor Party's estimates that the cost would be \$75 million to \$80 million.

When the Labor Party came to office it found out about the dirty deals that those opposite had entered into; it found that the potential costs were two or three times that figure. The former Government did not tell us about those dirty deals. This Government committed itself to a promise costing approximately \$75 million, which it concedes it is unable to keep to the letter. The Government determined that it would honour the spirit of that commitment and in last year's budget and in this year's budget it has made available an additional \$75 million for roads in western Sydney and south-western Sydney. Although it concedes that it was unable to adhere to the letter of its commitment, the Government is proud that it honoured the spirit of the commitment by making available the same amount as the estimated cost of that commitment to construct additional roads in the west and south-west of Sydney.

I am sorry that Hansard is unable to incorporate pictures because I have some lovely little pictures here which compare the cost of living and the cost of doing business in Sydney and in Melbourne. The first picture shows the cost of an average small business in Sydney. The average water bill for a small business in New South Wales is \$3,317. Do honourable members know what it is in Melbourne? It is \$4,371. The average cost of electricity for a small business in Sydney is \$6,311. Do honourable members know what it is in Jeff Kennett's Melbourne? It is \$10,053. The total cost for water and electricity in Sydney for a small business - and I know you take this very seriously, Mr President, because you know the plight of small business; you understand what it takes to manage a small business - is \$9,628 compared with \$14,424 in Melbourne. That is why the two pictures differ in size - a little picture in New South Wales and a big picture in Melbourne, because in Melbourne the cost of doing business for a small business is approximately 50 per cent higher.

With regard to households, I have a picture of a little house for New South Wales and a picture of a big house for Victoria. Admittedly, they should be the other way around because the New South Wales householder can afford to buy a bigger house, given the lower cost of water and power in New South Wales. The people of Melbourne are forced to buy smaller houses. The total average water and electricity bill for the Sydney householder is \$937 per annum. In Melbourne it is \$1,126. Not only is business better off in Sydney, householders also are better off.

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Now I come to the picture of which I am particularly proud, and that is a comparison of the cost for pensioners. The average Sydney pensioner pays \$228 a year for water. In Melbourne the average pensioner pays \$418 a year for water. In Sydney the average pensioner pays \$343 for electricity; in Melbourne it is \$523. The average Sydney pensioner pays \$571 for those two items while the average Melbourne pensioner pays \$941. In which State would honourable members prefer to live? In a proud Labor State such as New South Wales or in a pathetic, almost bankrupt, high-cost State such as Victoria? I thank the honourable member for his question.

In view of the time I suggest that if honourable members have further questions, they might place them on notice.

ANIMAL HEALTH SURVEILLANCE

The Hon. R. D. DYER: On 15 May the Hon. D. F. Moppett asked me a question about animal health surveillance. The Minister for Agriculture has provided the following answer:

There has been no decision to reduce surveillance of animal health in NSW. There is however, a change in emphasis from dependence on a passive surveillance system to greater emphasis on targeted active surveillance programs undertaken by Senior Field Veterinary Officers and Rural Lands Protection Board staff backed by consolidated well resourced veterinary laboratories. Effective surveillance remains a very high priority.

This surveillance program plus the high state of preparedness of staff puts NSW ahead of any other State in reducing the threat of exotic disease outbreaks and will maintain the high level of food safety enjoyed by consumers in this State. The approach will, in fact, provide

a higher level of surveillance security and response capability.

Compensation arrangements for disease outbreaks have not changed.

OVINE JOHNE'S DISEASE

The Hon. R. D. DYER: On 15 May the Hon. Dr B. P. V. Pezzutti asked a question regarding ovine Johne's disease. The Minister for Agriculture has provided the following answer:

Active surveillance being put in place by NSW Agriculture on behalf of the Johne's Disease Sheep Industry Steering Committee includes:

1. A request for all field veterinarians to consider Johne's Disease in the differential diagnosis of causes of illthrift and wasting in adult sheep.
2. The tracing of movements of sheep to and from infected properties by District Veterinarians from Rural Lands Protection Boards.
3. Investigation of the disease status of properties adjoining infected properties that are considered at risk.

In addition:

1. NSW Agriculture has taken steps to fill two vacant Veterinary Research Officer positions at the Centre of Excellence for Sheep Disease Investigation at Orange to handle the increased workload expected from this active surveillance program and investigations into other sheep health problems.
2. The Department will perform testing to establish the initial diagnosis on suspect properties free of charge.

It is anticipated that this program will involve the equivalent of three full-time professional staff plus support technical and clerical staff. It will also involve increased financial support to the laboratories at Orange and Menangle for the laboratory costs incurred in diagnostic testing. The actual cost of this cannot be estimated at the present time.

The priority at this stage of the program is the tracing of sheep movements and investigation of the disease status on infected and neighbouring properties. In most cases, this will involve post mortem of suspect animals in the field with specimens being submitted to the laboratory. In some cases, a more detailed investigation (sometimes supporting research programs) may involve submission of live sheep to the laboratory.

Because of the location of the infected properties identified at this time, most investigations will involve the veterinary laboratories at Orange and Menangle.

At some time in the future, NSW Agriculture may be required to carry out a random survey of properties across the State as part of a national survey to meet the requirements of our export markets.

REGIONAL DEVELOPMENT POLICY

The Hon. M. R. EGAN: On 1 May the Hon. Jennifer Gardiner asked me a question regarding decentralisation. The Premier has provided the following response:

Since the time of the Premier's commitment, action on this issue has been taken on a number of fronts:

The Chief Executives Committee has considered and endorsed a series of proposals to maintain and enhance service delivery in rural and remote areas. These include technologically based solutions to service access.

Further, the Chief Executives Committee has established a Working Group on Rural Services to monitor developments in using new technology to develop employment opportunities in regional and rural New South Wales with a view to recommending any additional action which might be required.

The Public Employment Office has initiated an investigation into the feasibility of relocating agencies or parts of agencies to rural and non-CBD sites.

The Premier's commitment was made at a time when no specific arrangements had been put in place to address this issue. However, mechanisms are now in place and the focus of this issue has been considerably broadened. The intention is to ensure that the full range of options for developing employment opportunities in regional and rural areas is explored.

SCHOOL BANK ACCOUNT FUNDS

The Hon. M. R. EGAN: On 14 May the Hon. Virginia Chadwick asked me a question without notice regarding school bank account funds. The Minister for Education and Training has provided the following response:

The honourable member is correct in stating that in the Auditor-General's 1995 Report to Parliament, he drew attention to the non-recognition of school financial transactions and bank balances in the financial statements of the Department of School Education.

This is an issue which has been under consideration since 1992/93 when the Department first began reporting in an accrual accounting format. The position is that moneys held in school bank accounts have always been regarded as moneys held by schools on behalf of the Government.

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While school bank balances are regarded as Government assets, the bank balances are not reflected in the Statement of Financial Position prepared by the Department of School Education at June 30 each year. However, details of school bank balances are recorded as a note to and forming part of the financial statements. As a result, there is disclosure of the level of bank balances held by schools at June 30 each year.

Officers of the Department of School Education and Treasury have held recent discussions on this matter to assess the appropriateness of and the correct accounting treatment for the inclusion of school bank balances in the Department's Statement of Financial Position for the year ended June 30, 1996.

Matters associated with the status of schools, as supporting units, and the recognition of school financial transactions and bank balances in the Department's financial statements, continue to receive government consideration.

In March 1995, the NSW Treasury expressed the view that, for accounting purposes, schools are branches of the Department. This was also the view put by the Department of School Education. However, the Auditor-General has concluded that schools are controlled entities of the Department and that their financial statements need to be consolidated within the Department's financial statements and be subjected to an annual attest audit.

Because the NSW Treasury and the Department of School Education have different views from that of the Auditor-General from an accounting standards and value for money viewpoint, I wrote to the Auditor-General in September, 1995 seeking advice on how the process of consolidation and attest audits could be undertaken in a way which was both economical and manageable. The Audit Office is currently evaluating options and estimating the costs to Public Education.

YEOVAL SCHOOL REDEVELOPMENT

The Hon. M. R. EGAN: On 14 May the Hon. Dr Marlene Goldsmith asked me a question without notice regarding Yeoval school airconditioning units. The Minister for Education and Training has provided the

following response:

The Minister for Education and Training is aware that Yeoval Central School has 10 demountable buildings and buildings up to 100 years old.

The Minister for Education and Training is aware that on 1 February 1995 the candidate for Badgerys Creek at that time, Diane Beamer, issued a media release stating, "A Carr Labor Government will provide funding for extra air conditioners in schools affected by high temperatures".

A financial allocation has been made to air cool or air condition schools in heat affected areas in New South Wales. The program will proceed on a needs basis commencing in the 1996/97 financial year. Those schools suffering the greatest degree of heat stress will be given priority. Funds have been approved to air cool the demountable buildings at Yeoval Central School.

The Minister for Education and Training is aware that temperature extremes are much greater in western New South Wales than at Badgerys Creek.

The redevelopment of Yeoval Central School is a high priority for consideration for a future capital works program. At this stage action is being taken to enlarge the site.

AUSTRALIAN TURKISH ASSOCIATION FUNDING

The Hon. M. R. EGAN: On 15 May the Hon. Helen Sham-Ho asked me a question without notice about the Australian Turkish Association. The Premier has provided the following response:

In endeavouring to answer the question - which appears to be based on incorrect information - I presume the honourable member is referring to the grants program administered by the Ethnic Affairs Commission.

I have been advised that no organisation with that name applied for funding from the Ethnic Affairs Commission for 1995 or 1996 and that no Turkish community organisation was awarded a grant of \$8,000.

Grants to the Commission are one-off and are given for a period of twelve months and so the question of a "cut" does not arise.

For 1996 the Government is pleased to have awarded grants totalling \$22,500 to Turkish community organisations. The Australian Alevi Cultural Centre, the Sydney Turkish People's House and the Turkish Welfare Association have each been offered funding for projects which will be of immense benefit by addressing a range of issues facing the community.

CENTRAL SYDNEY PLANNING COMMITTEE

The Hon. M. R. EGAN: On 15 May the Hon. D. F. Moppett asked a question without notice regarding strategic planning decisions. The Minister for Urban Affairs and Planning has provided the following response:

The CBD area of Sydney is an area of State significance and operates as the State Capital City of New South Wales.

The Central Sydney Planning Committee was established by the previous Government in 1988.

The State-appointed representatives to the Central Sydney Planning Committee represent professional skills and experience in a range of areas including transport, architecture, planning, tourism, etc. These categories are set out in the City of Sydney Act.

Three of the four positions that may be nominated by the State Government are currently vacant.

Any plan submitted over the CBD of Sydney will have involved public comment and will be considered by me before any decision to make the Plan. I will take into account the widest range of views and interests before finalising the Plan.

REDBANK ROAD, NORTHMEAD, TRAFFIC

The Hon. M. R. EGAN: On 16 May the Hon. Dr Marlene Goldsmith asked me a question without notice regarding Redbank Road traffic congestion. The Minister for Roads has provided the following response:

Some time ago, a special working party carried out a Study of traffic and transport requirements generated by the then existing and future developments at Westmead, including the Westmead Hospital and the construction of the new Children's Hospital. As a result of the Study, various traffic management and transport options have been identified, costed and given priorities.

One of the Study recommendations was the installation of traffic control signals at the Redbank Road - Briens Road intersection. Work to install the signals was completed in January 1996.

Prior to the opening of the Children's Hospital in 1994, traffic volumes on Redbank Road averaged an estimated 1850 vehicles per day. Following the opening of the Children's Hospital, volumes increased to about 3550 vehicles per day. A traffic count taken in March 1996, following the installation of the signals at the Redbank

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Road - Briens Road intersection, showed that traffic volumes on Redbank Road had further increased to some 4500 vehicles per day.

The increase in traffic volumes of some 950 vehicles per day has resulted mostly from the use of the Redbank Road - Briens Road intersection by local residents, taking advantage of the increased safety at the site. The use of Redbank Road by Westmead Hospital staff to access their workplace has contributed also to the increase in traffic. However, while providing access to the Hospital, Redbank Road is not a through route to Hawkesbury Road.

Nevertheless, the need to moderate traffic flow on Redbank Road, which is a local road, has been recognised. Accordingly, the Roads and Traffic Authority will liaise with Parramatta Council to consider appropriate local area traffic management measures.

HEROIN USE VENUES

The Hon. M. R. EGAN: On 16 May the Hon. Elaine Nile asked me a question without notice regarding heroin addiction. The Premier has provided the following response:

These issues have been the subject of consideration by the NSW Department of Health and the Ministerial Advisory Committee on AIDS Strategy who have submitted a proposal on these matters to the Government.

That proposal will be carefully considered by the Government and the Government will consult with the Opposition and other interested parties on the proposal prior to determining any position on these matters.

VIDEO AND FILM VIOLENCE

The Hon. M. R. EGAN: On 21 May the Hon. R. S. L. Jones asked me a question without notice regarding violence on videos and films. The Premier has provided the following response:

The New South Wales Government together with all other Australian jurisdictions has enacted legislation to establish a national approach to the issues of censorship of films, video tapes, publications and computer games.

A revised national censorship regime developed by all Australian jurisdictions came into operation on 1 January 1996. All jurisdictions agreed to enact legislation setting out offence provisions enforcing classification decisions made under the Commonwealth Classification (Films, Publications and Computer Games) Act 1995 and the National Classification Code set out in the Act. The Act also establishes the classification authorities such as the Classification Board and the Review Board.

The NSW Act giving effect to the Federal Act is the Classification (Films, Publications and Computer Games) Enforcement Act 1995.

The national classification system is subject of ongoing monitoring and review by all Governments through the regular meetings of Censorship Ministers which are held as part of the Standing Committee of Attorneys-General.

Under this national regime, all films, video tapes and computer games must be classified before they can be sold, hired or shown publicly in Australia. The primary principles governing classification, set out in the Code, are that adults should be able to read, hear and see what they want; minors should be protected from material likely to harm or disturb them; everyone should be protected from exposure to unsolicited material they find offensive; and that community concerns about depictions that condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner must be taken into account.

Material refused classification by the Classification Board cannot be sold, hired or exhibited in Australia. NSW adheres to the classification guidelines determined by the Board in allowing the distribution of films, publications and computer games.

Television content does not fall within the ambit of responsibility of the State. It is a Commonwealth matter. The television and radio broadcasting industry is overseen by the Australian Broadcasting Authority (ABA), which is a statutory body established under the Broadcasting Services Act 1992 (Commonwealth). Commercial television stations are expected to adhere to the Federation of Australian Commercial Television Stations Code (the FACTS Code), which is registered with the ABA. It is understood that the FACTS Code is due to be reviewed and revised later this year.

All material shown on television other than news, current affairs and live sport must be classified and shown in a suitable time frame, under the FACTS Code guidelines. Classification standards are based on the Commonwealth classification guidelines, but material is modified where necessary to take into account the difference between television and cinema audiences.

The NSW Government supports the uniform censorship regime that exists in Australia. The next Censorship Ministers meeting, which comprises Attorneys General from all jurisdictions, will be held on 11 July 1996.

National Censorship Ministers are continuing to monitor the implementation, effectiveness, and appropriateness of the new Scheme, and are presently oversighting a review of the classification guidelines for film. Further reviews of guidelines for publications and computer guidelines will follow.

A number of related inquiries are also underway including an Australian Broadcasting Authority inquiry concerning the content of online services and the inquiry by the Senate Select Committee on Community Standards Relevant to the Supply of Services utilising Electronic Technologies.

The children of Australia are not doomed to grow up in a world of violence provided all Australian Governments and communities continue to take appropriate and concerted preventive steps. The national approach to the reform of gun laws throughout Australia is a good example of what can be done, but there is no single solution to the prevention of violence.

There have been a number of important reports on this issue recently which the Government is responding to, and indeed the Commonwealth has recently convened a meeting of Ministers to examine research into the effects of the portrayal of violence on film and television. New South Wales will carefully consider national initiatives in this area.

NORTHUMBERLAND COUNTY COUNCIL BUILDING SALE

The Hon. M. R. EGAN: On 22 May the Hon. I. Cohen asked me a question without notice regarding the Northumberland County Council building sale. The Minister for Urban Affairs and Planning has provided the following response:

The Department of Urban Affairs and Planning vacated these premises on the 13 June 1995 and the building is now surplus to the Government's requirements. The building was offered for sale to Newcastle City Council on financially attractive terms, however the Council declined the offer.

At its meeting of 30 January, 1996 the Council resolved to refuse the Department's request for rezoning of the premises from 5(a) Special Uses - Public Building to 3(a) Central Business and requested that I transfer the care, control and management of the building to the Council.

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In reply, I advised the Council that whilst I noted the Council's request, in considering the various options for disposal of this building I had approved the Department entering into negotiations with the University of Newcastle which had expressed an interest in acquiring the building for use by the Conservatorium of Music.

Sale to the University would see the building remain in public ownership and generate significant community benefit associated with its use for community based education programs. This will further consolidate the University's city centre activities and enhance the regional functions and vitality of the city centre.

I consider this to be a good outcome for the region and support the Department of Urban Affairs and Planning continuing its negotiations with the University of Newcastle.

PORT OF YAMBA

The Hon. M. R. EGAN: On 23 May the Hon. Dr. B. P. V. Pezzutti asked me a question without notice regarding the port of Yamba. The Minister for Ports has provided the following response:

The Government's support for Yamba Port is unequivocally a matter of public record.

A total of \$1 million in State funding has been earmarked to be spent on improvements to the port.

On 7 March, the Minister for Ports announced the release of the draft environmental impact statement for the project and called for public comment on it.

Public submissions closed on 22 April and the matter is currently being considered by the Department of Urban Affairs and Planning, and the Commonwealth Environment Protection Agency.

The Government looks forward to a start to work as soon as possible.

Reinforcing this ongoing commitment to the port, the Government recently advertised seeking new members for the Port of Yamba Advisory Committee.

The Minister for Ports has said on a number of occasions that this Government will not be privatising the State's ports.

The only Government talking about privatising ports in NSW is the Federal Coalition Government.

SOUTHERN RAILWAY INTERCHANGE

The Hon. M. R. EGAN: On 23 May the Hon. I. Cohen asked me a question without notice regarding Arncliffe interchange construction. The Minister for Transport has provided the following response:

While an interchange at North Arncliffe was recommended by the Department of Transport and State Rail for inclusion in the New Southern Railway project, the former Government did not provide any funds for its construction. This was despite the clear benefits it would bring which were outlined in the Environmental Impact Statement.

The Government announced on 16 May 1996 that almost \$27 million would be spent on constructing a railway station and interchange

linking the Illawarra and East Hills lines to the New Southern Railway. The Wolli Creek Station will greatly improve cross regional public transport links between the St George, Sutherland and Illawarra regions and Liverpool and Campbelltown and other locations in the south-west.

With construction of this important station, the people of southern Sydney, St George, Sutherland and Illawarra will be able to travel to the Domestic and International Terminals without being forced to travel to Central to access the New Southern Railway to the airport. Further benefits of the station are the opportunities for revitalisation of the North Arncliffe area based on integrating land use and transport.

The interchange has been designed to accommodate an average of 13,240 passengers a day or 4.3 million a year. Construction of this new station will commence in March 1997 and will be fully operational in 2000.

The environmental benefits of this project cannot be underestimated. By providing efficient public transport links between the south, south-west, Mascot and the airport a real alternative exists to use of private motor vehicles. Encouraging people out of their cars is a key factor in arresting the decline in air quality in the Sydney Region which is crucial to present and future generations.

TELEVISION OF PARLIAMENTARY PROCEEDINGS

The Hon. M. R. EGAN: On 28 May the Hon. D. J. Gay asked me a question without notice regarding the use of parliamentary file footage. The President has provided the following response:

On 11 October 1994 the Legislative Council adopted a Resolution regarding the sound and video broadcasting of proceedings of the House, as well as Committees. That Resolution does not govern the use of file footage.

Guidelines promulgated by the President on 21 August 1991 require that file footage must be clearly identified. However, these guidelines only apply to filming in the Council and Council Committees. There are no guidelines currently governing Joint Committees such as the Committee on the ICAC.

The President will raise with the Speaker the adoption of appropriate guidelines to cover filming of all joint Parliamentary Committees.

SYDNEY HARBOUR MARINE SANCTUARY

The Hon. M. R. EGAN: On 28 May the Hon. R. S. L. Jones asked me a question without notice regarding Sydney Harbour marine sanctuary. The Premier has provided the following response:

At this stage, there are no proposals before the Government to make Sydney Harbour a marine sanctuary. However, significant areas of Sydney Harbour are already protected. For example, there is the 75 hectare North (Sydney) Harbour Aquatic Reserve, which protects fish and fish habitats, and the whole of the Sydney Harbour foreshore is an Intertidal Protected Area, which protects all aquatic invertebrates from collection in this area.

The Government is also considering options for better management of Sydney Harbour and its surrounding catchment. In February, 1996 the Hon K M Yeadon, MP, Minister for Land and Water Conservation released a public discussion paper highlighting six possible options to better coordinate environmental management of the Sydney Harbour Catchment under the Total Catchment Management framework. The Government will ensure the views of the whole community are taken into consideration on this important matter.

TAXI SERVICE DELIVERY

The Hon. M. R. EGAN: On 28 May the Hon. Helen Sham-Ho asked me a question without notice regarding the taxi Industry. The Minister for Transport has provided the following response:

The "Blitz" reported in the Sydney Morning Herald story refers to the on-road enforcement of taxi regulations and standards by the Department of Transport's taxi taskforce. Taskforce officers will not be administering on-the-spot English tests to drivers.

However, raising taxi drivers' English skills is a vital part of the recently announced taxi industry reform package. The Department of Transport continues to receive complaints concerning the lack of English language skills shown by taxi drivers. The Taxi Driver Safety Report also recently highlighted the increased risk of assault to drivers with poor language skills.

At the moment taxi drivers in New South Wales are only required to meet the Australian Second Language Proficiency Rating (A.S.P.L.R.) level one. By contrast, the hospitality industry requires public contact staff to possess level 3 proficiency.

The A.S.P.L.R. was developed by an independent work group from Griffith University and is now used widely across the public sector in Australia.

It is now proposed to raise the required standard to A.S.P.L.R. level 2. This would ensure all new taxi drivers could satisfy routine social demands and meet their work requirements.

The new English language test standard will not be discriminatory with respect to a person's ethnicity or background. The test will be designed to be culturally neutral to avoid any discrimination.

An independent contractor will carry out the testing of driver authority applicants when the new test standards are put in place.

The raising of the taxi driver language test standard will result in not only improved service to taxi customers, but also ensure the increased safety of drivers.

JET SKI USE

The Hon. M. R. EGAN: On 29 May the Hon. Helen Sham-Ho asked me a question without notice regarding jet ski riding. The Minister for Ports has provided the following response:

Because of concern about continuing large number of complaints concerning personal watercraft (PWC), the Minister for Ports earlier this year ordered a campaign targeting irresponsible PWC use.

The campaign was conducted from Saturday, 16 March until Easter Monday, 8 April. Over the campaign, there were:

- 1150 PWCs stopped;
- A total of 4924 checks conducted on those craft;
- 100 warnings issued; and
- 62 penalties imposed.

Of the infringements, 55 per cent related to licensing and registration, 15 per cent involved excessive speed, 15 per cent concerned safety issues (such as failure to wear a personal floatation device) and six per cent involved contravention of distance-off requirements. Only one infringement involved excessive noise.

In conjunction with the Waterways Authority, the Minister for Ports will be studying a detailed breakdown of the results of the campaign to determine what, if any, action should be taken next to deal with this issue of public concern.

The Minister for Ports has asked the Waterways Authority to write to local councils, all 4300 registered PWC users and PWC representative organisations seeking submissions for consideration as part of his review.

The Minister for Ports is also writing to all Mps seeking submissions.

The Minister for Ports has indicated that although he would prefer a strong level of self regulation by PWC users, he will further

strengthen rules governing PWCs if necessary.

ETHNIC AFFAIRS COMMISSION MANAGEMENT REVIEW REPORT

The Hon. M. R. EGAN: On 30 May the Hon. J. M. Samios asked me a question without notice regarding the Ethnic Affairs Commission management review report. The Premier, Minister for the Arts and Minister for Ethnic Affairs has provided the following response:

On 27 May 1996 the Premier and Minister for Ethnic Affairs released a report of the review of the Ethnic Affairs Commission Act entitled "*Building on Our Cultural Diversity*". This report was released as a Government Green Paper and describes the future direction of Ethnic Affairs in NSW. Comments on the Green Paper are due on 19 July 1996.

The Review to which Mr Samios refers is a separate review of the Ethnic Affairs Commission, otherwise known as the EAC Management Review. This review was undertaken by the Premier's Department and was similar to many other efficiency and effectiveness reviews being conducted across the public sector.

The report of the EAC Management Review has been forwarded to the Ethnic Affairs Commission for implementation. As the recommendations do not affect the Commission's role or functions, and primarily relate to ways to improve the Commission's operations and procedures, it is not anticipated that the report will be made public.

It is likely, however, that significant initiatives aimed at enhancing the Commission's ability to better serve our culturally diverse population in NSW will be announced by the Premier and Minister for Ethnic Affairs at the appropriate time.

It is anticipated that all recommendations contained in the Management Review report will be systematically implemented by the Ethnic Affairs Commission by January 1997.

IRRIGATION ELECTRICITY TARIFF CONTROL LOAD OPTIONS

The Hon. M. R. EGAN: On 15 May the Hon. J. H. Jobling asked a question without notice concerning controlled load option on irrigation electricity tariffs. The following answer has now been provided:

The Independent Pricing and Regulatory Tribunal made a determination on electricity prices in February for implementation after 31 March 1996. For non-residential customers the determination stated "no commercial or industrial customer's bill is to increase by more than the greater of 5% in real terms or \$50 per annum (for the same pattern and level of consumption)". This constraint would apply to customers on the controlled load (irrigation) tariff classification.

Prior to the recent amalgamation of NSW electricity distributors, the former distributors billed customers on the basis of many tariffs. Following the amalgamation, the process of simplifying and reducing the range of tariffs has been constrained by the Tribunal's determination. A number of the controlled load irrigation tariffs have been declared obsolete (no new customers will be put on these tariffs) and will be gradually phased out.

The Department of Energy has been advised that since the determination by the Tribunal only Integral Energy has deleted the controlled load option for irrigation tariffs. Integral Energy advised that all the affected irrigation

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farmers (estimated by Integral to be about 500 customers) are better off by a small amount under the new arrangement (the general supply tariff). Accordingly the question of prior notification of "the increase" was not an issue.

The Department has also been advised of an isolated case in 1995 where one Advance Energy customer was being incorrectly billed (in customer's favour) on the controlled load irrigation tariff. In this case the customer moved onto the correct (higher priced) tariff. However no retrospective claim was made by the distributor to recover the difference in rates for earlier bills.

Responsibility for electricity pricing rests with the Independent Pricing and Regulatory Tribunal. The distributors, when rationalising

electricity prices, are required to abide by the constraints set by the Tribunal in its pricing determinations.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Precedence of Business

Suspension of standing and sessional orders agreed to.

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) [1.09]: I move:

That Government Business take precedence of General Business from 2.30 p.m. today.

I thank the Opposition and the members on the crossbenches for their assistance in this regard.

Motion agreed to.

[The President left the chair at 1.10 p.m. The House resumed at 2.30 p.m.]

ASSENT TO BILLS

Royal assent to the following bills reported:

Transgender (Anti-Discrimination and Other Acts Amendment) Bill

Non-Indigenous Animals Amendment Bill

WORKCOVER LEGISLATION AMENDMENT BILL

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (PUBLIC AUTHORITIES) BILL

CRIMES AMENDMENT (REVIEW OF CONVICTIONS AND SENTENCES) BILL

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

Suspension of standing orders agreed to.

PRINTING COMMITTEE

The Hon. A. B. Manson, as Chairman, tabled Report No. 1 of the Printing Committee.

Ordered to be printed.

AJC PRINCIPAL CLUB BILL

In Committee

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [2.34]: I move Government amendment 1:

Page 7, clause 13, lines 16-18. Omit "(in particular, acting as insurer for the purposes of workers compensation insurance and sporting injuries insurance)".

Discussions have continued between the Government, the Opposition - principally the Deputy Leader of the Opposition - and the Australian Jockey Club about the provisions for transfer of functions, assets, rights and liabilities. As a result of the discussions, the Government intends to move four amendments, of which this is the first. The amendment seeks to avoid any suggestion in the bill that the Australian Jockey Club Principal Club when taking responsibility for industry insurance must necessarily operate an insurance scheme itself, as the AJC does at present. The Government's position is a simple one: the AJCPC, as the industry's representative body, should decide the most cost-effective way that industry participants can be adequately insured.

The AJCPC may decide that it should operate an insurance scheme itself, in which case it will negotiate with the AJC to take over the funds. Alternatively the AJCPC, like the New South Wales Harness Racing Authority, may call tenders to determine which insurance provider can come up with the best scheme for the industry, and contract appropriate arrangements. Perhaps the AJC would win the contract, in which case it would continue to operate an insurance scheme for the industry under the terms of its contract with the AJCPC. The Government has been advised that the words in brackets in clause 13(1)(d) in no way compel the AJCPC to act as insurer itself should it decide that the most cost-effective approach is to contract an insurance provider. However, to remove any suggestion that the AJCPC must operate its own insurance scheme, the amendment deletes the words set out in the amendment.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [2.36]: I thank the Government for its facilitation of the four amendments. As the Minister has said, there has been an exhaustive consultation process between the Opposition, the Government and the AJC. The amendment will ensure that there is not any compulsion or mandatory requirement on the AJCPC to undertake workers compensation insurance and sporting injuries insurance on behalf of the industry. I agree with the Minister that the deletion of the words proposed will not change the intent of the clause to any great extent but it does remove what may be perceived as a mandatory obligation for the AJCPC. The Opposition supports the amendment.

Amendment agreed to.

Part as amended agreed to.

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Part 3

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [2.38]: I move Government amendment 2:

Page 21, clause 40, line 29. Insert at the end of the line "Either RIPAC or the AJCPC can request the other to hold further joint meetings and such a request must be complied with, up to a further 2 joint meetings in a year (without precluding the holding of further joint meetings by agreement)."

After initial reservations, the majority of industry groups agree that the Racing Industry Participants Advisory Committee is a positive initiative, even if some continue to argue that the RIPAC's direct representation on the AJCPC should be greater. A key component of the RIPAC package is the requirement that the AJCPC and the RIPAC meet in joint session at least twice each year. Representations to increase the requirement to four meetings per year have been made to both the Government and the Opposition by the Thoroughbred Racing

Investors and Employers Association - TRIE - a peak organisation representing breeders, trainers and owners. The Government, with the support of the Opposition, has agreed to amend the legislation to provide for up to two more joint session meetings per year at the request of either the RIPAC or the AJCPC.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [2.40]: The Opposition strongly supports the amendment. Like the Government, the Opposition has been lobbied for additional meetings by TRIE and other representatives of the RIPAC. This will enable either the RIPAC or the AJCPC to request and be provided with two extra meetings per year. Therefore, four meetings a year can be held if one of the parties feels it is appropriate.

Amendment agreed to.

Part as amended agreed to.

Schedule 1

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [2.41]: I move Government amendment 3:

Page 32, Schedule 1, lines 18-20. Omit all words on those lines. Insert instead:

principal club functions means functions of the kind referred to in section 13(1).

Principal club functions are presently defined as functions that will become functions of the AJCPC and at the same time will cease to be functions of the AJC. However, a possible outcome in relation to the insurance function is that the AJCPC contracts an insurance provider - which may be the AJC - to provide industry insurance. Were this to occur, it could be suggested that it does not sit well with the definition. The amended definition will overcome that difficulty.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [2.42]: The Opposition strongly supports the amendment. It will clarify principal club functions and any ambiguity that may have existed under the present wording of the clause.

Amendment agreed to.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [2.43]: I move Government amendment 4:

Page 32, Schedule 1, lines 26-29. Omit all words on those lines. Insert instead:

- (a) the proprietary interests of the AJC are preserved or justly compensated (to the extent that those interests are beneficially owned by the AJC), and

Clause 7(a) of schedule 1 is intended to ensure that when assets are transferred from the AJC to the AJCPC compensation need be paid only to the extent that the AJC is entitled to be regarded as the owner in its own right of the assets. For example, the funds maintained by the AJC in relation to workers compensation insurance are said to total some \$10 million to \$12 million, with perhaps a \$6 million surplus after allowing for existing liabilities. The AJC says - and it may well be right - that it simply ran a business for 70 years, took risks and derived profits. The AJC says that any surplus belongs to it, and if transferred should be fully compensated. However, the position may be more complex.

There may be other reasons that some or all of the accumulated reserves can be regarded as being held on behalf of the industry - in other words, that the industry, and not the AJC is the beneficial owner to some extent of those reserves. This cannot be determined without full information, and clause 8 of the schedule is

crucial in that regard. However, establishing the position will be a job for the AJCPC, not the Government. The Government's obligation is to provide the right legislative framework for negotiation of an equitable outcome. Concerns have been raised by both the Opposition and the AJC that clause 7(a) of schedule 1 in its present form could operate unfairly to the AJC in relation to the insurance funds. Following extensive discussions, agreement has now been reached on an alternative form of words which it is intended will meet that concern, while ensuring that any equitable considerations in favour of the industry will be taken into account when determining what compensation should be paid.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [2.46]: The proposed amendment has been the most difficult of all amendments to negotiate. Government representatives deserve congratulations upon showing great perseverance with the AJC over this matter. The amendment places the AJC in a position to argue a case for proprietary rights, as against those which are principal club rights. It is quite obvious to me that when law firms, Queen's Counsel and other professionals become involved in

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the drafting of amendments, the process tends to get bottled up. At the end of the day, it came down to establishing what everyone wanted to achieve, and then going to the Parliamentary Counsel to have the amendments put in the right words. The Opposition strongly supports the amendment in the hope that the proprietary rights will be agreed upon and that the transition process is completed without further problems.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [2.48]: I sincerely thank the Deputy Leader of the Opposition, and the Opposition generally, for their cooperation in negotiating a satisfactory outcome. I very much appreciate their efforts.

Amendment agreed to.

Schedule as amended agreed to.

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

ENVIRONMENTAL PLANNING AND WATER LEGISLATION AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [2.49]: I move:

That this bill be now read a second time.

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

I wish to inform the House of the contents of the Water Amendment (Environmental Planning) Bill 1996 and the background to its introduction.

This bill addresses inconsistencies in the current legislation regarding the holding of local land board inquiries and appeals from the decisions of those boards where a Commission of Inquiry may already be examining the proposal or will be examining the proposal.

Briefly, it is proposed that where a Commission of Inquiry has been directed to hold an inquiry into a proposed development by the Minister for Urban Affairs and Planning and a license under Part 2 of the Water Act (1912) is required by the proponent, the Commission of Inquiry is to report to the Water Administration Ministerial Corporation on the licensing aspects. The land board process and appeal process will be modified in certain situations which I will refer to after explaining the current statutory provisions.

Under the existing provisions, licenses under Part 2 of the Water Act are required where works such as dams are placed on rivers and watercourses or water is to be taken from rivers or watercourses. The Water Administration Ministerial Corporation referred to in the bill administers the licensing system. By way of explanation, the Ministerial Corporation is constituted under the Water Administration

Act, 1987 and the Department of Land and Water Conservation is the administrative arm of the Ministerial Corporation.

Land boards are constituted under the Crown Lands Act (1989) and in general terms hear matters referred to them under that Act and the Water Act. They are chaired by one person throughout the State and have two local members. The procedures for appointment of the local members and for the conduct of the boards are set out in the Crown Lands Act.

COIs on the other hand are appointed under the EP & A Act. They hold inquiries to examine the environmental aspects of a proposed development or activity, as defined in that Act.

This leads me to explain the roles of COIs and land boards. COIs already have the role of looking at water-related issues when carrying out inquiries. Water is an integral part of the environment and is included in the definition of that term in the EP & A Act. Where water related issues are involved a COI is required to look into them as part of its charter to look at the possible effects on the environment of the project under scrutiny.

The role of land boards, where they are required to be called under the Water Act following lodgement of objections, is to examine the desirability of granting a licence application.

Any person whose interests may be affected by the granting of the application may object. Although in theory the land board had a broad charter, for practical reasons the land boards focus on water issues.

When considering the broader issues of the effects of a proposed project the COIs are assisted considerably by the preparation by the proponents of an environmental impact study which is required in some cases. For instance, where the proposal falls within the category of designated development as specified in the Regulations made under the EP&A Act the preparation of an EIS is compulsory.

An EIS is also required where a proposed activity falling within Part 5 of the EP&A Act will significantly affect the environment.

Members will be aware that the EIS process has been in place for over 15 years and has proved to be successful. The Regulations under the EP&A Act set out what they should contain. The requirements cover the full gamut of potential environmental concerns.

By having access to an EIS a COI is well placed to test the EIS on a wide range of issues.

If water related issues are involved in the project the COI is able to examine these issues in detail in their own right and also in the broader context of the other environmental elements of the project.

Where broad environmental issues are involved it could therefore be said that a COI is equally or even better placed than a land board to investigate the water issues.

The adverse effects of having two forums considering overlapping issues are clear.

The proponents of a project are forced to go to both a COI for consideration of environmental issues, and as applicants for Water Act licenses to go to a land board as well. In all probability many of the members of the public who attended the COI will also be Water Act objectors because they wish to ensure that both their broad environmental concerns and their narrower Water Act concerns are addressed. They may not wish to risk attending one forum only and to protect their interests, may be obliged to attend both inquiries also.

The result is that all parties are put to the time and expense of attending both inquiries. The time and expense of preparing for and attending both forums may be considerable. A COI may sit over a period of several months; a land board may sit for a week.

A further adverse effect is the attenuation of the approval process. The Department of Land and Water Conservation is required to approve an application before it refers the application to the land board for inquiry.

To ensure that there is a consistency of approach it waits in practice for the COI to issue its findings before it considers whether to approve or refuse the application. If

have been lodged, it is at this juncture that it requests the land board to set the matter down for hearing on the next available date. This may be several months away. If there is an appeal from the land board a further period of delay occurs.

Turning to the antecedents of the Water Act's procedures, the rights of objection under the Water Act pre-date the introduction of the Environmental Planning and Assessment Act. It is clear that there is unnecessary duplication between the provisions of that Act and the Water Act. The Water Act provides what might be described as the double jeopardy of requiring a project assessed by a Commission of Inquiry under the EP & A Act, to be assessed by a local land board and on appeal by the Land and Environment Court.

It is intended under the proposed amendments that a Commission of Inquiry will report to the Ministerial Corporation on the licensing aspects and the Corporation will take into account the Commission's report in making its final decision. At the same time a COI will continue its current role of furnishing a report on its general findings and recommendations on environmental matters to the Minister for Urban Affairs and Planning.

The decision of the Ministerial Corporation will be final, continuing the current scheme of the EP & A Act as regards the finality of the decision of the Minister for Urban Affairs and Planning in respect of designated development.

The proposal also involves removing the rights of appeal of Water Act objectors to the Land and Environment Court. This decision has not been taken lightly. As I mentioned previously, the licensing provisions of the Water Act predated the EP&A Act where in some situations there is no right of appeal.

It is also of interest to note that more recent provisions of that Water Act relating to joint water supply schemes where there are multiple applicants provide that a land board merely makes recommendations to the Ministerial Corporation, whose decision is not subject to appeal. The proposed amendment in this respect therefore introduces a consistency of approach with other existing statutory processes.

Members may wish to learn how the two major provisions link together. The proposed amendments to the EP&A Act and the Water Act complement each other.

They deal with two situations, one where the proponent has already applied for a Water Act licence, and the other where the proponent has not.

Where the Water Act licence has been applied for and objections lodged prior to the commencement of the COI, the Ministerial Corporation is required to forward the licence applications and objections to the COI for its assessment. The objectors may then make submissions to the COI when it advertises that submissions may be made. This procedure is set out in the amendment to the Water Act.

From an administrative viewpoint the Ministerial Corporation will inform the objectors of the change in forum and advise them that they should approach the COI.

In the second situation where the Water Act licence has not been applied for, the COI must not under the EP&A Act amendments wait until this has occurred and the application has been advertised by the Ministerial Corporation. It can of course continue with its inquiry into non-water issues in the meantime. The procedure will then be that the Ministerial Corporation will once again forward the licence applications and objections to the COI and the objectors may approach the COI.

If the COI discovers during its proceedings that a licence is required there is provision in the amendments to the EP&A Act for it to notify the proponent accordingly. This sets in train the application and advertising process.

It is also proposed that under the proposed amendments if there is a COI in progress when the amendments come into effect the COI will, after giving appropriate notice that it will be dealing with water issues, receive submissions from any Water Act objectors or other interested people or associations who wish to speak further on the subject.

This will put to rest any suggestion that some Water Act objectors who have not addressed the COI may have been reserving their resources for a land board hearing and will under the proposed changes lose their opportunity to express their concerns to a public forum.

Mr President, it is important that projects such as those proposed by Newcrest Mining Limited should receive full scrutiny. It is also important that they should not be subjected to unnecessary duplication of processes and the resulting burden of red tape which the

Government is committed to cutting. I commend the bill to the House.

The Hon. D. F. MOPPETT [2.50]: The Environmental Planning and Water Legislation Amendment Bill is significant legislation. It has two basic dimensions that I shall explore in my contribution to the debate: the general and the particular. The bill is couched in general terms to have wide application. I shall also address some pertinent remarks to a licensing application before a commission of inquiry. Essentially the bill provides for the concurrent investigation of environmental matters and water-related issues in specific circumstances where the Minister for Urban Affairs and Planning has decided to take upon himself the responsibility of being the consent authority and, pursuant to the Environmental Planning and Assessment Act, has instigated a commission of inquiry.

The Opposition welcomes moves to streamline the planning process in New South Wales. However, it has reservations about the implications of the streamlining proposed in the bill and how it will affect individuals if it is more widely applied. Specifically, the Opposition is concerned that the bill deals only with circumstances where a commission of inquiry has been established. That application may prove to be too limited to achieve the purpose of the bill, that is, to streamline planning processes in New South Wales. In many ways legislating for planning is relatively new. One of the most distinguished planning Ministers was the Leader of the Government in this House and a former colleague of mine, Sir John Fuller. It might seem incongruous that the National Party featured so early in the initial stages of planning ministries, but the Hon. George Freudenstein also had planning responsibilities.

Some ad hoc decisions of the late 1960s and early 1970s are still in place today because permanent solutions were not found. The Minister looks a little puzzled about what I am referring to. I am referring particularly to the disposal of toxic waste. At that stage moves were made to create dumps that were supposed to be quarantined. Today we are still trying to work out what to do with some of the dumps that are located throughout New South Wales. Those remarks are not applicable to this bill. Interest in planning has

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increased exponentially since the Second World War. Since then major developments have taken place that have transcended the normal controls exercised by local government. In today's pressing economic climate it is important that decisions be reached as expeditiously as possible.

I hope honourable members agree that that objective cannot sustain any truncation of the rights of individuals who may be affected by planning decisions. That is certainly the case in relation to the Environmental Planning and Water Legislation Amendment Bill. The bill seeks to address the following circumstances. A commission of inquiry authorised by the Minister has the power to deal with all the relevant environmental aspects of the development that is being considered. Water is a vital part of the environment. The commission of inquiry, therefore, is required to consider submissions and investigate aspects of the proposal relating to the Water Act. However, in the present circumstances the commission of inquiry is not obliged in any way to take part in the final determination of applications for licences under the Water Act.

One difficulty in the present circumstance is that the Water Administration Ministerial Corporation is required to wait until a recommendation has been made before beginning its determination of the application under the Water Act. That determination is followed by a process in which the recommendation as to whether to grant the licence is made known. A further process is available under which those who feel they may be adversely affected by the recommendation are able to lodge objections. Those objections will be heard at a land board hearing, and if objectors are not satisfied with the result, direct access is available to the Land and Environment Court. This bill proposes that those matters be dealt with altogether and that the commission of inquiry fully investigate all matters in relation to the water licence application and make recommendations that the Water Administration Ministerial Corporation will be obliged to consider before giving its decision.

The bill provides that the board will remain the final determining authority for the licence, but the overall application will be determined after consideration by the Minister of the findings of the commission of inquiry. The difficulty is that the commission of inquiry and the findings of the Minister for Urban Affairs and Planning are final and not subject to the normal appeal processes that would be available under the provisions of the

Water Act. That is the transparent purpose of the bill. In addition to the example that I shall refer in detail, which relates to the application for approval of the Cadia mine development, a number of other development applications involving weighty water licensing matters remain to be considered. The Opposition is anxious that this legislation should proceed, but I will seek an assurance that in the transition process those individuals who are concerned about the effects of the development of the Cadia mine will not be left stranded.

There has been considerable talk about the necessity for this legislation to be considered urgently because the developers of the Cadia mine believe that the project has characteristics that warrant the expeditious processing of their application. That is understandable, because the nature of the ore body they intend to process is not rich. A high rate of extraction from the mine will be required to amortise costs and to achieve a profit at the end. I believe the Cadia mine will be one of the largest goldmines in Australia. It will certainly leave a huge excavation in the landscape, and I understand the whole project will be completed in 14 years. The provisions of the bill are extremely important as they bear on the Cadia Mine. They are also important to the general principles of planning.

When seeking to facilitate these important developments the basic rights of the citizens of New South Wales should not be overlooked. That is almost enshrined in the common law and is absolutely fundamental to a free society. If an individual or a group of individuals wants to build a dam to supply water to a vital operation, due consideration must be given to those who benefit from the present supply of water, and riparian land-holders must receive proper consideration.

Gold has been an important element in this country's development. I do not want to divert too far from the essential subject, but the extraordinary taxation benefits that goldminers enjoyed, the way in which the profits of goldminers were taxed, demonstrate the priority that was placed on the development of goldmining in this country. It still enjoys a high degree of priority. The Cadia mine needs a great deal of water, and it is located in an area where water is not readily available. It will not involve a project akin to the piping of water to the Golden Mile in Kalgoorlie. That was, of course, an incredible engineering feat, and I am sure it had the support of all the citizens of Western Australia. There was an adequate supply of water miles and miles away but the gold deposits at Kalgoorlie and Coolgardie were so important that the cost of constructing what was the largest water pipeline in the world were justified.

A great deal of the water from the Cadia Mine will come from spring-fed streams, which have been the essential resource for a number of farmers in the area. The location of the Cadia Mine brings to mind a truly Arcadian scene. Mining is not foreign to the area; it has been carried on there probably since the 1850s, when gold was first discovered in Australia. I understand that there has also been ferrous mineral extraction in the area. Before the House accepts the proposed streamlining of the planning process it should be sure that the downstream landholders have been given adequate consideration. Although the Minister who had the carriage of the business is not present, I am delighted that the Leader of the Government is in the Chamber to listen to what I have to say.

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The Opposition will certainly be seeking some assurances during the debate or, at the latest, by the time of the third reading, that the Government will tirelessly pursue the rights of the individuals who are likely to be affected in this way to make sure that they will be compensated by an adequate supply of water. If that is not possible a negotiated solution should be reached under which the company would be asked to acquire the properties. I am only talking about four individuals, or possibly five, who will be affected by this legislation. To simply say that one area of land is affected by the project and could be resumed and the owners left with the remainder of their property is to misunderstand the whole nature of agricultural property investment. All of these properties have high value. They are in a significant agricultural area of the State. The owners are entitled to either the quiet enjoyment of their properties or, if that enjoyment is interrupted in any way, they are entitled to be compensated either in kind or in cash.

The Hon. R. S. L. Jones: For all of their loss?

The Hon. D. F. MOPPETT: Absolutely. I would hope, following the example of many mining operations in the Commonwealth of Australia, that they would not only be fully but generously compensated. The difficulty in this particular circumstance is the uncertainty. The Opposition is being asked to agree to a procedure that will cut off their access after the commission of inquiry has reported to, first, a hearing in the land board and, secondly, and probably far more importantly, to the Land and Environment Court.

I am not naive enough to believe that this is completely a black and white issue. Members who are familiar with the Water Act will know that in the case of major diversions from regulated streams the hearing before the land board and the appeal to the Land and Environment Court are not available. The determination of joint authorities is not dealt with by land boards. It is true to say that land boards still perform an important function in the determination of matters relating to fencing and to land use generally. When it comes to major complex and technical matters relating to water, probably the best the land boards can do is bring to bear a sense of fair play. That is, of course, very important. In the end that will probably mean that the decision of the land board will be challenged in the Land and Environment Court.

The Opposition is concerned that important and significant rights will be lost in the process of expediting a major project. This is why the Minister has elected to be the determining authority. His decision in relation to the development application will be final and no appeal will be available. Recently the House spent some time debating the proposed Lake Cowal project. The commission of inquiry ruled in favour of the project but the Minister, as was his prerogative, rejected the findings of the COI. The Opposition would like to know the basis of his decision. Nevertheless, the Opposition accepts that under the Act it was within the Minister's power to do what he did.

The rights of appeal in those circumstances are indeed tenuous. Individuals downstream of the Cadia development have rights of appeal to the Land Board and the Land and Environment Court. In the Legislative Assembly the honourable member for Hawkesbury stated that under section 123 of the Environmental Planning and Assessment Act any individual may approach the court if he believes that environmental damage is being done in contravention of the Act. However, such action will not be lightly undertaken by a group of four land-holders. It is questionable whether they would have the necessary resources. It is not so much a case of justice delayed is justice denied but justice that is unaffordable is justice denied.

Commissions of inquiry have been regarded as a positive step in the general planning process. They have not come under vigorous and rigorous criticism because there have not been many of them. One could argue from first principles that a COI, with the best of intentions, will sometimes get it wrong, giving rise to difficulties when there is no third-party right of appeal. Despite the generally cooperative and comfortable atmosphere which Commissioner Simpson has provided for the affected land-holders, they have not been given the opportunity, as would be the case in the Land and Environment Court, to cross-examine expert witnesses and thoroughly investigate hydrological and other technical material put forward. It would be a great mistake to believe that it is an open and shut case. As recently as last Thursday the company withdrew its current applications and submitted new applications for licences under the Water Act.

Some honourable members were informed that the timetable was critical but now, under the COI process, the new applications will have to be advertised and people will have to have the opportunity to lodge objections and submissions. So the process will be delayed until late in September. The bill has wider application than just Cadia. The Opposition will support the bill's passage but it requires assurances that the Government will actively negotiate with the company to ensure that land-holders' rights are observed. It is within the gift of the Government to ensure this in the conditions it applies to the water licences and development applications, and it is the Government's bounden moral duty to do that.

At this stage the Government has given no assurance. If no such assurances are given in the Minister's reply, we will seek them on the third reading. If the assurances are not forthcoming at that stage we will pursue the Government beyond the passage of the bill on every available occasion - questions without notice, adjournment speeches and any other avenues - to ensure that the rights of

individuals are observed. They could be so adversely affected that their properties could become worthless. The Opposition has sought assurances from the promoters of the development. By leave, I table a letter from Bechtel Minproc Joint Venture signed by Courtney Chamberlain, Executive General Manager, Development, Newcrest Mining Limited. The letter states:

. . . Newcrest has undertaken to only harvest water from Cadiagullong Creek when flows are above 3.4ML per day. This base is comprised of:

- 3.0ML per day environmental flow as agreed by the EPA and National Parks and Wildlife Services.

- 0.4ML per day of riparian flow.

If there is an incoming flow of less than 3.4ML per day, all incoming flow will be released.

During the Commission of Inquiry in March 1996 and May 1996, Newcrest, upon the suggestion of local farmers, agreed to increase the dam storage capacity at a projected additional cost of \$2M, to provide 0.4ML release plus periodic flushes during drought periods when this stream would have little or no flow.

The Opposition would like such an assurance to be written into the terms and conditions of the lease. I shall digress briefly to talk about the nature of the streams to be dammed for water extraction. I am not talking about the Macquarie River; I am not even talking about the Belubula River. The characteristics of the creeks in question are not those of the Merri Merri Creek, which I live alongside. They are small but important permanent creeks. They are not ephemeral creeks that run down the valley when it rains; they are spring fed. But they are a prized resource and asset to the people who live in the Cadia area. The creeks do not have a great yield. To meet the requirements of the dam there will have to be pondage and perhaps extraction from bores in fields around the area.

The concern I raise is that over time the performance of the streams could change dramatically. Anyone who has had anything to do with spring-fed creeks will know that they are extremely fragile. Farming practices or the extraction or diversion of water which recharges the aquifers and raises the watertable can extinguish the streams. I commend the company for the re-use of the water involved; nevertheless, water will be taken out of the system. In addition to that effect, which cannot be accurately predicted at this stage, there will be an effect on the hydrology of the area by the huge pit that is to be excavated as a result of mining. That cannot be avoided; that is the price we have to pay. There is no way to mine without leaving a hole. After the mining is completed it is likely that the fate of streams may be irreversible and may dry up completely. If that is the case the value of this country will be drastically reduced.

The Hon. R. S. L. Jones: So, no compensation?

The Hon. D. F. MOPPETT: I do not take the view that at this stage there is no compensation on the horizon. What the Opposition is concerned about, and I am sure this is the point the Hon. R. S. L. Jones wants to raise, is that it is not apparent at this stage. The commission of inquiry has not reported. It appears on the advice which I communicated to the House this afternoon that the process is to be delayed because of changes in the applications for water licenses. It will be some time before the position is clear as to what the commissioner will recommend to the Minister about the conditions to be applied to water licenses or development applications to deal with compensation to land-holders. For the Cadia project this is a turning point.

The Opposition welcomes the bill as a modest step towards rationalising the procedures for assessing and licensing major projects in New South Wales. The Minister has issued a green paper entitled "Towards Better Land Utilisation and Resource Allocation in New South Wales". That process involves a green paper, a long period of consultation, a white paper, discussion in the community and debate in Parliament. That could take up to two years. In the case of the land-holders and Cadia the Opposition is deeply concerned that their fate

may be irrevocably sealed - not by the commission of inquiry, because it does have authority to do so - but by the Minister. New South Wales has seen an alarming turn in planning because the Government is prepared to pick winners and declare losers. I know I will be called to order but nevertheless I refer to the forestry industry. The Government has put aside all care and concern for the socioeconomic impact of its decisions in relation to the forestry industry.

The Hon. Jan Burnswoods: On a point of order. I cannot resist the challenge since the honourable member has pointed out that he is out of order.

The DEPUTY-PRESIDENT (The Hon. J. R. Johnson): Order! There is no point of order.

The Hon. D. F. MOPPETT: Later honourable members will debate a contentious planning decision - planning in the broad sense. The Government's political decision was to establish the Coolah Tops National Park, the effect of which was the closure of Morrison's mill.

The Hon. Jan Burnswoods: We could talk about that all day.

The Hon. D. F. MOPPETT: I am coming back to what is immediately before the House. I thank the honourable member for her helpful interjection in that regard. We are dealing with a critically important aspect of planning which relates to mining developments. We are dealing with irrevocable changes to the land where this mine is to be developed and worked. We understand that the benefits from Cadia mine are substantial. Members of the Opposition wish them well in this difficult economic climate. Recently copper prices have dropped; copper is one of the main products of

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this mine. The mine has to operate at almost breakneck pace. I am concerned that economic models may be jeopardised by the recurrence of drought conditions. Expert witnesses have estimated - and I do not give this my imprimatur - that the mine may be closed down over long periods when there is not enough water available in the general catchment area. This is a matter of great concern. The Government is taking a risk in streamlining the project. The Opposition generally agrees with the interaction of the water Act and the planning Act, but there is still a long way to go before we have the sorts of things that the Minister, in another place, was talking about concerning a one-stop shop.

Many areas are yet to be covered before we have a comprehensive planning policy. I reiterate that the Opposition wants an assurance from the Minister that the rights and interests of individuals will not be ignored when the final evaluation of the report of the commission of inquiry is taken. It is absolutely vital, to sustain fundamental rights and expectations of the citizens of this State, that they be fully addressed. If no satisfactory practical and material solution is available by way of supply of water or, in the case of noise and dust abatement, that the company is forthcoming in terms of negotiating to purchase those properties, they will become part of the total project. It is not unreasonable to ask for that assurance from the Government and it would not be unreasonable for the Government to ask for that assurance from the company prior to granting any development application or water right.

The Hon. ELISABETH KIRKBY [3.27]: On behalf of the Australian Democrats I most strongly oppose the Environmental Planning and Water Legislation Amendment Bill. This is another example of an arrogant government riding roughshod over the rights of citizens of this State. This legislation, along with the disgraceful State Environmental Planning (Permissible Mining) Bill, is yet another piece of ministerial arrogance that has evidently escaped south over the border from a time warp in Queensland's history that most reasonable people would hope could never occur again anywhere in Australia. That a Labor government - elected with the polling day help of environmentally concerned citizens, and with the preferences of progressive voters - could betray all those people by effectively crashing and discarding the environmental planning process, as if it were simply the stub end of a cigarette, is a slap in the face not only for the citizens of this State but for the judiciary who carefully and reasonably consider the impacts of developments brought before environmental courts. To remove the right of affected landowners to third-party merit appeals in the Land and Environment Court is to say that the Government has decided that people, their lives, and their standard of living do not

matter. In a letter to the member groups of the Environment Liaison Organisation the Environmental Defender's Office stated:

The Minister for Planning has talked of applicants complaining about red tape and frustration. No evidence has been advanced in support of the supposed need to take away the community's right of appeal. To our knowledge, there has never been an appeal heard on the merits in the Land and Environment Court so there can hardly be argument that too many developments are caught up in red tape.

The Government is saying that it does not give a tuppenny damn if an ill-considered decision allows a mine to destroy a farming community and then fold. This is very likely to happen with the Cadia mine because of the downturn in commodity prices, particularly in the price of copper. The Government seems to be more interested in listening to the big end of town at fundraising dinners; it gives every indication of suddenly finding its hearing aid at the first glimpse of a corporate chequebook, rather than being a Government pursuing due process. Maybe, of course, this has happened because the Federal Secretary of the Australian Labor Party, Gary Gray, is complaining that the big end of town is now giving more money to the coalition, to the Liberal Party and the National Party, than to the Labor Party. He is saying that is not fair.

This legislation is possibly designed to sweeten the corporate sector and persuade it to once again pour some more money into the coffers of the Australian Labor Party. The Government is trying to convince honourable members in this House who may not have had the inclination to look at this bill or think through its ramifications that it is acceptable to have a commission of inquiry that is subject to the Minister's veto, that can be overruled by the Minister. How could this sort of mickey mouse commission of inquiry ever meet the concerns of people unlucky enough to suffer the effects of a Minister now out of control on some sort of power trip? Having listened to the Hon. D. F. Moppett it seems to me that the coalition is either asleep on the job or has forgotten that it has been elected to represent its true constituency.

The bill will give an unreviewable power to the Minister to take away a landholder's access to water. This Minister apparently cares very little about due process, as I said in debate on the State Environmental Planning (Permissible Mining) Bill, as long as he gets the outcome he wants. In that debate the Minister said he believed that planning should be outcome-driven, not process-driven. The Minister said recently that there is an overabundance of red tape; and then he made jibes and snide remarks about lawyers getting fat and rich on the planning process. Perhaps the Minister is only concerned for the health and wellbeing of the legal fraternity. He is very worried about their overeating and lack of exercise; he says they are only thinking about how to invest their fees. Of course that is not the case.

Some members of the media - in between being spoonfed by ministerial press secretaries - amuse themselves by poking fun at this Chamber, describing it as some sort of sleepy retirement

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home. But the Australian Democrats are trying to alert the community about the true significance of this legislation, and we will continue to do that. I noted with concern when I read the *Hansard* of another place that the Liberal-National coalition supported this legislation. I wonder how much time its members spent reading the bill and thinking through the long-term ramifications. I am really surprised that the National Party did not apply more pressure to its Liberal Party coalition partner to postpone debate on the bill until there has been sufficient time for community consultation.

I feel very strongly, and I do not think I shall be proved wrong, that if this bill is passed it will come back to haunt the National Party for a long time to come; and that the National Party will pay the price for deserting its rural constituency, to whom it is doing a great disservice by supporting this bill. Apparently the coalition is little concerned that parties before a commission of inquiry - the arbitrating body established by this legislation - will have no power to subpoena documents or to cross-examine other parties. What sort of an inquiry will this be - a rubber stamp for the Government? Most of the parties who will appear before a commission, unless they have financial resources similar to those of a major developer, will not have access to expert independent advice. Most amazing of all is that the commission of inquiry will not maintain a transcript of the evidence or submissions given to it.

This is truly a mickey mouse commission of inquiry. I do not know how any Minister could believe that it will meet democratic process. There will be no third party appeal rights, and the time that people will have to prepare a submission to the commission will be reduced from 28 days - the time they have to appeal to the Land and Environment Court - to 14 days in the case of a public hearing. The proponent of the development will have ample money, of course, and will probably have months or years to prepare a submission; but the individual will have only two weeks. I believe it is proper to place on the record the concerns of the property owners affected by the proposed Newcrest-Cadia gold and copper mine near Orange. The first letter I received, by fax transmission on 17 June, dealt with the Environmental Planning and Water Legislation Amendment Bill. It was signed by J. and W. Ashton, B. and P. Lorimer, B. and S. Gordon and W. M. and D. Whitely, and it stated:

We draw to your attention with a high degree of concern, the passing through the legislative assembly of the Environmental Planning and Water Legislation Amendment Bill.

The Government claim the catalyst for this repressive and restrictive Bill is the Newcrest-Cadia gold/copper mine near Orange. They claim the company has a limited "window of opportunity" to confirm the consent of the project and this window will close by the middle of 1996.

As with Bengalla. The letter stated further:

This contention we believe is not correct and in fact the Government may be trying to "pick winners". The record of the Newcrest company is not great. Out of 4 mines in operation, only 1 is operating profitably. In addition, general speculation is that the company is in fact in a position not to be able to develop the Cadia resource. This view is strengthened by its abortive attempt to prevent a merger of gold companies by the Normandy group. It is variously estimated that Newcrest lost between \$55M and \$85M of shareholder funds by its folly. This leaves Newcrest either vulnerable to bankruptcy or inevitable takeover. So the real reason for hasty licensing could in fact be to enhance its equity levels in case of a takeover offer.

The "window of opportunity" scenario further loses relevance in light of the Sumitomo Rouge Traders loss of \$2.5 Billion. This company has great involvement in world copper supplies and has already had a downward effect on copper prices - and copper being the main product of the Cadia Mine.

Those two reasons hardly warrant the expedition of consent for the project by the implementation of retrospective legislation. The argument that the current consent process has delayed the Cadia project is not correct. The Cadia environmental impact statement was presented for public scrutiny on 22 November 1995. The water licence application was advertised on 28 November 1995. A commission of inquiry was announced to commence on 5 March, and this was later amended and expanded by the appointment of a second commissioner and the added instruction to inquire into all aspects of water supply for the project. The hearings were to start on 26 March 1996, and they did. The second round of hearings then took place between 6 and 10 May 1996, and the commission is currently considering its report. An amended water licence application was advertised on 12 June 1996.

It could hardly be said that the timetable constitutes an unreasonable period for consideration by what has been claimed - by the company and a few moments ago by the Hon. D. F. Moppett - to be Australia's largest gold and copper mine. The Hon. D. F. Moppett did not mention, however, the salient fact that the project also includes what is to be Australia's largest tailings dam, perched at the headwaters of the Murray-Darling Basin in the Belubula River valley. During the EIS public comment period and subsequent commission of inquiry, all departments noted concern about water issues. They pointed out that some permanent streams will be annihilated and others will be stripped of the major portion of their flows. The daily requirement of water for the mine is 86 million litres, which is more than four times the daily consumption of the city of Orange. The development does not concern a small amount of water; it is an amount of water that would service a large inland town in New South Wales.

The Caring for Cadia Group, consisting of five downstream property owners, cooperated fully with the commission of inquiry. The group engaged consultants of the highest calibre to expose the deficiencies of the

Newcrest water supply scheme. The consultants presented to the commission reports indicating that the Newcrest water scheme was not balanced, and they confirmed reports of Newcrest's own consultants that the
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scheme would fail in 62 per cent of years - or seven out of the 12 years. That is what the mining company itself says is likely to happen. So what did the Government do? The Government is ignoring that - it is ignoring even the scientific advice provided by the company, which surely did not make that statement as a means of furthering its case - by introducing legislation to set up a commission of inquiry, which the Minister and the Government will have the power to override if it does not come out in the way that the Government wants.

That is the basis of this argument. The Government's position is so wrong that from time to time in these debates words fail me. I do not know how to express strongly enough my disgust. The Government was elected with environmental credentials - environmental groups in this State believed that a Labor government would look after their interests. I am therefore appalled that the Government presents legislation that totally overrules all due planning processes, completely ignores landowners and provides no right of appeal. That is certainly not democratic legislation. The second letter I received from the Caring for Cadia Group is dated 18 June. I imagine that it has been sent to all honourable members, probably those in the lower House as well as upper House members, because it is simply addressed, "Dear Member".

The group points out that there was an attempt by the Minister for Urban Affairs and Planning to intimate that some of the affected farmers were "going to take the company to the wire . . . in an effort to frustrate the consent process". The landowners have participated fully with all of the current processes. As the commission of inquiry has completed its formal hearing but is yet to issue a draft report, we do not know what the commission of inquiry will say. The situation is similar to that with regard to the Bengalla mine project. The group's letter impressed that the company's water supply contained significant deficiencies, as was admitted by the company, and that the flaws were revealed by consultants. Concerns about the whole inquiry process are raised. The letter stated:

It is worthy of note that when Premier Carr announced the abandonment of the Lake Cowal mine the only industry representative to support that stand in press reports was Mr John Quinn Managing director of the Newcrest mining . . . the proponent company in the Cadia Mine.

Would one expect Mr Quinn not to do so? He is going to have the Government's permission for his venture to go ahead. The group knows very well that permission is being granted to Newcrest although it was denied to the management of the proposed Lake Cowal development. Surely what was right in one case must be right in the other case. If the Government's decision on Lake Cowal was right then consent should be denied to Newcrest for the Cadia mine. What is it that the State and the country will gain? It was only on Monday, 17 June that the business pages of the *Sydney Morning Herald* ran a front-page article headed "Copper price plummets". Australian copper mines are already not competitive with copper mines in other parts of the world, because their labour costs are so much higher, and, when the copper price has plummeted worldwide, why is the Government giving permission for a copper mine in New South Wales that will have untold adverse effects on the water supply to the Murray-Darling Basin? How can the Government possibly justify that? The article in the *Sydney Morning Herald* stated:

July copper fell 10.3¢ to 93.85¢ a pound on the New York Mercantile Exchange's Comex division on Friday - the metal's lowest close since May 5, 1994.

It further stated:

Prices are falling because Sumitomo may say they won't sell their copper holdings but people don't believe them . . .

And it also stated:

Findlay & Co mining analyst Mr David Archibald predicted that copper would almost halve over the next four years.

Mr Archibald said on national television, "I expect it to almost halve over the next four years down to about US\$65¢ a pound by the year 2000." If the bill is enacted - and I do not understand why the Opposition will not join some of the crossbenchers in opposing it - there will not be a financial bonanza for this State, because the metal that is to be mined is on the downward path. It is perfectly possible that in another 10 years the price of copper may have risen again, but I do not consider that very likely because optic fibres are now replacing copper in telecommunications and there is less and less copper being used in the production of currency and the minting of coinage. As market analysts have predicted that the price of copper will almost halve over the next four years, what guarantees are there that in this development it will be economic to extract the gold in the Cadia deposit as well?

I believe that New South Wales will be left with a mine that is closed, because Newcrest will not have had the money to continue; creeks and catchments will be irreversibly ruined, and we know what happened with the Fly River and what compensation BHP has just had to pay out for that development; and farming families will be displaced from valuable and productive arable land. This will all be the result of the decision of a Minister who chose to ignore due process and bypass the very court that was set up by his predecessors to consider and determine these matters in the best interests of the community. The late Hon. Paul Landa must be turning in his grave. He worked so hard for strong environmental legislation, and before his death he would not possibly have believed that a Labor government would move to overturn what he worked all his political life to achieve. The Australian Democrats condemn the bill in the strongest possible terms.

The DEPUTY-PRESIDENT (The Hon. J. R. Johnson): Order! I draw to the attention of honourable members the presence in the President's gallery of the long-time distinguished servant of the House, Mr Les Jeckeln.

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The Hon. R. S. L. JONES [3.50]: While I am wholeheartedly in support of the Government's attempts within the bill to streamline the process of granting water licences and subsequent appeals, I am totally opposed to the replacement of third-party appeal rights to the Land and Environment Court with commissions of inquiry. I have grave concerns about the proposed reduction in time allocated for the public to prepare and make submissions. While the theory behind commissions of inquiry is a good one - to make public participation cheaper and more extensive, to provide less formal means of reviewing decisions than appeals to the courts and to have experts in the field as decision makers - in practice such inquiries do not provide a satisfactory alternative to court appeal rights.

There are several problems associated with relying on commissions of inquiry for equitable and adequate outcomes to disputes. Firstly, parties to a commission have no right to subpoena documents or to cross-examination, unless the commissioner in question gives leave - which of course is rarely granted. As a result, any documents which may be adverse to the proponent may never see the light of day, and the hearings merely become exercises in appeasing public concern about development proposals. Secondly, commissions of inquiry often merely provide an illusion of public participation; that is, the public is not able to participate fully because of the complexity of scientific evidence involved, lack of resources and lack of knowledge of the means available to them in putting their case.

For instance, although there is a limited amount of legal aid available for environmental litigation, and the Environmental Defender's Office is able to offer assistance, many citizens in New South Wales are totally unaware of their existence. Thirdly, while a commissioner may summon persons to give evidence and to produce material, such witnesses are not afforded protection in relation to later proceedings that may be found upon their testimony. There is no protection against self-incrimination, as in proceedings before the Independent Commission Against Corruption. Fourthly, the quality of the commissioners appointed is often mediocre, if not poor. Whilst some commissioners have little understanding of the key issues, others have no understanding of environmental science and, therefore, defer to engineering judgments of statutory authorities. Some have even been known to stop the questioning of parties or experts when the arguments become too complex.

Finally, the legitimacy of the planning process can be severely undermined by proponents presenting further submissions and representations to the Minister after the commissioner's report has been lodged. This means that those opposing the development are not able to rebut new material. On the issue of third-party appeal rights to the Land and Environment Court the Government can hardly argue that their removal of them will save time and cut red tape, thus streamlining the water licence granting approval process.

Of the 11 local land board appeals lodged in the Land and Environment Court over the last decade, only one refers to the rejection of a water licence. Although that case, *Balbarrie v Water Administration Ministerial Corporation and Fowler (1989)*, was upheld by the court, it provides no evidence to support the premise that too many water licences are being caught up in red tape. If anything, it is evidence to the contrary, as its lone existence is a direct illustration of the fact that the process of appeal is not being overly used or abused. In addition, while it may take three to six months for such appeals to be heard and for decisions regarding them to be made, commissions of inquiry have been known to run for 12 months or more.

From the time of the announcement of an inquiry, advertisements need to call for submissions, time needs to be allocated for public comment, the terms of reference may need to be reviewed if they are found to be too limited, submissions may be called for in reply, and hearings must be conducted and the findings written up in report form - all in all, a very lengthy and complicated process. Not all appeals are lodged by third parties. Applicants who have applied for water licences and who have been refused, and farmers who also need access to creeks and rivers for stock-watering and domestic purposes, also lodge appeals to the Land and Environment Court. Therefore, it is not merely third-party appeal rights which are in jeopardy but all merit appeal rights.

The importance of these rights can be readily gauged by considering one of the many cases in which they provide the only chance of resolution in a water dispute. The owners of "Weemalla", near Orange, have been attempting to sell their property through auction for the past 12 months but to no avail. Unfortunately for them, the property is located within the vicinity of the Cadia copper mine project, which is considered by buyers to be an obvious threat to the property's water supply. As a consequence of this, while there have been several inquiries about the property, no-one is willing to risk investing in it. The fact that the spouse and daughters of the senior partner in the property shall be left with an unrealisable asset should he suffer a premature death is the least of the owners' problems. Rather, they are lucky to be left to their own devices in negotiating with a company that requires some 8.6 million litres of water per day and refuses to guarantee the continuity of water supply to downstream properties if this bill goes ahead.

In relation to the time to be allocated for the public to prepare and make submissions to public hearings, the proposed reduction from a minimum of 28 days to 14 days is totally unacceptable, as 14 days would hardly provide one with enough time to obtain the necessary documents on which to base a comment, let alone to consult and formulate a response. For example, in rural areas local papers, and therefore any notification within them, may

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only reach residents once per week, and that may be up to several days after they are published. This would mean that such persons would have only seven days in which to sight the advertisement, to try to obtain information regarding details of the advertisement, and to mount any opposition to the proposed licence. Considering that such persons may be in the middle of sowing or harvesting, parenting, holidaying or other activities, and that their proponents have years to prepare their background materials, such a time period is grossly inadequate and unfair.

To further illustrate this point, the proposed extension of Warnervale Airport serves as a prime example of just how inadequate 14 days consultation will be. In that case a small notification was placed in a local paper in which only 20 per cent, that is, 20,000 out of 100,000, of the area's residents were recipients. As a result, by the time the majority of the members of the community became aware of the development and its possible adverse effects on the area and on their lifestyles, and joined together to oppose the development in the Land and Environment Court, their challenge was ruled null and void as it fell outside the allotted time frame. In summary, reducing the time allowed for the making of submissions is likely to advantage the already highly

organised irrigation sector over the individual and local community groups that are forced to rely on voluntary help. It will of course also disadvantage indigenous groups that may require more time to adequately consult with their widespread communities - all of which is totally unacceptable.

I should like also to draw attention to the Government's contradictory position with regard to its discussion paper entitled "Towards an Integrated Land Use, Planning and Natural Resource Approval Policy for New South Wales". While the paper in question calls for public discussion and comment on the possibility of such integration by 30 August 1996, the present bill is attempting to implement integration. Therefore, either the Government is acting extremely prematurely in considering this bill or the discussion paper reflects a mere token approach to consultation on the part of the Government. Although I and many others agree with Minister Yeadon's sentiments expressed in his second reading speech - that the decision to remove third-party rights should not be taken lightly - I would have liked the matter to have been taken a step further and to have proposed that the decision be completely reworked. Much of the river system within New South Wales is already overallocated in that more water is allocated for irrigation licences than can be reasonably sustained.

The Hon. D. F. Moppett: These are unregulated streams, and that is a very important point.

The Hon. R. S. L. JONES: Yes, from our rivers. It is now widely acknowledged and accepted that the wider community has an interest in the granting of water licences and is therefore a stakeholder that also has the right to be adequately consulted. The decisions of commissions of inquiry rarely go against any development; they often reflect substantially or precisely the Government's position. Therefore, the public has very little faith that its concerns will be adequately addressed by such inquiries. In light of this, if the Government is really serious about the importance and benefit of public consultation on issues of interest, then it should maintain third-party appeal rights to the Land and Environment Court as well as the 28-day period as the minimum time allowed for the preparation of public submissions. Many difficult and controversial environmental decisions must be made in the next few years with the best available resources the Government can command and in circumstances in which the public confidence in the decision-making process and interest group confidence in outcomes can be secured. The Hon. D. F. Moppett referred to a letter from Bechtel Minproc Joint Venture. Bill Whitely's response to that letter is as follows:

These suggestions were made in the C.O.I. [commission of inquiry]. They have no standing as C.O.I. has not made a report.

The 4 ML/DAY would not maintain a flow down the streams as measure point is in the mining lease area.

The creeks in living memory have never ceased & as such the drought proofing is not a valid point.

I bring that to the attention of the Hon. D. F. Moppett. I also warn Newcrest that its major shareholder and investor, AMP, is keeping an eye on it. I am sure AMP would not be very happy that land-holders are disadvantaged by a large mining organisation in which it has invested money. I would suggest that AMP monitor this process to see where its money is being invested and to make sure that land-holders get a fair deal. If not, it should pull its money out of the deal.

The Hon. JAN BURNSWOODS [4.03]: I speak in support of this bill, the object of which is to amend the Environmental Planning and Assessment Act 1979 to provide for a commission of inquiry, and the Water Act 1912 with regard to considerations for a water licence, the purpose being to coordinate consideration of such matters. The bill will reform existing convoluted procedures which, as has been said many times in this debate, involve a great deal of duplication. In supporting the bill I shall speak generally about some aspects of it, certainly a great deal more generally than did the Hon. D. F. Moppett and the Hon. Elisabeth Kirkby, who devoted much of their contributions to the proposed Cadia mine. Although this bill has a connection with that proposed mine, its objectives refer to other issues, and it is to those issues that I wish to refer.

I commence by reminding honourable members that Australia is often described as the driest continent in the world, consequently the issue of licensing the use of water resources has been important for quite some time. The Hon. R. S. L.

Jones recorded his wholehearted support of reform of the water licensing process. I am pleased that, at least to that extent, he supports some of this proposal. Much has been said in recent times about problems with water licensing and the use of that very precious and limited resource. Generally speaking the Water Act of 1912 is still the Act under which applications for water licences are considered. The process has involved the inclusion of the public by means of the local land boards, which carry out this function along with a variety of other rural functions. Land boards hold public hearings into applications from small water users on rivers or creeks up to those who supply large towns, supposedly to obtain a clear picture of the potential effects of proposals.

It is clear that over the last few years problems have arisen with regard to the process, legislation - such as the Environmental Planning and Assessment Act - and procedures that have developed over the last nearly 20 years or so to deal with environmental concerns and to regulate the planning process in this State. The bill will ensure that a commission of inquiry will determine applications for water licences when it is required to consider broader environmental aspects of a project, thus obviating unnecessary duplication. Therefore, the original spirit of the Water Act, to provide a public forum for people to air their views and provide information, is retained. Furthermore, the process, which was established under more recent environmental legislation, has been streamlined to dispense with duplication and inefficiency.

I acknowledge, as did the Ministers who spoke in debate on this bill in another place, that this measure is only a small step in the complex process of reform to plan procedures and avoid duplication. As the Hon. D. F. Moppett said, the process will take quite a considerable time. I shall refer briefly to the Cadia project. Because I quite frequently visit Orange and Molong in my capacity as a member of this House, I know something of the relevant area. The proposed mine development will require a \$400 million investment and will generate much-needed employment in the Orange-Blayney region - about 250 jobs. It is not surprising that the people of Orange, Molong and Blayney are excited about the prospect of this mine. And those who are excited about it are not by any means people who lack concern for the environment.

Those with whom I have spoken in Orange about this mine - many with considerable environmental credentials - do not regard it as a potential environmental disaster, as the Hon. Elisabeth Kirkby obviously does. She implied there was in effect a conspiracy and suggested there was a connection between this project and the Bengalla mine project. The Lake Cowal decision has been referred to also in this regard. I certainly do not see any relationship between the Cadia mine and the proposed Lake Cowal mine, which was rightfully rejected for environmental reasons. I reject the conspiracy theorising that honourable members heard something of earlier.

The Hon. D. F. Moppett: It raises the issue of what is the relevance of the COI recommendations.

The Hon. JAN BURNSWOODS: Yes, all of these issues are certainly relevant. I now wish to remind honourable members of changes that have taken place with regard to the decision-making process. Notably, in the other House the Minister for Urban Affairs and Planning, the Minister for Mineral Resources and the Minister for Land and Water Conservation spoke in the second reading debate on this bill. Reference has been made to the green paper entitled "Towards an Integrated Land Use Planning Financial Resource Approvals Policy for New South Wales" released recently by the Minister for Urban Affairs and Planning. It provides a framework for the fundamental reform of approvals policy in this State with the objective of streamlining processes whilst at the same time ensuring rigorous environmental standards and outcomes.

No one would deny that the planning process which has developed over the last 20 years is incredibly duplicative and very confusing. It suffers from uncertainty and a lack of coordination. The Minister for Urban Affairs and Planning pointed out that in the planning and land use approval system alone there are now at least 104 statutes and 45 sets of regulations to be negotiated - not to mention hundreds of local environmental plans, development control plans and local codes administered by local government. The Minister for Land and Water Conservation said that on water matters alone he has about 50 separate Acts to deal with.

It is a big job for the Government to rationalise and clarify the legislation and to bring order and certainty to the process - ensuring that environmental considerations are observed and protected rigorously but getting rid

of the duplication and reducing delays caused by the need to go through so many different steps and to deal with so many different bodies. This is a worthwhile endeavour. It should be placed on the record that in a little over one year in office the Government has already taken a number of very big steps, after proper discussion with those affected, towards cleaning up the approval and planning processes. The previous Government conspicuously failed to come to grips with the problem. This is yet another area in which the Government is grasping the nettle to bring about change which is administratively and legislatively complex.

The Government is proceeding by way of green papers and other processes, and this necessarily takes time. It is a major reform process. As the Minister for Land and Water Conservation has pointed out, while the process is under way it is necessary to introduce legislation such as this to deal with particular problems. The bill deserves the support of the House. I welcome the support expressed by the Opposition. I noted the requests by the Hon. D. F. Moppett for certain

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assurances. It is not my place to give them but the Minister may provide them in reply. I conclude by urging the House to support the bill.

The Hon. D. J. GAY [4.13]: I congratulate those who have contributed to debate thus so far. This is an amazing time: I agree with all that has been said - even with what the Hon. Jan Burnswoods said. It must give great comfort to the people of Orange and Molong that she visits regularly! It gives Opposition members a warm inner glow as well. I support the bill in principle because it is a sensible measure designed to streamline the processes, to eliminate duplication and to assist employment-generating investment while still addressing all environmental and water licensing issues. However, if the bill does not work to its full potential, it will no longer have my support. Honourable members may see before them a person in a dark blue suit addressing the Chamber, but I assure them that inside me beats the heart of a boy from Crookwell. I promise the House that if the bill does not operate properly I will do my very best to have it rescinded. I am supported in that pledge by the Hon. D. F. Moppett.

The bill is not specifically for one project but its acceptance will depend on how it operates with the first project it will cover, the Cadia mine. I am concerned that objectors will lose the third-party appeal rights they currently have under the Water Act. The Cadia project, near Orange, will involve \$420 million and provide at least 300 jobs directly for people in country New South Wales, with beneficial indirect flow-on effects. I also have been contacted by the Caring for Cadia group, which supports the mine in principle as long as the operation of the mine does not create problems for the water supply from Swallow, Cadiagullong and Rods and Flyer creeks. As the Hon. D. F. Moppett mentioned, the group seeks guarantees that the mine will maintain the spring flow and base flow in the creeks at the current rate. The group's ideal solution to the problems of the water needs of the mine would be to take 10 per cent of the daily new water needs from the Belubula River. I have trouble with the pronunciation of that river; one needs to be a local. The name of a small community near where I live - it is also a mining community, located near Woodlawn mine - Tarago, is often mispronounced by visitors to the area.

The Hon. R. S. L. Jones: What about Tomago?

The Hon. D. J. GAY: I could refer to many examples but much more important issues are before us. Local farmers at Cadia have offered the mine free of charge an easement for a pipeline across their land to the Belubula River. The mining company has stated that no water licences for the Belubula River are available on the market, and the mine would have to buy up to 83 per cent of the water licences currently allowed. There are 88 water licences on the river and 53 of them are sleeper licences. It was suggested to me that if the company bought 10 per cent of them and used them only when water was needed it would be doing a favour to New South Wales because that would reduce the number of licences. All members would be aware that a problem over many years has been the fact that too many licences have been granted. I am also told that the mine will receive water from the Orange and Blayney effluent treatment plants as well as from the bore field. That is an interesting environmental situation. My real concerns were addressed by the Hon. D. F. Moppett. I will not repeat what he said in his excellent contribution, with which I concur.

The Hon. Jan Burnswoods: This is a mutual admiration society.

The Hon. D. J. GAY: When an issue is important, there is no reason not to agree. I agree with the Hon. Jan Burnswoods on this issue because her contribution made a lot of sense. That is a refreshing change. I suspect that that change will not last long, but while it is here I will accept it. It has been suggested that the debate should be adjourned until the commission of inquiry brings down its findings. During the day the Opposition has been able to go some way towards alleviating the concerns. This afternoon I received a fax from Courtney Chamberlain, the Executive General Manager, Development, Newcrest Mining Limited. I will later seek leave to table this document. The fax stated:

CADIA PROJECT
COMMISSION OF INQUIRY

Further to our telephone conversation, we confirm that we will respect the recommendations of the independent Commission of Inquiry as an unbiased umpire in regard to conditions applying to the development of the Cadia Project.

The Opposition had been concerned that when the legislation was passed and the recommendations applying to the landowners had been handed down, the recommendations may not have been adhered to. Newcrest Mining Limited has said that it intends to respect the recommendations of the commission of inquiry. The mining company, a major player in this issue, has indicated that it will not act detrimentally towards the landowners in relation to any recommendations from the inquiry. The Minister has power to overrule any recommendations from the inquiry. Given the indication from the mining company, I ask for an assurance from the Minister that he will not override any of these recommendations relating to the rights of the landowners.

I know the Minister's advisers have taken on board what I have said. I hope the Minister will respond to my request. That would be one more reassurance to those who have concerns and are potentially affected by this development. The Hon. D. F. Moppett also mentioned four landowners who are not on the acquisition list, but who live downstream of the mine but above the Belubula

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River. An extract of a report to the commission of inquiry by Dr Franz Kalf which was prepared for Cadia Mines Limited stated in part:

5. NEED FOR BINDING GUARANTEES ON MAINTENANCE OF SPRINGFLOW AND BASEFLOW

Newcrest could provide its neighbours with a written guarantee that in the event of failure in springflows, or baseflows in Swallow Creek, the company will provide emergency supplies...

That is a grey area. The guarantee is a great idea but, having spoken today to the Executive General Manager, Development, at Newcrest, I know that at one stage the company wished to provide a written guarantee of water for those who may be affected. The landowners did not believe that such a guarantee would meet their concerns. What I am saying emerged from the conversation I had with the representative of Newcrest. I found him to be very understanding. Although we did not agree on everything, some agreement was reached. He indicated that Newcrest wanted to give a written guarantee but that had been rejected. Since then Newcrest has provided an extra \$2 million for the holding dam, but the genuine concerns of the Hon. D. F. Moppett and the landowners still remain. The Hon. D. F. Moppett understands these problems as he lives on a spring-fed creek.

The Hon. R. S. L. Jones: I do too.

The Hon. D. J. GAY: Yes, but they are in different parts of the State and have different farming habits. The Opposition will support the bill only for so long as it has public acceptance. That public acceptance will result only from the application of the principles in the bill. I urge the Minister to take on board the concerns raised by the Opposition. Although the Opposition supports the bill at this stage, it must not disadvantage the people we represent, who are at the heart of the National Party. If the National Party cannot represent the rights and aspirations of farmers, there is no place for a National Party in this State. If the bill disadvantages the

people represented by the National Party, I guarantee that the National Party will put its support behind the repeal of this legislation.

The Hon. I. COHEN [4.28]: The ambience in the Chamber today is indeed heart-warming with the major players agreeing on this important issue. It is a pity to destroy the atmosphere by disagreeing with both the Opposition and the Government. That agreement surprises me, because I too have received information from environmentalists in the Orange area. They are certainly not jumping up and down with enthusiasm about the development of the Cadia mine, as the Hon. Jan Burnswoods would have us understand. There is a great deal of disquiet in country areas. That disquiet has been fed through my office by people who are not satisfied with the positions taken by honourable members opposite, particularly members of the National Party. It seems to me, and to the Greens in general, that this bill supports mining interests; as the Hon. Elisabeth Kirkby has said, not dissimilar to the Bengalla situation, although there may be differences.

In any event, the bill is driven by support for the mining industry; it is not in the interests of the environment or of a significant number of people in the farming sector whose properties are in areas surrounding that development. The Hon. D. J. Gay talked about the degree of trust that he has for representatives of the mining company. I suggest that the National Party is wrong. If the right defensive procedures that I and others have suggested are not taken at this stage it will be too late. An operation such as this cannot be turned around. Members of the Government are quietly and politely decimating the planning procedures set in place more than a decade ago by their predecessors, most notably Paul Landa, who would be less than happy at the direction that the Labor Government is taking.

I speak against this bill, which will, amongst other things, deprive farmers of their right to a merits appeal to the Land and Environment Court against the granting of a licence to dam water or take water from streams. The object of the bill is to enable a commission of inquiry under section 119 of the Environmental Planning and Assessment Act to consider an application for a water licence made under the Water Act 1912. The aim is to coordinate consideration of the water licence and a proposed development or activity in respect of which the application for the water licence is made. In his second reading speech in the other place, the Minister, the Hon. Kim Yeadon, stated that the bill addresses inconsistencies in the current legislation regarding the holding of local land board inquiries and appeals from the decisions of those boards where a commission of inquiry may already be examining the proposal. The only inconsistency is in the Government, which purports to protect the environment on the one hand and then destroys it on the other.

It has been an established principle under the Environmental Planning and Assessment Act 1979 that when there is more than one determining authority under part 5 of that Act, a single environmental impact statement may be used for consideration of the proposed activity. A director's report and the findings of a commission of inquiry could then apply. This is reasonable when ministerial decision making under a range of Acts is relevant and when it is necessary to coordinate a final outcome. That is not the case under part 4 of the Act, where the role of the Land and Environment Court is well established. The court provides a coordination mechanism to hear all manner of issues which fall within the jurisdiction of the court. The granting of new water licences is not to be taken lightly. The removal of a community's or an individual's rights to appeal a decision by an independent arbitrator is even more serious. Water is the lifeblood of this country, and we do not have sufficient for all our needs.

The bill will have the effect of removing third-party merit appeals against the granting of water licences where a commission of inquiry has been

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appointed. The experience of environmental lawyers in relation to water licences demonstrates that many of the State's river systems have been overallocated. Poor decisions about water have been made in the past and are still being made. Hence, the independence of the court system is needed to keep bureaucracies and governments in check. The Minister may be concerned about red tape and frustration, but there is no evidence in support of that concern or the supposed need to take away the community's right of appeal. I am advised by environmental lawyers that there has never been an appeal on the merits in the Land and Environment Court, so there can hardly be an argument that too many developments are caught up in red tape.

Under the proposed system there will be no further right of appeal. It will take away the opportunity for developers to put their case, removed from the emotional rhetoric of community debate. For the community, it will provide an opportunity to test the documentation and evidence put forward by the proponents. Not only does the bill purport to take away third-party rights, it also reduces the period of time for preparation of submissions to only 14 days. This is far too short and should be extended. What is this bill really about? The bill seeks, yet again, to give an advantage to mining interests in this State over and above the rights of individuals. The bill will facilitate the Cadia mine near Orange to the detriment of the environment and local communities. I understand that jobs and economic development are the current paradigm but surely governments should not be in the business of being brokers for the mining industry.

The legislation does not put in place the same process for water as exists for development consent. The ultimate decision for the granting of a water licence will now shift from the jurisdiction of the local land board to that of the ministerial corporation. The ministerial corporation need not abide by the recommendations of the commission of inquiry, but can only take these matters into account in arriving at a decision - a final decision without appeal. A parallel exists in this legislation with the mining legislation in relation to mining wardens. In such cases, mining wardens had powers to provide for more informed local decision making, which has now been centralised in a commission of inquiry. The Government will claim that consultation has taken place about this bill; that is not the case. The Government introduced its discussion paper entitled, "Towards an Integrated Land Use, Planning and Natural Resources Approvals Policy for NSW" dated May 1996. Comments are invited by 30 August 1996. The discussion paper lists the following as some of the matters to be considered for reform:

A range of reform projects which will reduce legislative complexity and fragmentation is already underway or projected including;

- stage II of the review of pollution control legislation, which will consolidate the *Clean Air Act*, *Clean Water Act*, *Noise Control Act*, *Pollution Control Act* and related legislation;
- forestry regulation will be streamlined as part of the corporatisation of select State Forests' operations;
- 'umbrella' water legislation will be developed;
- building and planning approvals legislation will be consolidated;
- The Minister for Land and Water Conservation will consider the development of a natural resources management Act which would combine a number of land and water statutes.

This paper does not go into these issues in more detail; such reforms will be the subject of separate development and consultation processes.

This bill, together with two other bills being considered by the Parliament, are pre-empting these considerations. I believe that the community and the Parliament could benefit by delaying the bill until the House reconvenes in September for the next session. Issues that could be considered include the availability of other models to deal with water, the period for preparation of evidence, and the role of the ministerial corporation, et cetera. There may well be merit in streamlining the process set out in the Water Act for finally having a land board inquiry and then granting an appeal to the Land and Environment Court. The public inquiry process set out in section 11(5) of the Water Act could be superfluous when merit appeal is available to the Land and Environment Court. I appeal to the Opposition to listen to its own constituency, including rural landowners.

In making that appeal I invite the Opposition to defer the bill until the next session of this Parliament. If that cannot be done, I invite the Opposition to discuss with my staff amendments that may provide for more realistic time frames for the preparation of evidence and for appropriate checks on the issue of re-examination of the merits of the water licence. This could be done before next week. I also flag for the benefit of the Government my desire for a new office of environmental ombudsman and/or environmental auditor who could,

as an officer of this Parliament, provide an independent review of the action of the Government when a decision is not appellable to the courts. Such an office would operate in a manner similar to that of the Auditor-General's Office or the Office of the Ombudsman. It would deal with environmental issues rather than financial or administrative issues, and would review and make recommendations about changes to environmental legislation. I oppose the bill and I will move that the debate on the bill be adjourned until the next session of Parliament.

The PRESIDENT: Order! The Chair cannot accept a motion for adjournment in that form. The motion must seek to adjourn the debate to a specific date.

The Hon. I. COHEN: I oppose the bill. I move:

That this debate be now adjourned until 17 September 1996.

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The House divided.

Ayes, 5

Mr Cohen	<i>Tellers,</i>
Miss Kirkby	Mr Corbett
Mr Tingle	Mr Jones

Noes, 36

Mr Bull	Mr Manson
Dr Burgmann	Mr Moppett
Ms Burnswoods	Mrs Nile
Mrs Chadwick	Rev. Nile
Mr Dyer	Mr Obeid
Mr Egan	Mr Primrose
Mrs Forsythe	Mr Ryan
Mr Gallacher	Ms Saffin
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Shaw
Mr Hannaford	Mr Rowland Smith
Mrs Isaksen	Ms Staunton
Mr Jobling	Mrs Symonds
Mr Johnson	Mr Vaughan
Mr Kaldis	
Mr Kersten	<i>Tellers,</i>
Mr Lynn	Mrs Arena
Mr Macdonald	Dr Pezzutti

Resolved in the negative.

Motion for adjournment negatived.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [4.48], in reply: I thank honourable members for their contributions to the debate. I inform the House that the relevant Minister can give an assurance that the affected land-holders in the vicinity of the Cadia mine, particularly those affected in relation to water, will be heard by the commission of inquiry. Their concerns will be fully addressed, both

during the inquiry process and as part of the development approval. The Minister is aware that land-holders downstream from the Cadiagullong and Rods creeks, upstream from the Belubula River, are particularly concerned in this regard. Those land-holders will again be contacted by the commissioners and will be afforded the opportunity to be heard.

The commissioners must report to both the Minister for Urban Affairs and Planning and the Minister for Land and Water Conservation. In making his decision, the Minister is obliged to take into account the commissioners' recommendations as to the resolution of issues. If consent is to be granted to the Cadia mine then there are conditions of consent to be included that will provide for appropriate compensation should an adverse impact be established. Those procedures are well established for mining proposals, and the Minister will be pleased to make available examples of relevant consents. I give an assurance that concerned people will not be left stranded by any change of venue in the Newcrest case. I am informed that the Land Board would have heard from the concerned people. Under this proposal the commission of inquiry will hear from them instead. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [4.50]: I move:

That this bill be now read a third time.

The Hon. D. F. MOPPETT [4.50]: I welcome the assurances the Minister has given. If unforeseen effects materialise at a later stage, a mechanism is available by which an independent tribunal can assess damage and compensation can be paid. In the light of the Minister's advice, the Opposition welcomes the third reading of the bill.

Reverend the Hon. F. J. NILE [4.50]: Like other honourable members, the members of Call to Australia were lobbied by concerned farmers in the area of the mine. We are pleased the Minister has given assurances on behalf of the Ministers in the other place who are intimately involved in the matter. The assurance that those farmers can participate in the commission of inquiry should satisfy their concerns. Call to Australia thanks the Minister for the assurance.

Motion agreed to.

Bill read a third time.

WARNERVALE AIRPORT (RESTRICTIONS) BILL

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL

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

Suspension of standing orders agreed to.

STATE REVENUE LEGISLATION AMENDMENT BILL

Second Reading

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) [4.53]: I move:

That this bill be now read a second time.

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

Mr President, this Bill deals with amendments to the Stamp Duties Act, the Debits Tax Act and the Business Franchise Licences (Tobacco) Act 1987.

BUDGET ANNOUNCEMENTS

As Members are aware, the Treasurer announced in his Budget Speech of 21 May 1996, that loan security duty will not be payable on the refinancing of loans.

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The exemption will apply only where the borrower and the security or securities remain the same.

A person who refinances a loan and borrows an additional amount will only pay loan security duty when the amount borrowed exceeds the limit of the previous loan.

Where additional securities are given to secure further loans, no ad valorem loan security duty will be paid providing the loans do not exceed the amount on which duty has already been paid.

The loan security duty refinancing exemption commenced on 1 June 1996. Hiring arrangement stamp duty of 1.5% is currently paid on some equipment financing arrangements, but not on commercial hire purchase. This is distorting business decisions on which form of financing to choose. As announced by the Treasurer in his Budget Speech, the hiring arrangement duty base would be expanded to include commercial hire purchase with a consequent reduction in the rate of duty for those hiring arrangements that are primarily in the nature of equipment financing. From 1 October 1996, hiring arrangement duty will be payable on all equipment financing, being finance leases, operating leases and hire purchase agreements, at a rate of 0.75%.

Short term hiring and other non-finance rentals will continue to be dutiable at a rate of 1.5%.

The Australian Finance Conference and Australian Equipment Lessors Association have publicly supported the proposal.

This change will be revenue neutral as some of these transactions previously attracted 1.5% duty and others such as commercial hire purchase, were not liable to duty.

TRANSFER OF REGULATIONS INTO THE PRINCIPAL ACT

The Subordinate Legislation Act 1989 requires that the Debits Tax Regulation 1990 and Stamp Duties Regulation 1991 be sunsetted on 1 September 1996.

Three of the clauses in the Stamp Duties Regulation are descriptive only and will lapse. The remaining clauses are not of a temporary nature and would be more appropriately placed in the body of the legislation.

The Debits Tax Regulation 1991 will be moved into the principal Act without change.

COMMONWEALTH BANK SHARE SALE

The announcement by the Commonwealth Government that shares in the Commonwealth Bank will be offered for sale has necessitated an amendment to the meaning of marketable securities in the Stamp Duties Act.

Purchasers of shares will be issued with an Instalment Receipt that will allow them to pay for the shares by two instalments. These Investment Receipts will be listed and traded on the Australian Stock Exchange and therefore it is appropriate that they be treated for stamp duty purposes in the same manner as the Bank's normal shares.

This is the first time this sale structure has been used in Australia and it appears that subsequent Government sales will follow this pattern.

Consequently, the amending legislation has been drafted to accommodate these future transactions.

CHANGES NECESSITATED BY THE NEW CONSUMER CREDIT CODE

The Bill contains further changes to the Stamp Duties Act that are required because of the introduction of the Consumer Credit Code to maintain an exemption for certain types of financing transactions. The previous exemption limit of \$20,000 has been increased to \$35,000.

TOBACCO LICENSING

The health effects of tobacco and strategies to limit the detrimental effects and health costs to the public are well recognised both nationally and internationally.

This Government is committed to the prevention and reduction of tobacco related harm in our community.

The New South Wales Tobacco and Health Strategy 1995 to 1999, which was published by the Department of Health, after extensive consultations with a range of organisations, both Government and non-Government, nominates outcomes, priorities and strategies for tobacco control initiatives aimed at reducing the harm associated with tobacco use.

Two key pieces of legislation support tobacco control initiatives in New South Wales.

The Tobacco Advertising Standards Act 1991 was introduced in 1991 with the express purpose of:

- actively discouraging the smoking of tobacco by:
 - encouraging non smokers, particularly young people, not to start smoking;
 - limiting the exposure of children and young people to smoking;
 - encouraging and assisting smokers to give up smoking; and
- promoting good health and preventing illness.

Section 59 of the New South Wales Public Health Act makes it illegal to sell tobacco to young people under the age of 18 years.

The purpose of section 59 is to reduce the availability of tobacco to young people and reduce the likelihood that they will become regular smokers in their adult years.

Approximately 90 per cent of current smokers report that they began smoking before the end of their teenage years. The New South Wales Government is committed to reducing tobacco use by young people.

The Business Franchise legislation already makes a substantial contribution to these purposes by increasing the price of tobacco products to consumers, and thereby reducing consumption. However, smoking is recognised as the largest single preventable cause of death in Australia. It is estimated that there were 19,180 tobacco-related deaths in 1989, representing 15% of all deaths and 72% of drug-related deaths.

In recognition of the need to closely monitor and control the distribution of tobacco, the proposed amendments will extend the regulatory

aspects of the licensing legislation, by:

- enabling the Chief Commissioner of Business Franchise Licences (Tobacco) to refuse to issue a licence if it is in the public interest to do so;
- enabling the Chief Commissioner to impose conditions on a licence;
- making it an offence to breach a condition;
- allowing the Chief Commissioner to suspend or cancel a licence if a condition is breached. The proposed amendments will allow the Chief Commissioner to impose and enforce conditions relating to protection of the public interest.

These measures will also strengthen the Chief Commissioner's powers to deal with avoidance of licence fees.

Such avoidance creates a black market in cheap tobacco products, resulting in an increase in consumption. This in turn can only increase the incidence and seriousness of smoking-related health problems, as well as public health costs.

I table a summary of the bill for assistance of honourable members.

I commend this bill to the House.

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The Hon. J. M. SAMIOS [4.53]: This important legislation tidies up a few anomalies in the Stamp Duties Act. Essentially the more important provisions relate to stamp duty exemption with respect to house mortgage refinancing. That exemption is estimated to cost the Government about \$20 million and this is an appropriate amendment. As the Treasurer mentioned in his Budget Speech, the exemption is somewhat restricted as it applies only where the borrower and the security or securities remain the same. Other amendments enlarge the class of credit contracts that are exempt. A relevant provision imposes duties in connection with instalment receipts issued on behalf of the Commonwealth that confer ownership in shares. The bill also amends the Debits Tax Act to prescribe the current regulation rate under which unpaid tax attracts penalty interest; and the Business Franchise Licences (Tobacco) Act to enable the cancellation or suspension of licences under that Act. The Opposition supports the legislation. It acknowledges also the Treasurer's budget announcement to exempt loan security duty on loan refinancing, which is a modest figure of only \$20 million given that New South Wales taxes are significantly in excess of those in other States. However, the broad thrust of the amendments represents good housekeeping and the Opposition supports 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) [4.56], in reply: I thank the Hon. J. M. Samios for his support of the bill on behalf of the Opposition and, as usual, for his wise comments.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SUPERANNUATION ADMINISTRATION BILL

SUPERANNUATION (AXIOM FUNDS MANAGEMENT CORPORATION) BILL

Second Reading

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) [4.59]: I move:

That these bills be now read a second time.

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

Mr President, these two bills will reform the administrative structure for public sector superannuation in New South Wales. The bills arise from a comprehensive review of the superannuation administration carried out by a Government Working Party in 1995. I am happy to present to the House reforms adopting the key recommendations of that Working Party and providing updated governance arrangements.

The reforms seek to bring the public sector administration in line with preferred structures in the wider superannuation industry. Honourable members will appreciate that the superannuation industry has expanded greatly in the last decade and become a sophisticated and highly competitive arena.

The proposals contained in these bills will allow the public sector to access these major advancements in the wider industry. The reforms continue the Government's commitment to introducing service competition throughout a wide range of Government operations.

There are two main elements to these reforms. The first is the clarification within the governing structure of public sector superannuation to confirm the trustee boards as the prime responsible entity within the arrangements.

The second element is the split of the current service provider into two separate bodies, one dealing with scheme administration and the other funds management.

These reforms will address major problems which arose under the earlier structure where the roles and functions of the two bodies were not clearly delineated. The 1991 revised structure sought to implement such a separation, but did not achieve this. Major problems have ensued from this lack of clarity.

The principal reform arising from the creation of separate service providers is that the new superannuation funds management body will be prepared for sale to the private sector.

The sale of the funds management function currently performed by State Super has attracted significant attention. It is important to realise that this sale arises within a comprehensive review of the superannuation arrangements and flows from the overall competitive principles which are being introduced throughout the new arrangements.

The Government, in framing this legislation, was conscious of the need to create an arrangement which encouraged competition and efficiency in the provision of superannuation. It has, therefore, included provisions which would allow groups of employees to be transferred out of the schemes run by the two new trustee boards into new schemes with separate trustees where this is seen to be more efficient. The Government will retain control of the process and the rights of the employees will be fully protected.

I have instructed my officers to investigate the transfer of local government and energy industry employees under these provisions and I expect that a transfer would take place by the end of the year.

Mr President, I will first outline the overall structure to be put in place under these bills, including the proposed sale of the funds manager. I will then address the principal Parts within the bills and their significant features.

A reformed trustee structure will be introduced to provide two trustee boards to govern the principal public sector schemes. The First State Super Trustee Corporation, or FTC, will have responsibility for the accumulation style schemes of First State Super and the Public Sector Executives Superannuation Scheme.

The second trustee entity will be the State Authorities Superannuation Trustee Corporation, or STC. This will be a continuation of the State Authorities Superannuation Board, but will have responsibility only for the closed defined benefit schemes. These schemes are the State Superannuation Fund, the Police Superannuation Scheme, the State Authorities Superannuation Scheme and the State Authorities Non-contributory Superannuation Scheme.

The creation of two separate trustee boards will allow the different features of accumulation and defined benefit schemes to be recognised and fully addressed. These different features include the varied investment strategies and exposures associated with each style of scheme.

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The legislation will confirm the two trustee boards as being the principal responsible entities for the schemes under their control.

The bills make it clear that the functions of the trustee corporations are to invest and manage the funds held in trust for members, administer the schemes within their control and pay the benefits due to members.

The trustee bodies are required to enter into contracts with service providers to carry out these functions on their behalf. The confusion under the current arrangements concerning the duplication of functions between the SASB and SSIMC will be avoided by clearly distinguishing the authoritative role of the trustee bodies from the service providers.

The services formerly provided by State Superannuation Investment and Management Corporation will now be performed by two separate bodies, one for scheme administration and one for funds management. The scheme administrator will be called the Superannuation Administration Authority of NSW. The new funds management body will be Axiom Funds Management.

The separation of the scheme administration and funds management functions will provide the trustee boards and the Government with the capacity to apply a more focussed, accountable and cost effective approach to service provision.

The separation will also facilitate increased competition in the structure. This will primarily be achieved by 'freeing up' the tied arrangements for the investment management of the pooled fund. The sale of the funds management element of SSIMC also supports this principle.

There are a number of reasons for the Government's decision to sell the funds management arm. Firstly, the sale is consistent with general Government policy to withdraw public sector bodies from areas where there is a well established and highly competitive market in the private sector.

Secondly, fund members will benefit from the introduction of competition for the management of their retirement savings.

Thirdly, proceeds from the sale will be reinvested in the \$17 billion pooled superannuation fund, which will have the effect of reducing the Government's unfunded superannuation liabilities.

Fourthly, the sale will provide the funds manager with the opportunity to compete for private sector clients. If it is continued under public ownership, it could not do this and would be exposed to the distinct risk of the trustees seeking to appoint private sector funds managers. This would have made it very difficult to retain skilled, mobile staff.

It should be stressed that the sale of the funds manager does not in any way mean the sale of the fund assets. It is the business of funds management provided by Axiom which is being sold. The public sector superannuation fund assets will continue to be owned and held by the trustees on behalf of scheme members.

The provisions for the sale of the funds management entity are contained in the *Superannuation (Axiom Funds Management Corporation) Bill*. This bill details the stages of the body leading up to the point of sale.

Axiom Funds Management Corporation, "AFMC", will be created as a statutory corporation with a governing board of 7 members, including the Chief Executive Officer. The principal functions of AFMC will be to provide superannuation investment management services to public sector and non public sector funds. Initially AFMC will continue the public sector business currently performed by SSIMC. The taking on of additional non-public sector business will be a matter of decision for the Board of AFMC.

In the first stages, the Government will be involved in approving additional business for AFMC only where it is not core investment business. This measure is simply to ensure a level of control of the scope of operations of AFMC while it is still within the public sector.

AFMC will be converted to a corporations law company to enable sale to the private sector by private tender. It is intended that the sale be finalised within the next 12 months.

Mr President, I turn now to the *Superannuation Administration Bill 1996*. This bill establishes the revised trustee structure outlined earlier and also establishes the new scheme administration body - the Superannuation Administration Authority of NSW.

Parts 2 and 3 of the bill deal with the two trustee bodies and outline each of their functions, responsibilities and duties. The First State Super Trustee Corporation, or "FTC", will operate similarly to most superannuation schemes within the wider industry. The Board of Trustees will be a body corporate, comprising 4 employee and 4 employer representatives and an independent Chair.

The bill spells out clearly the duties and obligations imposed upon the trustee board.

In exercising its duties, the FTC must have regard to Government policy statements and the interests of beneficiaries.

FTC must also have regard to the Heads of Government Agreement between NSW and the Commonwealth in exercising its functions. The NSW public sector schemes are exempted from strict regulation under the Commonwealth's regulatory regime established by the *Superannuation Industry (Supervision) Act*, commonly known as "SIS". However, NSW has committed to meeting the key principles of the Commonwealth's prudential standards within the public sector schemes. These principles are contained in the Heads of Government Agreement. Both the Government as policy maker and the trustees as the governing board of the schemes will be required to act in accordance with those prudential principles.

A number of the principles from the Commonwealth regulatory regime are included in the bill. FTC has a duty to act honestly, to exercise due care, skill and diligence, to exercise its function in the best interests of the beneficiaries of the schemes and not to do anything that would hinder the exercise of its functions as trustee. FTC is required to develop an investment strategy for the funds. All of the above reflect the duties imposed on superannuation trustees under the Commonwealth regulations.

The liabilities of trustees will similarly be expressly stated in the bills. Civil actions are available to persons suffering loss or damage from breach of a trustee duty. The defences to such actions available under SIS are also available to trustees here.

The provisions for State Authorities Superannuation Trustee Corporation, "STC", are similar to FTC but include additional measures to protect the greater level of government exposure within the defined benefit schemes. These measures recognise that in defined benefit schemes the Government, as employer, is required to meet any liability not covered by the fund when a benefit emerges.

The FTC schemes of First State Super and the Public Sector Executives Superannuation Scheme will continue to have competitive arrangements for their service provision. Scheme administration and funds management for those two schemes are currently able to be put to tender by the trustees. These arrangements will continue.

The STC schemes will have different arrangements for service provision.

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Scheme administration services for the STC schemes will be mandated to the new scheme administration body, SAA. While in principle the scheme administration for these schemes could be put out to tender, the Government considers the complexity and nature of the services required do not make this feasible. The Government therefore does not support any privatisation of the scheme administration body established by these reforms. The Government's intention in this regard is spelt out in the objects of the bill.

Funds management for the STC schemes involves the investment of the \$15 billion pooled superannuation fund. The management of the pooled fund will be mandated to the AFMC for a fixed period to be determined by the Minister. The length of the mandate to be provided to AFMC at the point of sale is clearly an important feature of the sale process. This will be negotiated with the approved buyer prior to sale.

Part 4 of the *Superannuation Administration Bill* establishes the Superannuation Administration Authority of NSW. This body will be a statutory authority limited to providing scheme administration services to the NSW public sector schemes. The body will be headed by

a chief executive officer appointed under the Public Sector Management Act. The functions of the SAA will be to provide scheme administration services to trustees of NSW public sector superannuation schemes. SAA will be required to enter into contractual arrangements to provide these services. This contractual basis serves two main purposes. It ensures that the service provider only receives its functions from the contract and therefore cannot usurp the authority of the trustees in the relationship. And secondly it provides for the detail of the services being provided, and performance standards for those services, to be clearly laid down and agreed upon.

Part 5 of the *Superannuation Administration Bill* contains miscellaneous provisions associated with the revised structure. Included in this Part is provision for separate superannuation schemes to be created under trust deed for classes of public sector employees.

There has been much interest from particular areas of the public sector for the creation of individual sectoral schemes, rather than the current schemes which cover all public sector employees. The local government and electricity sectors have been particularly vocal in calling for the freeing up of scheme coverage across the public sector.

The Government has listened to these calls and included provisions in the bill which will enable such changes to be made in the future. The general enabling provision allows for the Minister to approve the creation of separate schemes by trust deed to cover public sector employees, or classes of employees. Regulations will then be made to cover the details of these new arrangements.

The interests of members who may be affected by the transfer proposal are protected within the provision. Any new trust deed scheme must comply with the Commonwealth prudential superannuation standards. And any new trust deed scheme must not remove or restrict any accrued rights of transferred members.

Finally, Part 5 of the *Superannuation Administration Bill* also includes offence and penalty provisions similar to those applying to officers under the State Owned Corporations Act. These provisions apply to officers of the trustee boards, the SAA and the AFMC. They require officers to act honestly in exercising their powers, to exercise a reasonable degree of care and diligence and to not make improper use of his or her position.

Mr President, these bills show the Government's commitment to providing a public sector superannuation administration that delivers efficient and cost-effective service to all members. The reforms in these bills ensure the administrative structure provides the trustee boards with access to flexible and competitive arrangements.

I thank honourable members for their attention. I commend the bills to the House.

The Hon. J. M. SAMIOS [5.00]: On behalf of the Opposition I support these two important bills, which will effect reforms in the very important area of public sector superannuation. The first major reform is to split the existing structure into two separate corporations, one of which will concern itself with the scheme administration of the superannuation fund. The second will set up an arrangement whereby two trustees look after the various funds, the first dealing with the FTC, which is responsible for accumulation-style schemes such as State Super and public sector executive superannuation schemes; and the second trustee, the State Authorities Superannuation Trustee Corporation - the STC - will deal with closely defined benefit schemes such as the State Superannuation Fund and similar organisations.

The reason for splitting the existing superannuation structure into two parts is that in the not too distant future the management arm will be sold in the public arena. Prior to this the management arm will have to establish a track record in superannuation management. To that extent it is hoped that it will be able to enter into an arrangement or lease with structures such as the STC for approximately three years. That should all occur within 12 months. The legislation has an interesting history, because it goes back to 1992 when the coalition Government sought to reform the performance of superannuation holdings. The coalition effected a review, as a result of which outside expertise came into play. In the period from 1992 onwards we have had the benefit of a number of changes, a certain amount of outside expertise led by Lawrence Burr, who was then head of the relevant authority, and ably backed by Elizabeth Bryan. The result has been that in the last three years, as I understand it, the assets of the State Superannuation Fund doubled and the number of staff was reduced from around 800 to 570. It now has a leaner structure, a more efficient structure, and a greater range of assets. The Government is now in a position to split the existing structure into two parts to enable it to sell off the

management arm.

Honourable members will be aware that at present State Super has funds of about \$17 billion and an accruing uncalled liability of about \$13.5 billion. It is hoped that when the management arm - the Axiom arm as it is called - is sold, it will bring a substantial amount of money that will go towards reducing the uncalled liability of \$13.5 billion. Estimates as to what that management arm can be sold for range from \$100 million to \$400 million, but perhaps the more sober estimate is that of Elizabeth Bryan, who will be the executive officer of the management corporation, and her estimate is about \$100 million. The legislation is positive, and hopefully the sale will realise at least \$100 million. The Opposition supports the legislation.

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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) [5.06], in reply: I thank the Hon. J. M. Samios for his wise comments and for his support of the bill on behalf of the Opposition. In relation to his final point about the likely or anticipated sale price of the investment management arm of State Super, I would point out - as I think I did in response to a question asked by the Hon. J. M. Samios a week or so ago in this House - that the purpose of the exercise is by no means simply to get the highest price for the sale of that organisation. The Government aims to enable the trustees to have the benefit of competitive tenders so that the investment returns for the funds can be maximised. Obviously, if the Government simply wanted to get the best sale price for the organisation it would sell it with a 20- or 30-year contract; but that is not the purpose of the exercise. The aim is to put the fund in such a position that in the medium to long term the returns to the fund are maximised, which will be in the best interests of all of us.

Motion agreed to.

Bills read a second time.

In Committee

The CHAIRMAN: Order! The Committee will deal first with the Superannuation Administration Bill.

Schedule 3

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) [5.10]: I move:

Page 83, Schedule 3, clause 20(4), line 14. Omit "AFMC". Insert instead "SAA".

This amendment has been necessitated by a drafting error.

Amendment agreed to.

Schedule as amended agreed to.

The CHAIRMAN: Order! The Committee will now deal with the Superannuation (Axiom Funds Management Corporation) Bill.

Part 2

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) [5.12]: I move:

Page 14, clause 35, lines 5-8. Omit all words on those lines. Insert instead:

"funds, for payment into an STC fund or funds to be paid and apportioned among the funds and reserves as determined by the Treasurer after consulting STC."

This amendment also arises as a result of a drafting error.

Amendment agreed to.

Part as amended agreed to.

Bills reported from Committee with amendments, and report adopted.

Third Reading

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) [5.15]: I move:

That these bills be now read a third time.

The Hon. PATRICIA STAUNTON [5.16]: I wish to speak to these two pieces of legislation dealing with public sector superannuation because of my longstanding interest in superannuation and as a past member of the State Authorities Superannuation Board. Superannuation has become a matter of significant public importance to the community, but an enormous amount of public education on the subject is still required. Superannuation has been very much the domain of the public sector, except perhaps for the past decade. Even then, it was available outside the public sector only for highly paid executives in senior management positions and, by and large, those superannuation scheme were defined-benefit schemes.

It is pleasing to note that one of the first groups in Australia to introduce superannuation as a long-term retirement benefit policy was the union movement, and in particular the ACTU, which as part of the accord process put in place the first award-based occupational superannuation. That was overtaken, and indeed entrenched, by Federal Labor government superannuation guarantee charge legislation, which of course made provision for accumulation-based superannuation schemes. I am pleased that this legislation addresses many of the longstanding legislative problems with the State Authorities Superannuation Board because of the lack of clarity between its two arms, and I do hope with the scheme administration and the funds management that the -

The Hon. Virginia Chadwick: On a point of order. My clear understanding is that the purpose of the third reading motion is to provide a last opportunity for a member to oppose a matter within the bill. It is not an opportunity to support a bill or to make what is clearly a second reading speech. While, as ever, I welcome the contribution of the honourable member and acknowledge her expertise and her obvious, albeit late, interest in superannuation, she is clearly out of order in making her second reading speech at the third reading stage. I refer to the clear rulings of President Johnson and Deputy-President Willis, both in 1989.

The Hon. M. R. Egan: On the point of order. As the Hon. J. M. Samios and I were so succinct in our contributions to the debate and the Hon. Patricia Staunton was not in the Chamber -

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The Hon. Dr B. P. V. Pezzutti: She was upset.

The Hon. M. R. Egan: She went to her office to get her notes. I take the point that the Hon. Virginia Chadwick has made, but as we know on many occasions members who appear to be supporting a bill end up opposing the bill. So it could be that the Hon. Patricia Staunton was just making some preliminary supportive comments about the bill before doing what has been done by members in this House on many occasions: voting against it.

The Hon. Virginia Chadwick: Further to the point of order. I accept the very clear wisdom of the Minister. It is true that sometimes a person may appear to be supporting a bill but may later oppose it. However, I think the ruling still applies.

The Hon. J. F. Ryan: On the point of order.

The DEPUTY-PRESIDENT (The Hon. Dr Marlene Goldsmith): Order! I have heard enough on the point of order. If it is the intention of the honourable member not to oppose the legislation, then clearly, according to the precedents of this House, her speech is out of order.

The Hon. Patricia Staunton: I have not indicated whether I will or will not oppose. You have not had an answer to the question yet.

The DEPUTY-PRESIDENT: Order! If the honourable member wishes to place her views on the record, she should take the opportunity to do so in the adjournment debate. Does the Hon. I. Cohen wish to oppose the bill?

The Hon. I. Cohen: Yes.

The DEPUTY-PRESIDENT: Order! The Hon. I. Cohen has the call.

The Hon. Patricia Staunton: On a point of order, Madam Deputy-President, if I may. Whilst I fully appreciate and accept the ruling that you have made, Madam Deputy-President, in relation to the necessity to further address this matter in the adjournment debate, may I point out that this House allowed the Hon. I. Cohen to speak in support of the Industrial Relations Bill on the third reading. I think therefore that the House should adopt a degree of consistency if it is going to make these rulings.

The DEPUTY-PRESIDENT: Order! The honourable member should be very wary of canvassing the rulings of the Chair. I am sure she will appreciate that the Chair is in the hands of the House. If the House were to draw my attention to a particular problem it would, of course, be my duty to pursue that problem. What may or may not have happened in the past in interpreting the standing orders is not the question. The Hon. I. Cohen has the call.

The Hon. I. COHEN [5.24]: Thank you, Madam Deputy-President. I must congratulate -

The Hon. Patricia Staunton: Is it because he is a boy?

The DEPUTY-PRESIDENT: Order!

The Hon. Patricia Staunton: Is it because he is a boy he gets away with it and we do not?

The DEPUTY-PRESIDENT: Order! The Hon. I. Cohen has the call.

The Hon. I. COHEN: Thank you, Madam Deputy-President. I must congratulate -

The Hon. Patricia Staunton: Or is it because he is a Green boy?

The DEPUTY-PRESIDENT: Order! I call the Hon. Patricia Staunton to order for the first time. The Hon. I. Cohen has the call.

The Hon. I. COHEN: I must congratulate the Hon. Patricia Staunton on her memory on this matter. It is rather acute. I oppose the bill as I understand that it involves privatisation of the superannuation process. Public servants are not only paying into a privatised fund; they are actually paying off the debts of the

Government in that process, and to that extent I oppose 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) [5.25], in reply: I assure the Hon. I. Cohen that the only thing being sold is the investment management arm. The fund itself is certainly not being privatised. In the same way that the fund to which all members belong, the Parliamentary Superannuation Fund, tenders out the investment management of its funds, that will be happening with State Super. It is the responsibility of the trustees to tender out the investment management in the same way that the trustees of the Parliamentary Superannuation Fund tender out the investment management of the parliamentary fund.

Motion agreed to.

Bills read a third time.

FINANCIAL INSTITUTIONS (NEW SOUTH WALES) AMENDMENT BILL

Second Reading

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) [5.27]: I move:

That this bill be now read a second time.

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

This bill has two main purposes:

Firstly, to permit the retained earnings in the Credit Unions Contingency Fund to be treated as contributions made by credit unions to that Fund; and

Secondly, to dispense with the right of appeal under the Act to the Queensland Supreme Court.

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Under Clause 408 of the Financial Institutions Agreement between the States and the Territories any Financial Institutions Legislation must not be introduced unless the Ministerial Council has approved the Legislation in the form in which it is introduced.

The Ministerial Council has approved of the bill as tabled.

In 1978, the late Honourable Syd Einfeld, then Minister for Co-operatives, introduced amendments to the Credit Union Act to establish a Credit Union Savings Reserve Fund.

All credit unions contributed a small proportion of their funds into the Reserve Fund to provide the resources to protect members' deposits.

Since the Fund was established, no member of a New South Wales credit union has suffered the loss of any part of their deposits.

These far-sighted principles were taken up by some other States and, in 1992 were included in the uniform national Financial Institutions Scheme which commenced on 1st July in that year.

Section 97 of the Financial Institutions (NSW) Code establishes the Credit Unions Contingency Fund, the successor to the Credit Union Reserve Fund.

The purposes of the Fund as set out in the Code, are: to provide protection for members of credit unions; to facilitate mergers and transfers of engagements of credit unions; to facilitate rehabilitation of credit unions; and to facilitate the liquidation of credit unions in an orderly way.

Over the years, the profits made from the investment of the Fund have far exceeded the very few calls made upon the Fund.

At the close of business on 30 June 1995, credit unions contribution balances were 23.1 million dollars and the retained earnings of the Fund amounted to 26.7 million dollars. A total Fund balance of 49.8 million dollars.

The retained earnings have continued to grow and now exceed 28 million dollars.

These retained earnings rightfully belong to the credit unions which have made contributions to the Fund. However, the Financial Institutions Legislation does not recognise that ownership by the credit unions of those retained earnings in the same way in which they continue to own the actual contributions they have made.

The contributions are recognised in Section 98 of the Code as assets of each credit union. They appear on their balance sheet. They are refunded to the credit union if it is to be wound up or they pass onto the successor credit union if they merge or transfer their engagements to another credit union.

The proposed amendments will enable FINCOM to determine, from time to time, that a prudent proportion of those retained earnings of the Contingency Fund are to be treated as contributions and apportioned equitably among credit unions. Amounts apportioned will be credited to their contributions accounts.

Before making that determination, FINCOM must first satisfy itself that the capital amount of the Contingency Fund will continue to be sufficient after the apportionment has been made for the purposes for which the Fund is established.

Once credited to the contributions accounts of individual credit unions, the amount apportioned is to be treated as if it was a contribution paid to the Fund under Section 98 of the Financial Institutions (NSW) Code.

It will appear on the balance sheet as a deferred asset of the credit union.

It will also be taken into account by FINCOM when FINCOM next makes a determination setting the required contribution balance for all credit unions in accordance with Section 98 of the Code.

Credit unions which have a balance of contributions which is less than the required balance will then be required to "top up" their contributions to the new level. Those credit unions which have a balance greater than the required level will get a refund of the excess contributions.

FINCOM commissioned an extensive review of New South Wales credit unions and of the adequacy of the Fund by consulting actuaries Trowbridge Consulting and chartered accountants Price Waterhouse. The consultants have recommended that the minimum size of the Fund to meet its statutory purposes at present is 25 million dollars.

During the 1995-96 financial year FINCOM has, under existing provisions of the Financial Institutions (NSW) Code, refunded some 15 million dollars of credit union contributions, bringing the balance of the Fund down to approximately 36 million dollars.

FINCOM has foreshadowed further reductions of the total size of the Fund during the 1996-97 financial year.

Mr President, while I have reminded the House of the foresight of our late colleague, Syd Einfeld, in introducing the reserve fund concept to the credit union legislation, I remind honourable members that the real strength of credit unions lies in the observance by managers and directors of credit unions of high prudential standards in the conduct of their business.

When introducing the Financial Institutions (Miscellaneous Amendment) Bill recently, I paid tribute to the high level of compliance by credit unions with the rigorous standards promulgated under the Financial Institutions Scheme.

Those standards are among the highest in the world.

Mr President, the reduction in the size of the Contingency Fund is further recognition of the maturity of the Financial Institutions Scheme.

The second amendment proposed in this bill, the repeal of Section 13 of the Act, is of a housekeeping nature.

The Act presently affords a right of appeal in respect of the decisions of the Australian Financial Institutions Appeals Tribunal to both the Queensland and the New South Wales Supreme Courts.

The repeal of Section 13 will vest such jurisdiction only in the New South Wales Supreme Court.

Mr President, the main purpose of the bill is to confer ownership of the substantial retained earnings of the Credit Unions Contingency Fund on all of the New South Wales credit unions in proportion to the contributions they have made to the fund over the years.

I commend the bill to the House.

The Hon. J. M. SAMIOS [5.28]: I lead for the Opposition on the bill. The Opposition supports the Financial Institutions (New South Wales) Amendment Bill 1996, which will amend the Financial Institutions (New South Wales) Act of 1992. The bill is good housekeeping. The amendments permit retained earnings in the Credit Unions Contingency Fund to be treated as contributions made by credit unions to that fund. It also dispenses with the right of appeal under the Act to the Queensland Supreme Court in respect of decisions of the Australian Financial Institutions Appeal Tribunal.

The original legislation was based on Queensland legislation, hence the appeal anomaly. The amendment proposed will not impact on appeals to the New South Wales Supreme Court. Honourable members would be aware that New South Wales credit unions are the only non-bank

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financial institutions in Australia to have so strongly built contingency funds for emergencies. Introduction of the financial institutions scheme by all State Governments in 1992 has resulted in a much higher level of prudential safety and security for credit unions. Today credit unions are taking their place in many areas alongside older established banking structures.

As a result, credit unions no longer require a higher level of contingency funds, which reduce the competitive capacity of credit unions in New South Wales. The funds are distributed on an equitable basis. The likely outcome of the Commonwealth Government's daughter of Campbell report may well be the amalgamation of banks and non-bank regulators. It is therefore in keeping with this shift to downsize the funds. Certainly credit unions and other similar structures are playing a more pivotal role in the economy of this nation. Recently an initiative was undertaken in relation to credit unions which will enable them to better service rural areas in which a number of banks are withdrawing services because of lack of business. That is creating a vacuum, and the credit unions are taking up that challenge. The legislation is good housekeeping, and the Opposition supports 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) [5.31], in reply: Once again I thank the Hon. J. M. Samios for his wise remarks. I thank the Opposition for its support for this landmark legislation.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC HEALTH AMENDMENT (TOBACCO) BILL

Second Reading

Debate resume from 2 May.

The Hon. Dr B. P. V. PEZZUTTI [5.33]: I lead for the Opposition in this debate. The main purpose of the Public Health Act 1991, and the regulations produced in 1993, was to actively discourage the smoking of tobacco by encouraging non-smokers, particularly young people, not to start smoking, by limiting the exposure of children and young people to smoking persuasion, by encouraging and assisting smokers of all ages to give up smoking, and by promoting good health and the prevention of illness. In spite of actions by the previous Government and this Government to pursue these worthwhile aims, there are still problems; approximately 70,000 teenagers take up smoking each and every year.

It is interesting to note that 90 per cent of all new smokers are children. About 236,000 teenagers smoke six million cigarettes each week, spending around \$40 million a year. By the time they reach year 10, 24 per cent of male students and 29 per cent of female students are smokers; that is they are almost of adult age. By the time they reach 17 about one in four Australian teenagers are smoking regularly. And obviously they have to obtain their cigarettes in some way. Legislation is in place in New South Wales which precludes the provision of tobacco products to people under the age of 18 years. It is important to understand that smoking is a highly addictive habit. For many years I, and many other smokers, have attempted the difficult task of ceasing to smoke - and then trying to stop again after restarting!

The Hon. R. S. L. Jones: How many times have you stopped now?

The Hon. Dr B. P. V. PEZZUTTI: A number of times, and I will have to stop again soon. It is therefore with some regret that I place on record the previous Government's attempts to stop retailers selling tobacco products to people under the age of 18 by having show trials, as it were. It was a defence if the person selling the cigarettes could reasonably assume that the person buying them was over the age of 18. Whereas the previous Government publicised the names of those who sold cigarettes to people under 18, this Government prosecutes them - not with on-the-spot fines, but by taking court action against offenders. The Minister has advised me that that action is taken to maximise the publicity of the prosecution. That is an expensive way of obtaining a fine, but it is a public way of seeking to prevent the sale of tobacco products to people under the age of 18. My colleague the shadow minister for health in another place, Mrs Jillian Skinner, and the Opposition's health committee have consulted with the Youth Action and Policy Association, the peak youth body in New South Wales. The association has suggested that a proof-of-age card be required and that legislation relating to proof-of-age cards be introduced.

Retail traders and the public generally have accepted this bill. It is a positive start and will provide fairness to those who sell cigarettes. It will enable a retailer to require those wishing to purchase tobacco products whom he or she thinks is under 18 years of age to produce a proof-of-age card. It will still be a defence, however, if a retailer reasonably believes that a purchaser, who may in fact be younger than 18 years of age, is 18 years of age or older. Remember that a retailer may require the production of a proof-of-age card. A number of mechanisms have been put in place that young people may use to prove their age. For instance, the Roads and Traffic Authority's driver's licence is a proof-of-age card. The RTA publishes another proof-of-age card pursuant to the provisions of the Liquor Act for people who appear to be younger than 18 years of age but who are older than 18. Both cards can be used by young people for proof of age purposes when purchasing tobacco products.

Other documentation, such as a letter signed by an appropriate person, to say that the bearer is over the age of 18, or a passport, is also acceptable. I wholeheartedly support the bill. I am a little surprised, as was my colleague in another place the honourable member for North Shore, that it has taken over 12 months - from

May 1995 to June 1996 - for this legislation to be introduced. More than a year has elapsed since the Minister promised to produce the legislation. I clearly recall that when legislation relating to the advertising of tobacco products passed through this House after considerable debate a challenge was issued by Reverend the Hon. F. J. Nile to the Government of the day to abandon the advertising of tobacco products. I must say that that was one occasion when Reverend the Hon. F. J. Nile sought and achieved a reasonable consensus. He issued a challenge to honourable members to support him in his attempts to encourage other States to come on board - and they did.

Suffice it to say that I was surprised to read in the *Government Gazette* of 24 May about an exemption under the Tobacco Advertising Prohibition Act 1991 - issued under the hand of the Minister, Dr Refshauge - given to the Phillip Morris Company, W D & H O Wills, British American Tobacco, Ducados, the Department of Sport and Recreation, motor cycle riders and associated teams for the Motor Cycle Grand Prix at Eastern Creek Raceway to be held in the period from 14 October 1996 to 21 October 1996. Given the statements by the Australian Labor Party at the time and given the historic agreement reached in this House, who could have imagined that in June of 1996 there would be an exemption trotted out to promote sport? Those most likely to attend the grand prix will be young people. The aim of the Tobacco Advertising Prohibition Act was to discourage non-smokers from taking up the habit.

Viewed in isolation, this move by the Minister will clarify the responsibilities of those who sell cigarettes. It will be easier for people who are older than 18 but who look younger than 18 to obtain cigarettes. An important aspect of the bill is that it will no longer be a defence for vendors to claim that they believed a person to be over the age of 18 years if such a person is under the age of 14 years. It is easy for young people to dress up, particularly some young women, so that they look about 25 when they are really only 12 or 14. The bill is a step forward and I commend it. I also commend the Minister for providing clarification of the protection for the marketers of tobacco products. Although I do not believe it will do much to reduce the numbers of young people taking up smoking.

The Hon. R. S. L. Jones: What will do that?

The Hon. Dr B. P. V. PEZZUTTI: To do that it will be necessary to promote advertising campaigns, which have been very effective in the past. In that regard, when the Opposition was in office I was surprised to learn that former Senator Graham Richardson, who was then the Federal Minister for Health and Community Services, had reduced Commonwealth funding to the States for drug and alcohol initiatives. It was difficult for the former Government to maintain the Quit program and the anti-smoking campaigns that the Department of Health was actively involved in through the Life Education Centre, among others. The Quit program was reduced because the former Commonwealth Government reduced funding for that purpose. I support the legislation, although I do not believe it will prevent young people from taking up smoking. However, it will clarify the situation for those who market and sell cigarettes. The legislation will make it easier for vendors to refuse to sell tobacco products to purchasers and to confirm the age of legitimate purchasers. I support the bill.

The Hon. FRANCA ARENA [5.44]: It is ironic that the honourable member who leads for the Opposition on this debate, the Hon. Dr B. P. V. Pezzutti, is a heavy smoker. I do not say that in a nasty way. I know how hard the Hon. Dr B. P. V. Pezzutti has tried to give up tobacco. This proves how addictive nicotine can be. He has our sympathy and support in his fight to beat his addiction.

Reverend the Hon. F. J. Nile: It shows how dangerous nicotine is.

The Hon. FRANCA ARENA: Absolutely! I have much pleasure in supporting this important bill. As one who always believed in the importance of Australians to have an identity card, I am pleased that the bill will result in the introduction of a proof-of-age card with regard to tobacco purchases. Many groups were consulted during the development of the original proposal for a proof-of-age card that was introduced into Parliament, though not passed, in December 1994. They all indicated general support for the bill. Among that group were the medical services committee, the Privacy Committee, the Retail Traders Association of New South Wales and tobacco retailers. A number of other groups were consulted during the development of the department's

tobacco and health strategy.

On 22 April letters were sent to various individuals and groups outlining the final terms of the bill, although comments on the bill were not sought. The letters were received by Dr Peter Macdonald, the member for Manly; the Medical Services Committee; the Retail Traders Association of New South Wales, liquor retailers, the Shop Distributive and Allied Employees Association, the Liquor Industry Consultative Council, the Privacy Committee, the Legislative Council Standing Committee on Social Issues, the New South Wales Cancer Council, the Australian Medical Association, the National Heart Foundation, the non-smokers movement, Dr Simon Chapman, tobacco companies, the tobacco institute, and the group Action on Smoking and Health.

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The main purpose of the bill is to improve the effectiveness of the current enforcement provisions by replacing this wide defence to prosecution with a defence provision that provides a more objective means of determining that a purchaser is over 18 years of age. The proposal will utilise the current proof-of-age scheme under the Liquor Act 1982. The scheme is to operate as follows: it will be a defence to prosecution under section 59 if the person to whom the tobacco was sold was over 14 years of age and the court is satisfied that, at the time of sale, a form of identification was produced to the defendant that might reasonably be accepted as proving that the person to whom the tobacco was sold was at least 18 years of age.

Vendors of tobacco products will be able to ask purchasers whom they believe to be under 18 to produce evidence of their age. While not precluding other forms of identification that might reasonably be accepted, acceptable forms of identification will include those prescribed under section 117E(1) of the Liquor Act, that is, a proof-of-age card issued by the Roads and Traffic Authority, a photo driver's licence or a passport. Environmental health officers, tobacco retailers and their employees, if over 18 years, will be authorised officers for the purpose of confiscating suspected fraudulent proof-of-age cards under section 152A of the Liquor Act. This is important legislation because it is another step in the fight against the damaging effects of tobacco use and the cost, both at a personal level and also at a community level, of smoking-related illnesses. The reality is that while more and more people give up smoking, cigarette companies are looking for new markets, especially amongst young people. They will do anything and everything in order to ensure that young people take up smoking. Cigarette advertising is much more likely to influence teenagers than adults, as honourable members know.

All surveys prove that sensitivity to cigarette advertising is about three times higher amongst teenagers than amongst adults. For instance, Marlboro cigarettes have almost 60 per cent of the youth market, compared with 22 per cent of the adult market. Whilst the tobacco industry insists that its advertising is not aimed at teenagers and pre-teens, but is designed only to encourage existing smokers to change brands, honourable members understand that that is not so. A study released by the Commonwealth Department of Human Services and Health on 4 March 1996 found that the cost of drug abuse increased by 26.5 per cent between 1988 and 1992 and put the social cost of drug abuse at \$18.9 billion, with the abuse of the legal drugs of tobacco and alcohol incurring the greatest cost. I support the call made some time ago by the Australian Medical Association and the anti-smoking lobby group to declare nicotine and tobacco a poison, a move that would allow stricter control on the sale of cigarettes.

This bill is the first step towards stricter control on the sale of cigarettes. At least our children will be discouraged from starting to smoke while they are young. The good aspect is that in developed countries such as Australia there is now strong opposition to smoking and overdrinking. The sad aspect is that the position is different in developing countries such as China. The China National Tobacco Corporation in 1994 sold 1.7 trillion cigarettes to more than 330 million smokers in China, including the estimated 10 per cent of the nine- to 12-year-old children who smoke. Those figures were reported in the *Australian* on 15 March 1996, and they should make all honourable members think deeply about the problem. I commend the Minister for having introduced this legislation, and I commend the bill to the House.

The Hon. ELISABETH KIRKBY [5.52]: The Australian Democrats are pleased to support the Public

Health Amendment (Tobacco) Bill. We support the aim of the bill, which is to improve the effectiveness of the current enforcement provisions of the Act concerning the prohibition of the sale of tobacco to a person who is under the age of 18 years. Smoking is the largest single preventable cause of death and disease in Australia. According to a 1995 report entitled "Tobacco in Australia - Facts and Issues", smoking is estimated to have caused 18,920 deaths in Australia in 1992, which is more than nine times the number of road crash fatalities. Under-age smoking is a major public health and social problem. More than 70,000 young people in Australia commence smoking each year. Research indicates that this initiation into a smoking habit is well entrenched in teenage years, and once established it is very difficult to break because smoking is so addictive.

Surveys show that approximately 90 per cent of adults who have ever smoked began smoking regularly before they were 20 years old. Statistics produced by the New South Wales Department of Health in 1995 show that from a survey of 2,406 schoolchildren in years 5 and 6 almost 30 per cent of boys and 20 per cent of girls had smoked cigarettes. Other studies carried out by the department indicate that in 1992, 17 per cent of boys and 22 per cent of girls aged between 12 and 16 years reported smoking on an occasional or daily basis. Section 59 of the Public Health Act prohibits the sale of tobacco to a person who is under the age of 18 years. The current penalty for a breach of that section is a maximum fine of \$5,000.

A New South Wales secondary schools survey conducted in 1992, however, which surveyed children between the ages of 12 and 16 years showed that 60 per cent of boys and 55 per cent of girls obtained their cigarettes by purchasing them from shops. The *Australian Journal of Public Health* in an article entitled "Smoking by Adolescents: large revenue but little for prevention" reported that in 1990 approximately 211,000 Australians under the legal age to purchase cigarettes consumed approximately 11.5 million packets of cigarettes - an appalling figure. That is an enormous number of cigarettes; it is not just a matter of young children sneaking a smoke behind

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the lavatory shed in the schoolyard. The New South Wales Department of Health 1995-1999 tobacco and health strategy states:

Despite of education campaigns targeting retailers advising them of their obligations not to sell tobacco to children and young people under the age of 18 years, research indicates that a significant amount of tobacco retailers continue to sell tobacco illegally.

Another recent survey of randomly selected tobacco retail outlets in Sydney published in the *Australian Journal of Public Health* in 1994 showed that 39 per cent of those retail outlets sold cigarettes to children at the first attempt and 32 per cent sold cigarettes to children at the second attempt. Compliance monitoring tests carried out in 1995 by the group Action on Smoking and Health, which were carried out in Manly and in Marrickville, showed that more than 84 per cent of retailers in those areas ignored their legal obligations by selling cigarettes to minors. Across those areas 197 shops-- including supermarkets, corner stores, petrol stations and tobacconists - were visited three times by the supervised children, and more than 84 per cent of the retailers illegally sold cigarettes to the children.

An article entitled "Availability of cigarettes to minors", published in the *Australian Journal of Public Health* in 1992 states that a search of court records in New South Wales from the period 1989 to 1992 revealed no convictions of retailers for sales of cigarettes to minors. It is argued that the search provides indirect evidence of poor adherence to the law. Under the Act, a defendant may be successful in a defence against prosecution on the grounds that he reasonably thought that the person to whom he sold tobacco was more than 18 years old. This bill will mean that there will be no defence against the illegal sale of tobacco to minors unless the defendant can prove that the person to whom he sold the tobacco was more than 14 years of age and produced documentary evidence that might reasonably be accepted as applying to that person and that falsely indicated that the person was 18 years of age or more.

In line with the provisions of the Liquor Act 1982, there will be no defence to prosecution no matter what evidence a person under the age of 14 years may produce. To assist retailers, the amendments in the bill provide that such evidence will be the same as that prescribed under the Liquor Act 1982, being a proof-of-age card issued by the Roads and Traffic Authority, a driver's licence or a passport. As the bill extends the

application of cards and other documents used for that purpose in relation to liquor sales under the Liquor Act, it is an offence for a person under 18 years to knowingly provide false or misleading information to obtain a proof-of-age card.

To ensure that employees comply with the legislation the bill states that where an employee is found to have contravened the Act the employer is taken to have committed the same offence. However, an employer will be able to submit a defence that if it had no knowledge of the contravention and it had exercised due diligence in that respect, it could not be prosecuted. The Australian Democrats support the extension of the proof-of-age card and other documents, as provided for under the Liquor Act 1982, to the sale of tobacco products. As long ago as December 1990 the Standing Committee on Social Issues produced a report on drug abuse among youth. The committee determined:

Some difficulties arise for vendors in establishing the age of children, particularly as up to now there has been no universal proof-of-age card. However, the Committee strongly supports the recent government initiative which creates a government sponsored proof-of-age card. This card will be voluntary, available free from motor registries and will contain a person's name, photograph, date of birth and signature. Although originally intended to apply only to the Liquor Act and the Registered Clubs Act, this proof-of-age facility could easily be applied to the Public Health Act, which refers to the offence of selling cigarettes to minors.

I am pleased to note that the Minister in another place stated in his second reading speech that an education program will be initiated by the Department of Health, allied with the Department of Gaming and Racing, in conjunction with these changes to the legislation, to ensure that retailers and the community are informed of the new laws. The commitment to the provision of \$80,000 per annum to assist in the extension of the proof-of-age card is welcome. I received information on this bill from Action on Smoking and Health Australia - commonly known as ASH - indicating its support for the bill. In its document dated 30 April 1996 the organisation stated:

ASH supports the amendment which is consistent with the NSW Tobacco and Health Strategy 1995 to 1999 - a process that nearly 100 health professionals participated in to identify the priorities to reduce death and disease from smoking in NSW.

The bill will achieve two things: proof of age will be mandatory and it will clarify that a tobacco retailer can be prosecuted if an employee sells (ie this means for example, that supermarket managers will ensure their staff are trained to not sell to minors).

The bill will not solve all the problems of access by children but like most bills, it will be an incremental change that is very important to put in place.

The second page of the document stated:

ASH supports the bill as it represents part of a comprehensive tobacco control strategy to reduce availability. The Drug and Alcohol Directorate has given priority to reducing sales by working with health groups to: review policies and procedures; instigate a mass media campaign for later this year; and increase both monitoring and prosecutions of retailers etc

Other actions that need government commitment include the banning of vending machines (as children gain access despite restrictions to licensed areas); increasing tobacco franchise fees in NSW;

I believe it is a pity that the Treasurer did not do that only a few days ago when he was trying to raise the money needed because of the cut in funding by the Commonwealth Government to the States. The document continued:

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reducing point of sales advertising of tobacco products through amending the TAP Act; investigating cost recovery measures (as in the USA where state governments are taking legal action against tobacco companies to recover medicaid costs from smoking); and classifying nicotine as a drug.

I hope that the Minister for Health in this State will take those recommendations on board. Finally, I draw to the attention of the House certain recommendations in a recent report of the Senate Community Affairs Reference Committee into the costs of tobacco-related illness. This reference was initiated by one of my Federal colleagues, Senator Meg Lees, who is the Australian Democrats senator for South Australia and deputy leader of our party. These recommendations are directly aimed at reducing the number of teenager smokers in our society and, in turn, the total number of people who take up smoking. The most important recommendation that came out of the Senate committee, from my point of view, was recommendation 23, which stated:

That the minimum age for the purchase of tobacco product be 18 years in all States and Territories; and that the States and Territories investigate the feasibility of making it an offence for people under the age of 18 years to purchase tobacco products.

In all, there are some 32 recommendations in the Senate report. By leave, chapter 3 will be incorporated in *Hansard*.

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14. That national education programs be developed for primary and secondary school students and that these programs be regularly revised; and that these programs be based on the most recent research and evidence of the socio-economic, environmental, behavioural and personal factors identified as encouraging the take-up of tobacco use by young people, and the continuing use of tobacco by young people. The Committee further recommends that these programs include information on the dangers of passive smoking, particularly for young people.
 15. That primary and secondary teachers, who will teach or are teaching health courses that include anti-smoking units, be funded by the Commonwealth Government as part of the National Drug Strategy to attend teacher education and in-service training sessions.
 16. That school-based smoking prevention programs be encouraged and expanded; and that they be taught each year from at least Year 4 (about 9 years of age) to the end of secondary schooling.
 17. That no smoking be permitted (including smoking by students, staff, parents and visitors) on any school premises; and that students who are found in breach of this be counselled, and supported through drug education and 'Quit' smoking programs.
 18. That additional research be undertaken into the efficacy of generic packaging of tobacco products as a means of addressing the problem of juvenile smoking.
 19. That comprehensive restrictions on the size, placement and format of point-of-sale advertising of tobacco products, similar to those applying in New South Wales, be applied in all States and Territories.
 20. That the Commonwealth, State and Territory Governments ensure that there are regular real increases in levels of excise duties and business franchise fees levied on tobacco products; and that the revenue from these taxation increases be directed to tobacco control and health promotion activities.
 22. That tobacco products be removed from the basket of goods used in the calculation of the Consumer Price Index.
 23. That the minimum age for the purchase of tobacco products be 18 years in all States and Territories; and that the States and Territories investigate the feasibility of making it an offence for persons under the age of 18 years to purchase tobacco products.
 24. That an appropriate form of proof-of-age identification be automatically required for young people purchasing cigarettes.
 25. That there be a reduction in the number of retail outlets permitted to sell tobacco products and that;
 - as an interim measure, tobacco products be isolated from other products for sale in all outlets currently selling tobacco products; and
 - in the longer term, those retail outlets permitted to sell tobacco products be restricted to licensed premises and to tobacconists;

and that this be phased in to minimise any disruption to small business.

26. That the licensing systems in all States and Territories provide for the suspension or revocation of a licence where retail outlets sell tobacco products to minors.
27. That State and Territory Governments, in co-operation with the appropriate retail trade associations, expand their education programs directed at retailers.
28. That, as it is virtually impossible to prevent access by children to cigarette vending machines, these types of vending machines be prohibited in all States and Territories.
29. That State, Territory and Local Governments increase the level of funding and personnel devoted to the enforcement of laws restricting the supply of tobacco products to minors; and that increased resources be devoted to the prosecution of retailers that contravene such laws.
30. That State and Territory Governments institute routine systems of random compliance checks to monitor the sale of tobacco products to minors.
31. That the Commonwealth Government encourage the States and Territories to improve the effectiveness of their enforcement and monitoring programs; and that:
 - as part of their monitoring system the States and Territories provide statistics annually to the Commonwealth on the number of complaints and prosecutions against retailers selling cigarettes to minors; and
 - the States and Territories run a publicity campaign that informs the public of the appropriate bodies to which they can direct complaints regarding the sale of tobacco products to minors.
32. That a system of substantial fines be introduced in all States and Territories to discourage the sale of tobacco products to minors.

The Hon. ELISABETH KIRKBY: From what I have said it will be clear that I cannot support the amendments that the Hon. R. S. L.

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Jones proposes to move later in this debate. It is impossible for me to go against the policy of the Australian Democrats, particularly the detailed recommendations of a Senate committee on which Senator Meg Lees served and which heard a great deal of evidence - probably far more evidence than the Standing Committee on Social Issues of this Parliament was able to obtain. I do not agree with the arguments of the Hon. R. S. L. Jones about lowering the smoking age because many young people can make life-altering decisions for themselves at the age of 16 but they cannot buy a packet of cigarettes. There are many life-altering decisions that young people cannot make until they reach the age of 18 - although I know that the Hon. R. S. L. Jones may dispute that.

Under the circumstances it is a backward step to permit young people to buy cigarettes legally at the age of 16. The tragedy is that more and more young people and children are starting to smoke - even at the age of 10 or 12. What is worse is that the number of young women starting to smoke outnumber the young men. Normally young men are less anxious to smoke because it affects their fitness at an age when they are very keen to play sport and to represent either their school or local association in sporting activities. Young women start smoking and become as addicted as I know some members of this Chamber are addicted, and that affects their lives and particularly what will happen when they go on later in life to bear children. One of the biggest dangers to the foetus is a mother who smokes. To become addicted at the age of 12, 15 or 16 is a tragedy.

The proposed legislation will make it clear to all retailers that it is not an offence simply to sell to young people who are under the age of 18; they will now have to train their staff and they will have to demand proof of

age if they are to remain immune from prosecution. This bill may very well not stop young people from smoking, but if it makes it more difficult for young people to obtain cigarettes and reduces their availability, which is the dominant factor in young people smoking, it will be one step along the way to preventing more people from becoming addicted, ruining their health and dying unnecessarily at an early age. For those reasons I support the bill before the House.

The Hon. R. S. L. JONES [6.10]: I support the legislation, with one exception, that is, the age limit. That may seem a bit strange coming from me as I have been actively campaigning in public against the tobacco industry for more than 30 years - well before Reverend the Hon. F. J. Nile thought about it.

Reverend the Hon. F. J. Nile: I thought it about it when I was 15 and 16 years of age.

The Hon. R. S. L. JONES: How old is the honourable member now?

Reverend the Hon. F. J. Nile: Sixty-two.

The Hon. R. S. L. JONES: Reverend the Hon. F. J. Nile has been campaigning for 10 years longer than I have, so I congratulate him because he has been very consistent in his campaign. I acknowledge his long-term commitment to eradicating this and other drugs in our society. I have similar views to Reverend the Hon. F. J. Nile - except that I take an entirely different tack on many things, including freedom of religion and being a crossbench member. The key problem is that 12, 13 and 14 year olds are taking up smoking in alarming numbers. Though we have banned cigarette advertising - in which Reverend the Hon. F. J. Nile was instrumental and I was involved in banning cigarette advertising from television - still those young children are taking up smoking in large numbers.

The question must be asked why 12, 13 and 14 year olds take up smoking? I have learned from research over the years that tobacco companies target 12, 13 and 14 year olds; they are the number one target, not the 17 or 18 year olds. There is a very good chance that if people reach the age of 17 or 18 without taking up smoking, they will not then start. The risk diminishes year by year as they grow older and wiser. The most vulnerable age is 11, 12, 13 and 14 years. I refer to research into the attitudes of 10 to 14 year olds carried out by Donovan Market Research published a few weeks ago in the newsletter of the Australian Council on Smoking and Health.

The Hon. Helen Sham-Ho: When was this?

The Hon. R. S. L. JONES: It was published in April 1996. This document highlights the problems of smoking. The image that 10 to 14 year olds have of smoking and smokers in general is overwhelmingly negative. Young people cite the health, cosmetic effect and costs as reasons for not taking up smoking, yet large numbers do. Their view is that non-smokers believe that smokers think that smoking makes them look cool, including presumably their friends, who are already smoking by this stage. They believe that smokers rationalise the benefits of smoking as the enjoyment, the taste and relief from stress and boredom. Honourable members should bear in mind that I am talking about 10 to 14 year olds, who apparently have quite sophisticated views.

The group image associated with smokers in general is of people who look unhealthy, tarty, hard, bored or stressed rather than the sweet, goody-two-shoes, healthy, active image associated with their non-smoking counterparts. The 10 to 14 year olds have a very negative image of people who smoke. They say that whilst smoking is rarely purported to be seen as a cool activity in which to participate, a disproportionate number of cool people seem to be seen doing it. That is the crux of the problem. Regrettably, young people identify smoking as a rite of passage. Most young people reported trialing the behaviour generally out of curiosity as the occasion arose or as a result of

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implicit peer pressure. They may believe that to be the case, though I suspect it is much deeper than that. Often they do not even know how they are affected by advertising or sponsorship. They are not aware of it because it

is subliminal in most cases.

Smoking is regarded as an entry point to adult activities, a badge by which young people can identify themselves. That is why young people smoke. The tobacco companies know this and probably will not mind this legislation because they realise that if something is prohibited, it makes it more exciting to a young person. It is also unfortunate that almost as many young people smoke marijuana as smoke tobacco, and that is not a good thing for 13, 14 and 15 year olds. It affects their school work and attitude, although it probably enhances their creative activities and their perceptions.

Young people should not take up marijuana or tobacco smoking, alcohol or any adult drugs. The problem is that young people want to be seen to be adult and therefore they believe it is cool to smoke cigarettes. Fortunately some young people are turning this idea on its head by calling smokers durry heads, which is an Aboriginal word for tobacco. However, these same young people smoke marijuana, which they think is cool. We have to get through to children before they turn 12 or 13, by which time it may be too late, that smoking is very uncool. The Quit for Life campaign has been spectacularly unsuccessful. It does not encourage adults to quit smoking because they are aware of the problems. Adults do not quit because they see a Quit for Life message; they quit because they have been told by a doctor that they have three weeks to live, they have a heart tremor or they have to undergo a bypass. They know when they have problems because they know that smoking is the second-greatest cause of death in our society. Today's print media reported that every year 6,000 people die in New South Wales from smoking. Fifty per cent of smokers die from the habit.

The Hon. Dr B. P. V. Pezzutti has tried desperately to give up smoking. The Deputy Premier, and Minister for Health, Dr Refshauge, knows that smoking is wrong, but he cannot give up the habit. He is using Nicorettes to help him give up the habit. This demonstrates the appalling addictiveness of nicotine. It is by far the most addictive legal drug available in society. If tobacco was a brand-new drug, the most deadly drug, people would be gaoled for life for selling a few packets of cigarettes. Prohibition has not worked, whether it be for illegal products, alcohol or tobacco. Somehow we have to find a way to convince young people from an early age not to smoke. I frightened the life out of my son and promised him a sports car when he turned 21 if he did not smoke. He has always remembered that and never smoked.

The Hon. D. J. Gay: Did you give him a sports car?

The Hon. R. S. L. JONES: He chose the car he wanted; it was not a sports car, but he could have chosen a sports car if he wished. I was frightened out of my life at the age of 13 when I saw a Dr J. C. Hogg in Harley Street. I still remember his name. He said to me, "If you smoke it will kill you", and I never smoked because of his warning to me when I was 13. If every 12- or 13- year old were told by a doctor that smoking would kill him or her, the incidence of smoking would be reduced drastically, but that is not physically possible. I campaigned for the buying age to be increased to 18, and I shall explain in a moment why I am now urging that the age be reduced to 16, though I understand there would be considerable resistance in society to that measure. Though it is illegal for young people under the age of 18 to buy cigarettes, that has not stopped them from smoking.

We know that tobacconists sell cigarettes to 15, 16 and 17 year olds because they do not really understand that the drug they are selling is highly addictive. They should, but it is part of their normal trade. At the age of about 12 I was sent to buy some cigarettes by my mother - Senior Service for 3s 6d. Smoking killed her eventually. In those days it was perfectly acceptable for a 10 or 11 year old to go to a tobacconist for cigarettes. It did not occur to me to smoke them myself; I was not interested. We have to find out why people smoke. Insidious things are happening in our society now that advertising has been banned. The sponsorship is still there. Children see winners with cigarette brands - Winfield, Marlboro or one of the other brands - on racing cars and motor bikes. The drivers are winning but the children are losing.

The Hon. R. T. M. Bull: It used to be a bloke on a horse.

The Hon. R. S. L. JONES: That Marlboro bloke on the horse died from lung cancer.

The Hon. R. T. M. Bull: He deserved every bit of it.

The Hon. R. S. L. JONES: He was a victim as well. He probably did not know what he was doing.

Reverend the Hon. F. J. Nile: He died a horrible death.

The Hon. R. S. L. JONES: Yes, he really did, an appalling death. Many thousands of other people are dying horrible deaths. It is very hard to give up tobacco once one has become addicted. We discovered some time ago that camera operators at sporting telecasts were being paid to linger on Benson and Hedges and Winfield signs. The tobacco company executives used to work out - they probably still do it - how many "hits" there were on their signs. Tobacco companies also ensure that people smoke in films. A lot of peer pressure comes from what is shown in films.

The Hon. R. T. M. Bull: They used to; they do not do it now.

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The Hon. R. S. L. JONES: They still do it today, but they do not necessarily identify the brand. Look at the last 30 hit films and you will find that many more people are smoking in them.

The Hon. D. J. Gay: *Pulp Fiction.*

The Hon. R. S. L. JONES: Pulp trash. Young, glamorous people who are looked up to smoke in films. Among the leading actors in films a greater proportion are depicted as smoking than the proportion of people who smoke in the general public. That is not an accident; it is done deliberately to make smoking appear glamorous. I believe there should be no advertising of tobacco products, and if we were serious about banning tobacco advertising we would require cigarettes to be sold in plain packs without brand identification. That would make it difficult to sell Winfield and Marlboro. It would be heavy censorship if smoking were banned from films. If we want to stop the massive number of premature deaths we must be serious about it from the very beginning.

We cannot ban tobacco. It would not work any more than banning alcohol or marijuana. Even if it cost \$500 an ounce, people would still use it. My amendment may sound shocking to a number of people but I have proposed reducing the age limit to 16 to counter the push by the tobacco companies to make smoking among older people appear glamorous. I also believe that eventually 16 will be the age of majority. If people could vote at 16 they would learn about government, parliament and voting in school. After they leave school now they have to flounder about without knowing much about those things. People at 16 can get jobs, get married, have babies and do most of the things that people of 18 and 19 can do. We should be consistent: there should be no advertising of harmful drugs, whether marijuana or tobacco. Alcohol does have health benefits; it is not altogether bad.

Reverend the Hon. F. J. Nile: You should be consistent.

The Hon. R. S. L. JONES: Yes. We must be careful. Subliminal advertising on television and through sports sponsorship and films - this is a matter for Hollywood - should be stopped. Young people from the age of five or six should be told of the real dangers of drugs. They should be convinced not to become involved with drugs. If they are told the facts they will know which drugs are most dangerous. If tobacco is more addictive than marijuana, people should be told that. Both can cause lung cancer but tobacco is more dangerous because it is far more addictive. I will not call for a division on my amendment as I know that I do not have the support of the House. However, I signal that at some point 16 will be the age of majority. We should be consistent.

[*The President left the chair at 6.27 p.m. The House resumed at 8.00 p.m.*]

The Hon. I. COHEN [8.00]: I support the Public Health Amendment (Tobacco) Bill. I have listened with interest to the many interesting and significant points made by honourable members. This important issue has been close to my heart and to the hearts of other honourable members of this House, including the smokers.

The Hon. R. T. M. Bull: Are you a smoker?

The Hon. I. COHEN: No, I am not. The last time I was a smoker I was under age. That is probably the case with many people who understand the pressures brought to bear by the tobacco industry and its advertising campaigns. I have some understanding of the logic to the arguments of the Hon. R. S. L. Jones. When I say I support the 18 years cut-off for the sale of tobacco products, honourable members must wonder whether I am becoming a little conservative. However, the important issue is the curbing of retailers, stopping the sale of tobacco. The bill provides that it is a defence if the tobacco retailer believed the customer was over 14 years of age. That means that some leniency is available in the case of a mistake, which can easily happen.

It is important to remember that tobacco has been legal for many years. There is a different set of criteria to deal with that issue. It is almost as if it is the other side of the mountain. Many problems have been referred to during the great debates on the legalisation of drugs. The Hon. R. S. L. Jones compared the age of consent and age of marriage to the age at which a person can legally purchase tobacco products. Each year 19,800 Australians die from tobacco-related diseases. In addition, many people have their quality of life disastrously affected by smoking. The primary person is not the only one affected. Associated people are also affected by this powerful, heinous addiction.

I have associated with people who have been addicted to all sorts of drugs. Some of them have said that an addiction to tobacco is more difficult to break than an addiction to heroin. The bill deals with a hard drug. Smoking is the largest cause of preventable disease and premature death in Australia. The health costs associated with smoking should be met by the tobacco companies. For many years I have studied with an amateur interest the advertising campaigns of tobacco companies. Tobacco companies target youth, so the age issue is important. I feel rather uncomfortable about dropping the legal age for the purchase of tobacco products from 18 years to 16 years. I have discussed this with other Green0 metres, who have said that the age should be kept on a par with the legal age for the consumption of alcohol.

Education will have the greatest effect on this issue but, nevertheless, the maintenance of the 18-year limit is a reasonable provision. The powerful anti-smoking campaigns that have been developed should continue, and some should increase, for instance, "those who smoke fags are dags". It is

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vital that the antismoking campaign not be allowed to slide. In recent times the campaigns seem to have been overtaken by complacency. In the 1990s tobacco consumption by young people increased. I am horrified by the figures that have been published about that matter. I suggest that an advertising campaign be directed at an individual's health.

Today young people are aware of many issues, and it is important that their awareness be widened. For example, 30 per cent of the world's deforestation occurs in Third World areas where the most common method of curing tobacco is by fire - flue curing - because wood is the only fuel available. This method also enhances the tobacco flavour. Massive deforestation is occurring with tobacco production. The pesticide residue in Australia and overseas is significant because in many instances tobacco is not classed as a food crop and, therefore, the use of pesticides with tobacco is not tightly controlled. Cigarette litter makes up a significant percentage of the rubbish polluting the environment, including the waterways.

People do not realise that the filters on cigarettes are highly non-biodegradable and make a significant contribution to the litter going into the waterways. Cigarette butts, which make up about 5 per cent of litter and are one of the 10 most common items of rubbish Australiawide, are classified as a plastic. Cigarette packs, which are the second most common component of paper litter, contribute 14 per cent to paper and cardboard waste. It is extremely important that those facts are used to encourage our youth, who are often not conscious

of environmental matters, away from the tobacco industry. Recently I was disappointed to hear the Minister for Health speaking about the cricket advertising exemption. On 8 May 1995 Mr Refshauge, the Minister for Health, stated:

Due to the international significance of the cricket season, I have granted an exemption under the Tobacco Advertising Prohibition Act to allow limited sponsorship by a tobacco company.

In addition to Test matches and Sheffield Shield, I have decided to allow limited cigarette advertising during the Mercantile Mutual Cup and one-day international matches.

What sort of example is that to young people who are keen followers of cricket? On the same day the Minister granted an exemption in respect of the Bathurst 1000 race. That exemption allowed the Winfield and Peter Jackson racing teams to have advertising on the cars as well as on the clothing worn by the team drivers. These issues are at the heart of advertising campaigns. It is important that the Government does not relent on advertising. In regard to the sale of tobacco to minors, it is to be applauded that under the Public Health Act, it is a criminal offence to sell tobacco products to anyone under the age of 18. All tobacco retailers must display the New South Wales Department of Health warning notice. It must also be displayed in cigarette vending machines. Obviously, these are steps in the right direction but, unfortunately, the problem has not been resolved. Adolescent boys and girls are continuing to smoke. The following facts are taken from the New South Wales Quit campaign fact sheet stated:

Amongst adolescents, the trend towards more younger women smoking is evident.

- Between the ages of 14 to 17, up to 7% more females now smoke than males.

Adolescent boys are heavier smokers than girls, even though more girls smoke than boys.

- 12 year old boy smokers average 9 cigarettes per week. This increased to 43 per week at age 17.

- 12 year old girl smokers average 8 cigarettes per week, increasing to 30 cigarettes per week at age 17.

It is extremely important that we set an example. Earlier the Hon. Dr B. P. V. Pezzutti's attacked the Australian Labor Party for its lack of follow-through in regard to this issue. We must be even-handed. Both major political parties stand condemned for their past record of failure to stand up to the tobacco industry. An article by Laura Tingle exposed the fact that Cabinet had failed to alert the nation to the dangers of smoking cigarettes. The article stated:

Cabinet documents released over recent years show that Cabinet had repeatedly resisted the urgings of its health ministers and the NHMRC to put strict controls on cigarette advertising on television and radio with the view to a complete ban . . .

Warnings from the council about the links between smoking and cancer had been made as early as 1957.

However, the Menzies Cabinet did not believe it was the Government's responsibility to warn people of the health risks or control of the promotion of cigarettes.

It is interesting to note how far back this debate goes and how powerful the tobacco companies have been in controlling successive governments of both political persuasions. The Government must effectively take on the industry and do something about the use of tobacco. This is a major public health issue that will be resolved in great part by education. However, I believe that punitive action is appropriate. The tobacco industry should be made to pay for the effects that tobacco has on the population. So far as I am concerned, all tobacco advertising should be banned. It is accepted that certain people are addicted to this hard drug. It is not appropriate to ban the sale of the drug, but any type of advertising campaign should be banned. In that respect I support the Government's position on the 18-year age limit.

The bill is timely and appropriate and if it reduces the number of young people who take up smoking, I support it. I would particularly like strong and appropriate advertising and education campaigns that not only feature adults telling young people what to do. The campaigns should fit in with the culture of young people so that they will get positive encouragement to indulge in beneficial lifestyle pursuits. The multinational companies are the real criminals and they should not be allowed to go unpunished. I strongly support the bill.

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The Hon. A. G. CORBETT [8.15]: I support the Public Health Amendment (Tobacco) Bill. If children are to be prevented from smoking, the reasons they desire to smoke should be examined. While peer pressure, advertising, and taking up smoking as a rite of passage into adulthood all play a role, the more important issue is why some young people and adults are more susceptible to these pressures than others. Honourable members would be well advised to ask such questions as why it is that some young people want to smoke while others are not attracted to it. Why are anti-smoking campaigns and educational material effective for some young people but have little or no effect on others? Why do some children commence smoking and then stop, while others become addicted? Why do some young people and adults not smoke during times of stress and others smoke only during times of stress, that is, intermittently?

Anti-smoking campaigns would be far more effective if they adopted a holistic approach to the issue, including an acknowledgment that people are extremely complicated beings. For example, the family history of smokers and the childhood traumas that smokers may have experienced should be looked at. I support the bill, but legislation and non-smoking programs address the symptoms and not the cause. The causes are far deeper than the matters that have been alluded to by many honourable members. Drug addiction, including nicotine addiction, is one way of numbing emotional pain. A worthwhile harm reduction step is to make cigarettes more difficult for young people to acquire. I support the bill.

Reverend the Hon. F. J. NILE [8.17]: Call to Australia is pleased to support the Public Health Amendment (Tobacco) Bill. The object of the bill is to change the defence to the offence of selling tobacco to a person under 18 by providing a means for the proof of age of persons purchasing tobacco. This is to be done by extending the application of cards and other documents used for that purpose in relation to liquor sales, as provided for under the Liquor Act 1982. The defence will only be available if the customer is more than 14 years of age. Employers and other persons are also to be liable for the actions of employees in selling tobacco to persons under 18. Call to Australia believes there must be a continuation of the war against tobacco products and the drug nicotine, a legal drug, while the campaign against illegal drugs, such as marijuana, heroin and cocaine must be maintained.

It would be absolutely inconsistent to tighten up legislation dealing with tobacco products if that meant sending out message that we were going soft on illegal drugs. The problems associated with nicotine and alcohol products that already exist in society must not be compounded. The problems occur because those drugs are legal. Call to Australia is pleased that the Government is following consistent policies on tobacco products. As honourable members know, and as has already been referred to, Call to Australia introduced a bill dealing with tobacco advertising and sponsorship. We were pleased that the Tobacco Advertising Prohibition Bill passed through the House and was one of the few bills passed unanimously.

The Call to Australia party is concerned about exemptions. An endeavour was made with the Tobacco Advertising Prohibition Bill to provide a reasonable and moderate measure. Provision was made for a five-year phasing out of tobacco advertising and sponsorship. Call to Australia was concerned about what could be perceived as a heavy-handed approach to international sporting events. Such events would be staged in another State if New South Wales were to simply prohibit an event sponsored by a tobacco company. Motorcycle races, car races and other events would be grabbed by Queensland and Victoria if a complete prohibition were imposed. With all States moving in the same direction with uniform legislation, exemptions would no longer be justified. Overseas tobacco sponsors with headquarters in the United States, the United Kingdom or Switzerland would be told to adapt their sponsorship of international events to conform with Australian policy.

Sponsors would have to remove cigarette advertisements from vehicles, motorcycles and so on engaged in international competition staged in Australia. That should be possible, but if it is not the promoters of major events should be able to find other sponsors. Australian companies or subsidiaries could sponsor major events, for example Coca-Cola, Pepsi-Cola, Kentucky Fried Chicken and McDonalds. Australian laws relating to the advertising of tobacco products would then be consistent. It must seem hypocritical to teenagers, who are told of the dangers of tobacco products, that international events openly promote tobacco.

There is a related issue that this week has been the subject of some controversy in the newspapers. It appears that since airlines have prohibited smoking on international flights - which, of course, are longer than domestic flights - increasing levels of violence on aircraft have been experienced. It has been said that people are so addicted to nicotine that they sometimes lose control on an aircraft and, having started to smoke and being told by a flight attendant to stop, become violent towards others on the aircraft. Those people are experiencing withdrawal symptoms from nicotine. That experience, which surely adds another dimension to the problems resulting from nicotine addiction, further confirms that the Government and other parties that support the Government's tobacco policy, such as Call to Australia, are on the right track.

Call to Australia has also produced a tobacco regulation bill, the purpose of which is to prohibit smoking in all public places. That is a fairly dramatic step, but it is the logical next step.

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Already we have laws that prohibit smoking in buildings such as Parliament House. I note, however, that some members are breaking the law and smoking in their offices, which causes health problems for other honourable members, including my wife, the Hon. Elaine Nile. It is encouraging that throughout New South Wales and in other States many companies and cooperatives, such as shopping centres, are prohibiting smoking in their premises. New South Wales now needs legislation to cover that aspect and to include restaurants and other premises where food is served. I look forward to the support of the Government and the coalition on my tobacco regulation bill, which will prohibit smoking in all public places.

The Hon. R. S. L. Jones: Do you mean smoking will not be allowed outside?

Reverend the Hon. F. J. NILE: No, I mean in buildings such as shopping centres, offices, restaurants, hotels and clubs, which are public places. The Call to Australia bill has been drafted in close cooperation with various State health bodies and has been approved by them. As other honourable members have pointed out, the Parliament has been encouraged in this legislation by organisations such as ASH Australia, which strongly supports the bill. Those organisations regard tobacco advertising as a major tool in the recruitment of teenagers to become consumers of tobacco products. In order to reduce teenage smoking it is necessary to do all that is possible through comprehensive education, reduced access, monitoring and prosecutions. They are not the only ways to reduce the number of smokers in society, but they are certainly measures that would help reduce teenage smoking.

Along with other honourable members, I have been very disappointed to observe many high school students, both boys and girls, smoking on their way to school. They are clearly under the age of 18 years yet they have been able to obtain cigarettes, either through one of their mates purchasing them or by purchasing them from a retailer who is happy to sell cigarettes to someone who is under age. It appears that peer pressure encourages teenagers to take up smoking, and that leads to a serious social problem. Some young people seem to think that in order to be an adult they have to be a smoker. The concerning aspect is that those teenagers would have been through the most comprehensive health programs ever. They know all the theory; they know all about the dangers of cigarette smoking; they know what smoking does to the respiratory passages and the lungs; they know about the link between smoking and cancer - yet still they smoke.

Some teenagers display what is almost a suicidal urge. In the past, people used to smoke because they were ignorant of the dangers of cigarettes. Now teenagers smoke despite knowing the dangers involved. I suppose I should not be too critical of teenagers who know the messages and still smoke, because many doctors - including members of the House - who know all the health messages, also still smoke. That is no excuse, though. I have read that a surprisingly high percentage of doctors smoke, although I am not sure of the exact

figure. That is a very bad example for young people, who would perhaps know of doctors who smoke and decide that anti-smoking educational material must be exaggerated because if the dangers were so serious, doctors would not smoke.

I support the comments made by other honourable members about the influence of the media. Today's films are not so bad, but when one watches some of the classic films - and some of us like them - one notices that well-known actors always seem to be smoking. Even when they are making love the male will lovingly puff smoke into the face of the young lady, as if that is all part of society. It is obvious that in the past, films played a major role in conditioning people to think that in order to be sophisticated and to be an adult one needed to smoke. I think of rock groups, too. Teenagers look up to rock musicians, many of whom not only smoke nicotine products but openly boast that they smoke marijuana and even use harder drugs such as heroin.

Youth still get the pro-drug message, despite the attempts of the Department of Health. Evidence shows that cigarette smoking is the largest single preventable cause of death and disease in Australia. It is our number one drug killer, resulting in 18,920 deaths per year, which is nine times the number of road crash fatalities. Tobacco causes 82 per cent of drug-related deaths in Australia. Cigarettes are highly addictive and result in disease and death. Our society should take note of the message delivered by that number of deaths. We certainly react to road fatalities. When we hear of five or six teenagers speeding along a country road who run off a bend and crash into a tree and are killed there is great anguish and sorrow - and rightly so. But nine times as many people die from smoking as die on the roads. The Department of Health estimates that approximately 17,000 retail outlets in the State sell tobacco products. That would include corner stores, newsagents, petrol stations, supermarkets and liquor stores. The Hon. Elaine Nile and I stay in a motel when the House is sitting, and there are tobacco vending machines in the reception area there. I would say that every hotel and motel has vending machines, so one is almost never without the opportunity to purchase cigarettes.

The legislation restricts the sale of cigarettes to persons over the age of 18, but how do you prevent young people buying cigarettes from vending machines? There is no way that a vending machine can determine whether a purchaser is over the age of 18. If I were in tobacco manufacturing and sales I would simply install more vending machines. As the Government tightens restrictions on retail outlets, I would simply put more vending machines in railway stations, bus interchanges and so on. Perhaps the Government should examine legislation prohibiting tobacco vending machines. If

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there are 17,000 tobacco retail outlets no-one could argue the need for vending machines because of the difficulty of buying a packet of cigarettes. Cigarettes are a legal product and obviously they are being sold, but I do not think we should do anything to aid and abet their availability - especially not their anonymous availability through a vending machine. The problem is that no-one can be fined if a teenager - even a child of 10 or 11 - puts money into a vending machine to purchase cigarettes.

A 1992 study by the Drug and Alcohol Directorate of the New South Wales Department of Health found that in Australia adolescents begin experimenting with tobacco as young as 12 years of age, and that by the age of 15 more than 20 per cent of adolescents smoke tobacco. By age 17 nearly 50 per cent of adolescents have experimented with smoking, and half of them will become regular smokers. We are talking about a very serious problem involving hundreds of thousands of teenagers. Inadequate and unenforced laws that prohibit the sale of products to adolescents encourage the strong demand by young people to smoke tobacco products. Although New South Wales law prohibits the selling of tobacco products to persons under the age of 18, those products are still readily available to them.

A study in Newcastle in 1990 found that in 70 per cent of purchases the retailers did not challenge under-aged purchasers. In metropolitan Sydney it was found that 39 per cent of retailers sold cigarettes to children aged only 12 and 13 years. A 1992 survey of drug use by New South Wales secondary school students found that more than 60 per cent of males and 55 per cent of females under the age of 16 years cited shops as a source of supply of cigarettes. In spite of the existing law and the \$5,000 fine and so on, retailers were prepared to take the risk. This bill, by tying in the issue of proof-of-age identity cards, will for the first time take a big step forward in putting retailers on the spot. In the past, retailers could have argued: "I don't know

how old these teenagers are. If I ask them they will tell me a story." With the introduction of the bill, retailers will simply have to ask teenagers to produce a proof-of-age identity card.

Clearly displayed signs and civil penalties and/or licence revocation would be important tools in seeking to reduce the proportion of high school students who smoke. If retailers ask adolescents for proof of age, they would discourage their use of tobacco products. In another survey by the New South Wales Health Drug and Alcohol Directorate in March 1995 it was found that among years 5 and 6 New South Wales primary school students, nearly 30 per cent of boys and 20 per cent of girls had experimented with cigarettes. The survey found that smoking increased with age: 18 per cent of 10-year-old students, 25 per cent of 11-year-old students, and 31 per cent of 12-year-old students had smoked cigarettes. Those students all received more than \$5 per week pocket money. The survey found that those students were more likely to smoke than students with less pocket money. The survey further found that a quarter of New South Wales primary school students have smoked a cigarette.

The Call to Australia party strongly supports the bill. Evidence proves that initiation into smoking behaviour is well established before the end of teenage years. Surveys show that approximately 90 per cent of all smokers begin using tobacco by the age of 20 years. In New South Wales 60 per cent of male teenagers and 55 per cent of female teenagers obtain their tobacco products from shops. The evidence is clear that our young people are drawn into the trap of smoking cigarettes at a young age. As legislators we have the responsibility to create laws that will help to prevent this tragic and senseless path towards disease and death. The bill will help to force retailers to sight identification prior to selling tobacco products to a teenager. Retailers will become responsible for their actions, and that will lead to a reduction in the number of adolescents experimenting with tobacco products and becoming addicted.

I note that countries such as the United States are developing similar policies, and that the United States Surgeon-General's report on preventing tobacco use among young people stressed the importance of public officials and community members monitoring and enforcing policies and legislation to restrict access to tobacco products among young people. Further interventions to trial and refine cost-effective strategies to reduce sales to minors and to measure the longer-term impact of these studies on adolescent and adult smoking should be followed through in New South Wales, and we urge the Health Department to do so as a priority. That will involve education and interaction with retailers in the community, monitoring compliance, active reinforcement, prosecutions and publicity.

In Gosford on the Central Coast a project involving education, compliance, enforcement and publicity was conducted between 1993 and 1994, and it provides some valuable results. I have a copy of the project report, entitled "Action in the Areas of NSW". I will not refer to it in detail; it is available from the Department of Health. In 1995, after a very extensive education program and the foundation having been laid in those two years, the first local offending retailers were prosecuted. There was increased cooperation with the central coast beat police, and I stress that we should not depend merely on environmental health officers to crack down on retailers; beat police should be involved in this as well. In 1995 a media campaign publicised those prosecutions. I believe that nothing would discourage a retailer more from selling products to under-age teenagers than if he learned through publicity of a fellow local retailer having been prosecuted. That would be a very strong warning that the Government means business, and I am sure that offending retailers would very quickly

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change their habits. As part of this project on the central coast, local prosecutors and magistrates were sent briefing material, education packages and resources were sent to retailers, and a community hotline was set up. Call to Australia commends the Department of Health for those initiatives. The department can depend on the full support of the Call to Australia party in its future campaigns.

The Hon. J. S. TINGLE [8.39]: I support totally the purposes and the intentions of the bill. I agree with the comments of the Hon. I. Cohen and Reverend the Hon. F. J. Nile because it has been my experience that age limits have never been enforced, even on members of the medical profession. I suggest that although item [1] of schedule 1 to the bill provides the defence that a person must be over the age of 14 years - and that

may still be too young - I will support the bill.

It is difficult for a community that does not want its young people to smoke to compete with the glamour image given to cigarettes, particularly where one hears of instances - as I had reported to me on my radio program - of people unscrupulously selling single cigarettes out of packets to young children and accepting the excuse that they are buying it for dad or mum. It is difficult to enforce the age limits applicable to the selling of tobacco and nicotine to young kids. Fines have not acted as a deterrent, though proof of age is a good start. However, to avoid a lifetime addiction for a lot of otherwise very healthy young Australians we must find a way to persuade young people that it is not smart to smoke; that they would be better off not smoking at all.

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [8.41], in reply: The Government is grateful to all honourable members who have spoken in the debate, and particularly for their support for this measure. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AMENDMENT (CHILDREN'S EVIDENCE) BILL

WATER AMENDMENT (CHARGES) BILL

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

Suspension of standing orders agreed to.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL

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

BILL RETURNED

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

Children (Community Service Orders) Amendment (Maximum Hours) Bill

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report

The Hon. Patricia Staunton, on behalf of the Chair, tabled the report of the Committee on the Health Care Complaints Commission entitled "Report on the Disclosure by the Health Care Complaints Commission of Information Subject to a Suppression Order", dated June 1996.

Ordered to be printed.

The Hon. Dr B. P. V. PEZZUTTI [8.45], by leave: This was an important reference to the committee and it was dealt with in painstaking detail. The reference revealed a tragedy of errors in many ways in exposing a problem about the way in which matters were dealt with by the Health Care Complaints Commission and, in particular, the way in which a legal officer gave access to patient records at the commission. The committee found that, troubled by the Privacy Committee in support of patient A, the Health Care Complaints

Commission belatedly recognised that patient A had her privacy invaded, particularly in view of the suppression order that had been issued regarding all patients who were the subject of the inquiry into Dr Todd Davis. Many agencies will now take particular notice of suppression orders, and members of the press will certainly be much more aware of the nature of those orders as a result of this report.

I totally support the committee's reference of this matter to the Attorney General. I trust that he will take all necessary steps with regard to the breach of the suppression order, and particularly the breach by the legal officer. This was the first major reference to the committee. It was a small, isolated but very specific case and I look forward to a closer examination of the workings of the Health Care Complaints Commission by the committee, especially into those areas where the community feels that they have not been dealt with correctly by the commission. I look forward also to the committee endeavouring to improve the operation of the commission with simple access and resolution of complaints.

The Hon. ELISABETH KIRKBY [8.47], by leave: I am a very new member of the joint Committee on the Health Care Complaints Commission, having only been appointed to the committee after the election in 1995 and the change of government. During my time on the committee I have only been involved with this one reference, the subject of the "Report on the Disclosure by the Health Care Complaints Commission of Information

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Subject to a Suppression Order". The report has been circulated to all honourable members in this House, as it has to all members in another place. The recommendations are found on page 21 of the report. The first recommendation is that the breach of the suppression order be brought to the attention of the New South Wales Attorney General with a view to establishing whether prosecution is warranted in accordance with any State law, including the provisions of the Medical Practice Act 1992 and the Health Care Complaints Act 1993.

Honourable members will note from the way the reports of committee hearings are delineated that the recommendations made in this report were not unanimous. I know it is the view of my colleagues the Hon. Dr B. P. V. Pezzutti and the Hon. Patricia Staunton that under the circumstances it was necessary to move recommendation number one because the purpose of the Committee on the Health Care Complaints Commission is to adjudicate on behalf of the health consumers of this State. If people have a problem with the health care system there is an independent commission to which they can bring their complaints and the commission will then adjudicate and will rule accordingly. I did not believe that it was possible for the Health Care Complaints Commission to try to cover up what had been, in my opinion, a gross breach of its duties. It did this by suggesting that although it agreed it had offended against what should have been confidentiality of patients records, the commission had changed its procedures and therefore in the future there should be no problems.

In this case the suppression order of the court was of a most delicate nature. Those honourable members who have been members of this Chamber for as long as I have - since early 1981, at the time of the advent of the HIV-AIDS virus in New South Wales - know what successive governments have done to protect the confidentiality of people in New South Wales who are suffering from that disease. However, in this case innocent people who had contracted HIV-AIDS through a medical procedure which was beyond their control - I am informed that one of them has since died from HIV-AIDS - suddenly found that the agency which was bound to protect them, the Health Care Complaints Commission, had, for whatever reason, allowed a journalist from the Australian Broadcasting Corporation *Four Corners* program to have access to their records at the commission. Access was given to confidential information, including names and addresses, without any thought being given to the suppression order; and the journalist was allowed to walk away with this information.

This information was reported in the national media: the *Daily Telegraph Mirror* of Saturday, 18 November carried a headline "Agency leaks HIV woman's details". That was a gross abuse of the privacy of that individual. I believe that the way the Health Care Complaints Commission acted at that time deserves condemnation. The joint Committee on the Health Care Complaints Commission of the New South Wales Parliament was asked to investigate why this happened. It was completely proper that the report of that committee should bring to the attention of the New South Wales Attorney General that a suppression order was

breached by a legal officer of the Health Care Complaints Commission. This report was not unanimous and it is available to all members.

The Hon. Dr B. P. V. Pezzutti: It was a unanimous report.

The Hon. ELISABETH KIRKBY: No, it was not unanimous. The record of proceedings and the voting at the back of the report show that not all members voted in favour of the final recommendation. It was pointed out to members of that joint committee that the legal officer concerned acted in ignorance and did not understand the details of a suppression order. Mr President, you are legally qualified and will understand that this person was appointed and paid as a legal officer of the Health Care Complaints Commission. If a legal officer of the Health Care Complaints Commission did not understand the meaning of a suppression order, the only conclusion I can reach is that he was incompetent.

It is not difficult to understand what a suppression order means; it is not a complex point of law on which there might be varying opinions. There can be only one interpretation: a suppression order is a suppression order. If that is not understood by a legally qualified officer, paid at a professional rate in a government instrumentality, that officer is incompetent; no other conclusion can possibly be reached. If the commissioner attempted to cover that up, that is a sad reflection on the Commissioner of the Health Care Complaints Commission. That is why I supported wholeheartedly that the breach of the suppression order be brought to the attention of the New South Wales Attorney General with a view to establishing whether prosecution was warranted in accordance with any State law, including the provisions of the Medical Practitioners Act and the Health Care Complaints Act.

People in New South Wales believe that they have a Health Care Complaints Commission oversighted by a joint committee of the Parliament. If they think that the confidentiality of their medical treatment and the problems they have as medical consumers has been breached, the only avenue for complaint they have, unless they are very wealthy and can undertake litigation - which the majority of people cannot do - is through the Health Care Complaints Commission. They need to be sure that if they go to the Health Care Complaints Commission their complaint will be dealt with in an impartial manner and there will be no attempt to either brush it off, cover it up or ignore it. That is why I fought so strongly on that committee, even as a new member, in favour of recommendation number one. I have a lot of anecdotal evidence, which I cannot prove, that people have gone to the Health Care Complaints Commission and their complaints were brushed off. As parliamentarians and as members of the committee we have a duty to fight for the complainants because if the complaints are not dismissed or upheld before the parliamentary committee the complainants have no other avenue of

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appeal unless they are very wealthy, and many members of the community are not. The Legislative Council should support recommendation one of the report.

The Hon. I. M. MACDONALD [9.00], by leave: I am appalled at the details placed before the public of New South Wales in the report. I fully support recommendation one: it is warranted in the circumstances. I have been a member of the Privacy Committee of New South Wales for the last seven years. That body has considered a large number of complaints by individuals who have suffered because of privacy breaches by the various bureaucracies of the State. I have never seen a worse example of a breach of privacy than the subject of the report. It is deserving of the most severe censure. A brief reading of pages 9 to 11 of the report shows an appalling litany of examples of the trampling of the rights of individuals.

In the case of patient A and patient C the journalist was able to obtain from the Health Care Complaints Commission, despite a suppression order, a great many details about their history. Judge Bell had made it clear that everything relating to their history should be suppressed. The committee has taken the only course of action open to it: to refer to the Attorney General the matters contained in the report and to seek from him his evaluation as to whether prosecutions should be launched under the Medical Practice Act, and the Health Care Complaints Act, both of which contain sanctions against this sort of activity.

If we do not take the strongest action in relation to this we will be letting the people of New South Wales down and undermining the efficacy of our privacy laws. People have a basic right not to have the most sensitive of private details revealed to the media. Page 9 of the report notes that the commission suggested that the information was released out of a sense of civic duty to inform the public of the dangers of cross-infection. But this could have been done without all the details of the case being revealed to a journalist. I have seen no case that has gone anywhere near this example of throwing aside the privacy rights of individuals. I hope the Attorney General will see the seriousness of this matter and deal with it accordingly. The matter cannot be covered up or pushed under the carpet. The Government and the Parliament have a duty to protect individuals from this type of transgression. I hope the appropriate action is taken in relation to this matter.

FORESTS AND FLORA RESERVES REVOCATION BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [9.04]: I move:

That this bill be now read a second time.

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

Today the Government presents a bill which will form the basis of further expansions to the national park estate, including wilderness, as well as forming the basis for a new national park at the junction of the Liverpool and Warrumbungle ranges to be known as the Coolah Tops National Park.

The objects of the bill are:

- (a) to abolish the status of certain lands as flora reserve under the Forestry Act 1916, and
- (b) to revoke the dedication of certain lands as State forest (including parts of national forests) under the Forestry Act 1916.

Once the provisions of this bill come into force, the lands so affected will be available for addition to the national park system, and in some cases it is also proposed to declare the lands as additions to existing wilderness areas.

The bill provides for the revocation of part of a State forest which is also designated as national forest and for the revocation of certain flora reserves including the State forest lands affected by these reserves. The Forestry Act 1916 provides for the revocation of State forests declared to be national forests and the revocation of flora reserves, only by Act of this Parliament.

The bill provides for the revocation of the Kerripit Beech and Fenwicks Scrub flora reserves. Both of these reserves are relatively small and adjoin existing national parks, being the Barrington Tops National Park in the case of Kerripit Beech Flora Reserve and Werrikimbe National Park in the case of Fenwicks Scrub Flora Reserve. Following the addition of these lands to the respective national parks, it is intended that these lands will be declared as wilderness.

As honourable members are aware, in April of this year, seven new wilderness areas were declared, being Barrington, Budawang, Kanangra Boyd, Macleay Gorges, Werrikimbe, Goobarragandra and Warrazambil. Additions were also made to the existing Bimberi and Ettrema wilderness areas.

Although State forest lands adjoining those wilderness areas have been identified as wilderness by the National Parks and Wildlife Service, in keeping with the Government's policy it is not intended to declare these lands as wilderness pending the conclusion of the interim assessment process currently being undertaken by the Resource and Conservation Assessment Council. However, there are no impediments to the inclusion in the wilderness areas of non-productive or other State forest areas which may be inaccessible for logging, with the concurrence of State Forests of New South Wales.

Both the Kerripit Beech and Fenwick Scrub flora reserves fall into this category, that is, they are non-productive and State Forests of

New South Wales has agreed to their addition to the national park estate.

The part of Mebbin State Forest, being part of Mebbin National Forest, also falls in the abovementioned category. The land comprises the non-productive escarpment area above the 800 metre contour.

The remaining three flora reserves to be revoked by this bill are within the part of Warung State Forest proposed to be revoked for the Coolah Tops National Park.

The final boundaries of the proposed Coolah Tops National Park, in which these flora reserves are located, are consistent with the recommendations of the Resource and Conservation Assessment Council (RACAC). RACAC recommended that Bundella and Warung State Forests, excluding areas of leasehold land, should be dedicated as the Coolah Tops National Park.

The sawmill at Coolah will be affected by the decision to create the Coolah Tops National Park. However, the mill owners and workers will be eligible for an unprecedented level of assistance.

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This assistance will be provided because this Government firmly believes that the impacts of conservation decisions, which provide benefits across the community in perpetuity, should not be borne by local industry or the local community alone.

The Government will support those at the Coolah sawmill under the forest industry structural adjustment package which includes funding for business exit assistance and relocation and retraining assistance. Alternative employment opportunities are also available with the National Parks and Wildlife Service. A forest liaison officer will be available to advise workers on other assistance that may be available.

The decision to create the Coolah Tops National Park was a difficult one because it required the balancing of the need to conserve ecologically valuable areas for future generations against the social and economic effects on mill owners, workers and the community.

However, Coolah Tops was subjected to a unique and comprehensive assessment process and this decision was made on the best advice available.

I now come to the details of the bill.

Clause 3 abolishes the flora reserves known as Kerripit Beech, Fenwicks Scrub, Norfolk Falls, Warung Tops and Jemmy's Creek.

Clause 4 revokes the dedication as State forest of the parts of the State forests known as Mebbin, Barrington Tops, Doyles River and Warung. I may add that with the exception of Mebbin, these State forest areas comprise the lands generally affected by the flora reserves.

Schedule 1 specifies the notices setting apart areas of State forest as flora reserve that are to be revoked by the proposed Act.

Schedule 2 specifies the State forests that will be revoked by the proposed Act including Mebbin National Forest.

This bill is another step in the Government's delivery of its commitment to expand wilderness areas and protect areas of conservation significance by the creation of new national parks. Where this action has an impact on rural industries the Government has made provision for fair and equitable financial assistance.

Mr President I commend the bill to the House.

The Hon. D. F. MOPPETT [9.05]: The Opposition recognises that the Forests and Flora Reserves Revocation Bill, together with another matter given notice of by the Attorney General, and Minister for Industrial Relations a couple of days ago seeking revocation of dedication of forest in various parts of the State, pursue the Government's undertaking to create more national parks throughout New South Wales. The Opposition is entitled to attack the Government on two fronts in this regard. First, the forest industry has been

traumatised by almost a pincer movement. When Labor was in opposition it announced its intention to create more national parks from existing forest areas. The Federal Labor Government undertook to set aside 15 per cent of representative forest areas throughout the eastern seaboard for assessment for conservation purposes.

The Resource and Conservation Assessment Council has been making such assessments. It was originally described as the resource assessment committee; only under the direction of this Government was the name changed to the Resource and Conservation Assessment Council. The assessment has left the forest industry with little confidence in its future in New South Wales. The RACAC process is in an advanced stage. The plan of consultation up and down the State is totally inadequate. In my view the program is designed to allow the Government to claim that it has consulted the industry but the scale of the proposed changes is such that it is not possible for people making representations on behalf of the forestry industry to have the proposals changed.

On many occasions I have spoken in this Chamber about my opposition to the way in which the New South Wales forestry industry has been systematically disembowelled. It is a tragedy that the community does not understand how limited are the areas on the eastern seaboard available for forestry. Only a small part of the vast area of timbered country to the north, the north-west, south to Canberra and on down into Victoria is available to the timber industry - less than 5 per cent overall, and at any one time considerably less than 1 per cent is being logged. I have said before that I defy anyone travelling over the areas I mentioned in a commercial aeroplane to identify whether any particular area has been clear-felled in the past.

New South Wales Forests has jealously guarded its silviculture and it is a tragedy that this viable, renewable industry in New South Wales is basically beating a retreat. I have no idea where this process will stop. It will be interesting to hear the Hon. I. Cohen justify this colossal dislocation of a worthwhile industry. The industry has more difficulties because of this pincer movement by the State Government policy to drastically reduce the timber industry and by the former Federal Government to impose conservative policy and restrict woodchip exports. It is tragic that this sustainable industry is reduced to such a low level. There is no justification for proceeding with this legislation at present.

The Coolah Tops National Park proposal is a crying shame. It appears that the 15 per cent of forest area set aside, in practical terms, will result in something like 23 per cent being inaccessible to loggers and the timber industry. Opposition members will be interested to see what option will be adopted by the Resource and Conservation Assessment Council, whether it is the 25 per cent, 50 per cent or 75 per cent option, which would be at the extreme end of the conservation movement's claim on the forestry areas of New South Wales. The conservation movement has placed, in wrestling terms, a double nelson hold on the industry by saying that it is not interested in a catalogue of ecological examples across the State; it wants the State subdivided into smaller compartments, each having a representative of all ecotypes.

Anyone who knows anything about taxonomy and the science of ecology will realise that it is simply a matter of adjusting the focus to redefine the particular ecosystem. It could result in the closure of many compartments because they

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contained examples of blackbutt and tallowwood and of tallowwood and blackbutt; the conservation movement might say it wanted examples of 15 per cent of one and 15 per cent of the other, so that at the end of the day there would be no area available to the forestry industry. I want to specifically focus on the Coolah Tops National Park. I thank the Minister for having introduced the revocation legislation first and I am pleased that the motion calling on the Governor to revoke the status of the schedule of forest reserves will be debated later. It is not possible to move an amendment to the schedule contained in the motion but it is possible to move an amendment to the revocation bill.

The Opposition's circulated amendments are clear. The amendments seek to remove any reference to the timber reserves. The legislation deals with flora reserves within the compartments which make up the timber resource for the Morrison mill at Coolah. A number of members have visited Coolah and spoken to the residents. I am sure they recognised that this is a significant industry for Coolah. I do not think that can be

contested. The question that should be before the House today is: can the conservation values of that large area of timber be maintained and a viable sawmill exist?

The Hon. I. Cohen: No.

The Hon. D. F. MOPPETT: I totally disagree. It is important that I bring to the attention of honourable members that although there has been a determination by the Land and Environment Court an appeal has been lodged. I cannot understand why the Government is proceeding with this bill at this time. The Government should remove from its schedule any reference to the forest reserves and also to the flora reserves within those forest areas so the appeal can be heard without prejudice. There could be ample conservation areas and also a viable sawmill. The Warung State Forest comprises 7,000 hectares and the Bundella State Reserve comprises a little less than 2,500 hectares.

Flora reserves are irrelevant because they are not available for logging at present. My case does not rest on the future of flora reserves but many people believe that flora reserves are better maintained by New South Wales Forests and its predecessor the Forestry Commission, than they are by the National Parks and Wildlife Service. Many areas of national parks are overgrown with weeds. The Government creates national parks but does not allocate sufficient funds to maintain them. These are economic choices: what can the State afford? What is the intrinsic value of that which is being preserved? I do not believe a case has been made out for the revocation of the forests. It is important at this stage to test the opinion of the House with the Opposition's amendments. They go to the heart of the matter. They seek to remove from the schedule flora reserves contained within the proposed Coolah Tops National Park.

The reserves are all in the Warung State Forest area. There has been a cry of anguish from the people of Coolah, an old and well-settled district. Only 10 years ago it was a prosperous district with mixed farms - producing fine wool, excellent cattle and abundant crops. If this timber mill is closed, the reduced circumstances of the pastoral and agricultural industries will place the future of this town at stake. Employment involved in the processing of timber is vitally important to the town. In such a small community the flow-on effects of closing a vital industry are significant. Up to 12 families will go from the mill, another group that runs the trucks bringing the logs in will be lost, those who fell the logs will leave, all of which will place stress on the local community, the local school, and so it continues. Sadly, New South Wales has seen far too much of this devastation.

The Government has made blind decisions and driven towns to the brink when the crucial gravity that keeps them going has been lost. One unintended consequence for this town was when North Power withdrew its maintenance depot from Brewarrina. If Brewarrina were a more substantial town, the withdrawal of such a service would be taken up by something else. However, the removal of this maintenance depot was a telling blow for that town, which is struggling from the present downturn in the wool industry. Coolah is a town in crisis and there is no need to plunge it into crisis at this time. I doubt that any member would have the temerity to argue that somehow the resource contained in the Bundella and Warung State forests is on the brink of overexploitation and destruction. The Coolah Tops area is most attractive. Since 1916 it has been logged. An enlightened government would ensure that the resource was judiciously harvested to the year 2016 and beyond until the year 2116.

The future of our civilisation depends on developing sustainable resources. This Government is good on talk but not much good on action. The Opposition had hoped that one of the promises the Australian Labor Party Government might have kept - about 250 promises have gone by the board - was to establish a department to look after the interests of small towns and coordinate the activities of different departments as they impinge on a small town. That election promise was styled on the Queensland model. Indeed, it was a policy the coalition was going to pursue. When considering the impact of this decision on the town of Coolah, someone should have said, "Hang on, that will have a disastrous effect on this town." Other departments have made other decisions. Indeed the courts administration department might decide to decrease the availability of court sittings. These decisions can have almost a rolling effect on a town and cause absolute disaster. But nothing has been said about that.

No-one has made an assessment about the future of Coolah. It is time members in this House stood up to be counted and supported the Opposition's amendments to at least give Coolah some time. There is no need for this legislation to proceed. As I mentioned earlier, an appeal is yet to be determined. The Government can halt all

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logging by a simple administrative process while the assessments proceed, particularly a full socioeconomic impact statement of the future of Coolah, which is justified in this case. I trust that honourable members will have read the amendments, will understand clearly their impact and, in view of the case I have put forward, I would not be surprised at a unanimous vote to support the amendments in Committee.

The Hon. I. COHEN [9.24]: Beauty certainly is in the eye of the beholder. I see the value of forests differently from the way the Hon. D. F. Moppett views them. I cannot accept that one cannot differentiate prelogged forests. Silviculture practices in Coolah have had a significant impact. I have visited Coolah with other members of the crossbenches. I find it unacceptable that others consider the area has not suffered significant impact by logging practices. However, people view these issues from different perspectives and cultures. However, to date the conservation argument far outweighs that of the industry in the important protection of Coolah Tops.

I support the bill. The bill brings closer the Government's commitment to establish the Coolah Tops National Park and makes minor additions to national parks and wilderness areas in the State. The bill revokes the dedication of Kerripit Beech flora reserve, Fenwicks Scrub flora reserve and part of Mebbin National Forest. The Government's intention is to add these areas to the national parks estate. These small areas the subject of this revocation were included and accepted by the Government as part of the National Parks and Wildlife Service wilderness exhibition process. Honourable members will recall that this was the second round of wilderness exhibition after the Government came to office.

That part of Kerripit Beech flora reserve to be revoked is part of Barrington Tops State Forest and will be added to Barrington National Park. It is a small addition of approximately 243 hectares and should have been included in the park in 1969; it is merely a housekeeping matter that no reasonable person could oppose. The 110 hectares of Fenwicks Scrub flora reserve is part of the Doyles River State Forest near Walcha. The revocation will add the area to Werrikimbie National Park - again a housekeeping matter. The bill will also revoke approximately 175 hectares of Mebbin State Forest near Murwillumbah, which is also a national forest. This escarpment area can only be described as token revocation.

The Government should consider taking action with other significant State areas. The north coast community is still awaiting the establishment of national parks centred upon the Mount Clunie and Mount Nothofagus flora reserves, extensions to Toonumbar National Park, Yabbara, and other parts of the Richmond Ranges as well as coastal areas such as Warrell Creek, Queens Lake State Forest, Bellinger River State Forest and the longstanding commitment for additions to Khappinghat Nature Reserve. Notwithstanding such criticism, I warmly welcome the Government's action in relation to Coolah Tops. The Hon. R. S. L. Jones, the Hon. J. S. Tingle, the Hon. A. G. Corbett and I visited the Coolah Tops community on 2 October 1995. It was an enlightening visit and we were well treated.

The Hon. D. F. Moppett: They thought you were going to offer them some comfort.

The Hon. I. COHEN: Not false comfort but an assessment based on facts from viewing all sites at first hand. I can do no more than come to conclusions after looking at the issue first hand and not from a long-distance appraisal. Those conclusions are arrived at from my best ability as a member of this House and as a conservationist who cares for social justice issues in the community. I assure the honourable member that I have spent a good deal of time considering the issue. In the end I believe the Government's decision is correct. I am advised that the sons of the mill owner, Mr James Morrison, have found alternative employment and the Government is attempting to finalise payment to Mr Morrison.

The Hon. D. F. Moppett has also written to crossbench members setting out reasons for not proceeding with this matter, and I thank him for his courtesy. The Opposition's argument, as I understand it, is that the Coolah Tops matter is currently before the Court of Appeal. The action is against a decision of the Land and Environment Court in which the Government's decision on Coolah Tops was upheld. The action before the Court of Appeal will seek declarations against the Government's action to establish Coolah Tops National Park. If the company's action is successful in the court, the actions leading to the establishment of the park will have been nullified. I have doubts as to the company's success, which appears to be an action to gain the best possible financial outcome for Mr Morrison rather than to re-establish the timber mill.

The Hon. D. F. Moppett: That is unworthy.

The Hon. I. COHEN: No, having visited the mill I was disenchanted with the conditions that it was operating under. The day I was there it was wet, there was sump oil on the floor and the conditions were extremely difficult. From a workplace safety point of view I consider working conditions at that mill to be quite inappropriate under any circumstances. I looked at the mill from the viewpoint of proper organisation and protection of workers in the industry. They should have a fair go; they should not be treated in an inappropriate industrial relations manner. They want jobs, and that is understood. In many country areas people are working in substandard conditions. If the industry is to continue it must be appropriate. At present many areas of the industry are not appropriate and people are working in substandard, dangerous conditions.

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I am sure the Hon. D. F. Moppett is aware of accidents that have occurred over the past few generations in this industry, and it is still a dangerous industry. The industry's many outdated practices need to be upgraded. It is extremely important that we move on and do not stay in the backwaters of industrial relations as has been happening in this industry. I am also concerned about future training and employment prospects for the workers of the mill. I made that clear at earlier meetings, and I have spoken previously in the House about it. After going to Coolah I was greatly concerned about the prospects for the workers. I note the announcement on 3 June 1996 by the Minister for the Environment that the Government is looking for full re-employment for the six sawmill workers affected. I wish the same treatment was given to workers in other areas of the State who were made redundant. Thousands of people have been put off work across the State yet they will not receive the same assistance. The crossbenchers, working with the Government, have addressed the conditions of people working in the industry.

The Hon. D. F. Moppett: How far will that money go with a 50 per cent option?

The Hon. I. COHEN: I think the honourable member will find that the money will go further than it is going in the short term, with people working in an unsustainable industry that is only a tiny remnant of the representative area that is left. Not to adopt these changes is to take a one-way trip to oblivion. Future generations will thank the Government for this change. Restructuring will enable people to get on with sustainable-based industries so that the workers can be supported. Government support for the millworkers and owner falls within the forest industry structural adjustment package. Assistance includes business exit assistance for the mill owner; financial assistance with relocation to a new job, training and special redundancy payments; and jobs are still available within the National Parks and Wildlife Service in the new park when established.

The mill's foreman has already received a new foreman's position and is eligible for relocation expenses under the financial package, funded from the environmental trusts. I now highlight a few of the important aspects of the Coolah Tops area which warrants its protection as a national park. Coolah Tops National Park will comprise some 11,000 hectares and contains forest types including snow gum, mountain gum, manna gum, silvertop stringybark and silvertop yellow box. If all the current proposed and surrounding vegetated lands were protected, the Commonwealth's criteria of 15 per cent of pre-European vegetation could not be met for most forest types. With Coolah Tops added to the reserve system the representative area contributes only 2.4 per cent to the criteria set out within the national forest policy statement agreed to by the Commonwealth and

States. That is a tiny area.

The area also contains some old-growth forest, most pronounced in the eastern areas, and some spectacular falls. The history of the fight to save Coolah Tops is worth mentioning because the National Parks Association of New South Wales - NPA - campaigned for the national park which is being considered by the Government. Until 1979 many bushwalkers, including members of the NPA, had visited the area, observing its significance and expressing concern about its management. In 1979 the NPA undertook an initial investigation of Coolah Tops. On 9 January 1981 the NPA wrote to the then Minister, the Hon. Eric Bedford, with a preliminary proposal. In June 1982 the "National Parks Journal" set out the first documentation of the conservation values for Coolah Tops.

On 9 January 1987 the NPA expressed its concern about the issuance of a grazing permit and inappropriate forestry practices, including burning. In 1992 Dr Macdonald in the other place introduced his National Parks and Wildlife (New Areas and Miscellaneous Provisions) Bill, which identified Coolah Tops. In 1995 the Australian Labor Party accepted Coolah Tops National Park in its 24 new parks policy and on 13 June last year the Government announced the establishment of Coolah Tops National Park. A year and a week after the Government's announcement, the Coolah Tops revocation is before this House. The National Parks and Wildlife Service has discussed with adjoining and willing landowners the possibility of voluntary purchase of other significant lands for addition to the 11,000 hectare park.

The proposed Coolah Tops National Park comprises the Warung State Forest and Bundella State Forest. The area comprises an undulating basalt plateau at the western edge of the Liverpool Range. The escarpment also contains eucalyptus eleaophora and kurrajong. Other species include three metre high xanthorrhoea and the native cherry. Thickets of leptospermum grow along streams and wildflowers include orchids and the Darling pea. Approximately 30 bird species have so far been identified and fauna includes the greater glider. There are spectacular views to the Nandewar Range, Lake Goran, the Warrumbungles and the Blue Mountains. The area contains seven forest types plus grassland and swamp areas.

I understand that the Opposition will not support the revocation schedule. I have already addressed the purported reason for court action. Any action that is successful will reverse the procedure to establish the national park. The bill and schedule do not establish the national park: they only facilitate its establishment by revoking State forests and flora reserves. As such, this Parliament will not have acted in the shameful way it has over the State Environmental Planning (Permissible Mining) Bill and the Environmental Planning and Water Amendment Bill. I would be interested to have further discussions with the Hon. D. F. Moppett about the Opposition attitude to the bill. The Opposition should take guidance from its

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shadow minister for public works and shadow minister for roads. In October 1994 the Hon. George Souris, the member for Upper Hunter, when Minister for Land and Water Conservation, spoke in the other place in support of the coalition's failed Forestry (Environmental and Fauna Impact Assessment) Bill and stated:

If we do not want logging in certain forests, the honest approach is to change the land use to declare them as national parks. The dishonest approach is to legislatively ensnare forestry operations so that they are so slow, so uncertain and so expensive that industry will wither and die. Let us be honest about our forests, and not waste public money hamstringing State Forests and the industry. If we do not want logging in certain areas then let us change the land-use.

That is the honest approach. The reason that some political interests would prefer the death of a thousand cuts is that it allows them to blame State Forests for the loss of jobs and the social dislocation that results.

Here the Opposition is opposing the protection of our heritage and allowing a mill owner to suffer rather than get reasonable compensation and to get on with his life. I support the bill.

The Hon. R. S. L. JONES [9.40]: I support the Forests and Flora Reserves Revocation Bill. As the Hon. I. Cohen said, it is too late for Coolah because Mr Morrison will auction his logs on 12 July. He will auction the mill and machinery on 24 July and then he will go to Queensland. He has taken advantage of the

business exit program.

The Hon. D. F. Moppett: He is a broken man.

The Hon. R. S. L. JONES: No, he is actually very happy. He will have one month's holiday in Queensland. He will sell out under the business exit program.

The Hon. D. F. Moppett: That is a cynical disregard of the wishes of the council.

The Hon. R. S. L. JONES: I am not being cynical. He was available to me on the phone just now, but I did not have time to talk to him. He said he was quitting the whole thing and selling up.

The Hon. D. F. Moppett: He is not the only one. What about the one at Eden? It closed up. The owners did not want to close up. They closed up because they have no resources.

The Hon. R. S. L. JONES: Tonight we are talking about Coolah, not Eden. It has nothing to do with Eden. There is nothing in the bill about Eden.

The Hon. D. F. Moppett: No, but there are a lot of other places apart from Coolah. And you are going to shut down the whole show.

The Hon. R. S. L. JONES: The show is already shut down. It is up for auction in about two weeks. There will be jobs, perhaps not jobs cutting down the forest, but long-term jobs maintaining the forest. There will be jobs there long-term in the park; I hope there are jobs for the sake of the workers. I met the workers, not one of whom belonged to a union, but the union representative was there to help them. Working conditions at the mill were far from ideal. I would say they were actually quite dangerous conditions. Change such as this is always painful, but we have to make sure that those who suffer, suffer the least.

The Hon. D. F. Moppett: Where are you going to get the wood from? That's what I want to know. Where are you people going to get the wood from, New Guinea?

The Hon. R. S. L. JONES: That area has a deal of timber, but it was being used for low-grade purposes. As I have said before, I have friends in the industry. It is a matter of what you use the timber for and how much value you get out of it. One could take out an entire forest and get a very low yield, or take out one or two trees at a time and produce high-quality furniture. People I know who have built mills in the past five years are making a lot of money providing goods for niche markets. We have to be more clever than we have been in the past. Ironbark - a very fine timber used for houses, furniture and kitchens - has been wasted to make posts because it was too difficult to mill. However, ways of milling it have now been found and it will be used for a good purpose. It is a matter of not just turning the wood into fence posts or cross-members for electricity poles.

The Hon. D. F. Moppett: What are you going to do with beechwood?

The Hon. R. S. L. JONES: Beechwood has a very low-value use. People are pulling down old warehouses and using the wood to make magnificent furniture. My house up north has magnificent old beams from old warehouses that originally were of very low value, but now they are in a very nice house. The timber was seasoned for about 50 or 60 years. We have to be clever with the timber. We cannot just give it away. Until recently we have not appreciated the worth of our timber resources.

The Hon. D. F. Moppett: That is rubbish.

The Hon. R. S. L. JONES: I wish it were rubbish. We have wasted our timber. In the early days cedar was wasted for fence posts and heaven knows what else. Recently one of our neighbours up north knocked down a cedar tree and made \$3,000 out of it. She should not have done it; it was illegal, but she did. After all, \$3,000 is more than she makes from her dairy cattle. I have said this before, and I do not want to

waste the time of the House by saying it again, we are revoking little parcels of State Forest, not big areas.

The Hon. D. F. Moppett: No, but they go in with the next motion.

The Hon. R. S. L. JONES: We are looking at 175 hectares of Mebbin National Forest, which is a very tiny portion of the forest. It would not keep a timber mill going for more than a few months. We are talking about precious little reserves.

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The Hon. D. F. Moppett: But it is reserved already. It is a flora reserve. No timber is drawn out of it.

The Hon. R. S. L. JONES: No, it is not. I wish the honourable member had read the bill. It is not a flora reserve. Schedule 1 refers to flora reserves and schedule 2 refers to State forests. The reserves include 243 hectares of Barrington Tops, which is a beautiful area and 110 hectares of Doyles River, which is also a lovely area.

The Hon. D. F. Moppett: Will you be satisfied with that?

The Hon. R. S. L. JONES: These are fragments, not vast areas. These are tiny, weeny little fragments of fine-quality timber areas.

The Hon. D. F. Moppett: You can have the next lot.

The Hon. R. S. L. JONES: We have already compromised. We have already lost a significant proportion of the forest. You want to have 50 per cent, then 50 per cent, then 50 per cent and you end up with about 3 per cent left. That is all we have left now. The reserve also includes 556 hectares of Warung State Forest, which we have visited. We have a duty to future generations, to our grandchildren, to our great-grandchildren and to our great-great-grandchildren to preserve these areas so that they will be able to see forest as it was when the white man first arrived. In 100 years the forests will have recovered; even Coolah Tops will have recovered. Does the Hon. D. F. Moppett not think about who will follow him in 100 or 150 years?

Future generations will thank us for having the foresight to save these areas so that they can enjoy them. Jobs and people in them will be long gone and their children will probably be involved in something quite different by then. They are short-term jobs, but these are long-term forests and they are worth saving. We have to think of future generations and intergenerational equity. The Hon. D. F. Moppett should be thinking six or seven generations ahead, not just for the next four or five years, but 100 or 150 years. We owe it to our children and our great-grandchildren. We are not trying to save these forests for ourselves, but for our great-grandchildren. I thank the Minister for reserving these little areas. I hope we get a few more so that at least some representative fragments of the old forest are left.

Reverend the Hon. F. J. NILE [9.47]: Call to Australia supports the Forests and Flora Reserves Revocation Bill. The objects of the bill are:

(a) to revoke the status of certain lands as flora reserve under the *Forestry Act 1916*, and

(b) to revoke the dedication of certain lands as State forest (including part of a national forest) under the *Forestry Act 1916*.

The remaining three flora reserves to be revoked by this bill are within the Warung State Forest, which is proposed to be revoked for the Coolah Tops National Park. The final boundaries of the proposed Coolah Tops National Park, in which these flora reserves are located, are consistent with the recommendations of the Resource and Conservation Assessment Council, RACAC, which recommended that the Bundella and Warung State forests, excluding areas of leasehold land, should be dedicated as Coolah Tops National Park. There is no

doubt, and the Government admits, that the legislation will affect the sawmill at Coolah. However, the mill owners and workers will be eligible for an unprecedented level of assistance, so that even though there is a need for sound conservation decisions to benefit the whole community, the burden should not be borne by the local industry or the local community alone.

The Government has promised to support those at the Coolah sawmill under the forest industry structural adjustment package, which Call to Australia supported last year, to get \$60 million from the State Government and \$60 from the Federal Government, totalling \$120 million, which includes funding for business exit assistance and relocation and retraining assistance. Alternative employment opportunities are also available with the National Parks and Wildlife Service, a forest liaison officer will be available to advise workers and other assistance may be available. It has been a very difficult decision that has led to this impact on mill owners at Coolah, the mill workers and also, as the Hon. D. F. Moppett said, the community at Coolah Tops, a small community that has been dependent on the timber mill. The Hon. D. F. Moppett asked Call to Australia to support him in his efforts. In a letter dated 18 June he stated:

I hope you can support us in our efforts to save this vital industry for Coolah and New South Wales.

I have made inquiries and my information is that it is too late to achieve what the National Party would like to see happen. Perhaps the Coolah timber mill needed this assistance from the coalition during its term in office between 1990 and 1995. Call to Australia spoke to the owner of the Coolah timber mill, Mr Morrison, just a few moments ago. He indicated that he would like the process with the mill to be finalised; that he has applied for business exit funding and is happy to go that route; and that he does not support the Opposition's amendments or approach. Mr Morrison's mill will be auctioned in July; his logs and timber will be auctioned on 12 July and the milling machines will be auctioned on 26 July. By the end of July he will be out of the mill. He plans to go to Queensland for a month during August.

Mr Morrison's two sons are happy to continue with the process of the business exit fund and the valuation. Price Waterhouse, the accountants, have been asked by the Government to give an independent valuation. Mr Morrison agrees that Coolah will now become a national park and, he says, the sooner, the better. Call to Australia recognises that many communities are dependent on

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one or two industries. In this instance Coolah was very dependent on the timber mill. Sadly that has gone and we will have to hope and pray that there will be other ways of providing employment and hope for the town. If not, as people have said in the past, "NSW" will be Newcastle, Sydney and Wollongong and there will be national parks right across the State, with no small regional communities operating in country areas.

That would be unfortunate because Australia is not merely a city-based nation. I believe that the farming communities have been in the past, and still are, the backbone of our State and nation. In the same way as the environmentalists are concerned and do not want to see a forest decimated by the timber cutters, Call to Australia does not want to see the nation decimated with communities becoming heartbroken, giving up and moving out, resulting in a large number of ghost towns across the country and forest areas. That would also be a tragedy. Call to Australia recognises the reality of the situation tonight and supports the bill.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [9.53], in reply: I thank honourable members for their eloquent contributions to the debate and I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Schedules 1 and 2

The Hon. D. F. MOPPETT [9.55]: By leave, I move Opposition amendments 1 and 2 in globo:

Pages 3 and 4, Schedule 1, lines 14-36 on page 3 and lines 1-7 on page 4. Omit all words on those lines.

Pages 6 and 7, Schedule 2, lines 6-37 on page 6 and lines 1-5 on page 7. Omit all words on those lines.

It is with apprehension and some dread that I await the fate of these amendments.

The Hon. J. W. Shaw: Fear and trepidation?

The Hon. D. F. MOPPETT: Severe trepidation, indeed, given the information that has been conveyed by honourable members this evening.

The Hon. R. T. M. Bull: The people of New South Wales should know how people feel about this issue.

The Hon. D. F. MOPPETT: They should. It is most important, though, that we proceed. I point out to those honourable members who have taken the trouble to visit Coolah in an attempt to understand the process that has gone on there, that this is not just about the Morrisons; we are making a decision to alienate what was once a resource.

The Hon. R. S. L. Jones: To reserve it for our children.

The Hon. D. F. MOPPETT: I will choose the words that I use. We are making a decision to alienate that land for public usage and to make it unavailable for any future development by a sawmill.

The Hon. R. S. L. Jones: Destruction!

The Hon. D. F. MOPPETT: I think that is the misunderstanding about this issue. It is quite obvious to anyone who has visited the area that there has been no destruction. Silviculture has been practised judiciously and the most basic needs of human society have been met in a sustainable manner.

The Hon. R. S. L. Jones: Those needs do not include fence posts.

The Hon. D. F. MOPPETT: People need fence posts. The honourable member might make little of the use of timber for fence posts. In his Utopian world people do not have to do anything except sit on their backsides and dream. In the real world other people have to develop the wealth of this country, and to do that they have to get into forest areas somewhere. If they do not do it in Australia they are going to do it somewhere else in the world under less well-controlled conditions. I warn honourable members that these amendments are the last ray of hope to the community - not to the Morrisons. I can accept the message that has come from the contributions of a number of honourable members that the Morrisons have decided to quit. They have had enough. I can understand that.

If honourable members were in the Morrisons' position they would quit, too. I do not think that that is enough for the people of Coolah, though. I wager the shire council has not quit; I wager the people in the district wish the industry was still in their midst and that the work was still there. They would like to have the benefits of that industry not only flowing directly to them in wages, but also flowing out into the rest of the community as a result of the production at that mill. I say again that very substantial areas of Crown land are reserved for conservation purposes but they are not national parks.

Our total conservation program is not measured simply by the total of our national parks. Coolah was a perfect area of multipurpose land use that could have been sustained if we had had the courage to stand up. I am sorry the position has been reached where the Morrisons feel that the sale of their machinery is necessary. I have seen this happen before in other areas, particularly in the cypress pine industry. One miller goes out and all those problems that the Hon. I. Cohen is so distressed about would cease. But another miller could come in

very quickly with new equipment if the resource is in place, but if there is no resource available then it is quits for sure. It is bad news, not for the Morrisons but for the Coolah district. I will proceed with these amendments and test the vote of the House in a division.

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The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [9.59]: The Government opposes the amendments. These amendments effectively remove the areas of forest at Coolah Tops which have been identified by the Resource and Conservation Assessment Council as being required for a comprehensive, adequate and representative reserve system in the region.

Reverend the Hon. F. J. NILE [10.00]: I have a letter from Mr Col Dorber, Executive Director, New South Wales Forest Products Association Limited. He put the following arguments to encourage our support for these amendments:

It is this Association's position that revocation of these forests should not occur until the Appeal in the Supreme Court against the decision in the Land and Environment Court has been heard and determined. If one assumes any success for any part of the Appeal, then a prudent government should withhold revocation on that basis.

I am not sure what that refers to. I assume the Forest Products Association Limited has lodged an appeal in the Supreme Court against the decision of the Land and Environment Court. If that is the case, Call to Australia will support the amendments on the basis we should at least symbolically show support for the townspeople of Coolah.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [10.01]: I am always very conscious about the relationship between the Parliament and the courts. The fact that something is pending in the courts does not prevent the Parliament from acting if the Parliament is persuaded that is the appropriate way to go. My understanding is there has been no injunction or no interim relief granted by the courts and, therefore, there is always an intermingling of legislative action and judicial action. There is nothing strange or unique about that. It is not regarded as a barrier to this House determining legislation.

The Hon. D. F. MOPPETT [10.02]: I listened with interest to the Attorney General. Although I know he is reluctant to give legal opinion, I would be interested to explore it further. If the appeal goes ahead and is upheld, what would be the status of that decision?

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [10.02]: As the Hon. D. F. Moppett knows, I am reluctant to give legal opinion. Essentially one comes down to the proposition that the Parliament is sovereign. If the Parliament decrees something to be the legal position, then that prevails. The court determines the law as it is enacted by the Parliament.

The Hon. D. F. Moppett: So you are quashing the appeal?

The Hon. J. W. SHAW: No, this is the traditional relationship between the Legislature and the courts. The courts interpret the laws as enacted by the Parliament but the Parliament is a sovereign Parliament elected by the people and has a democratic mandate. The Parliament can ultimately determine what is to be the law for the State of New South Wales. The courts interpret that law and, if necessary, determine its validity. This is a perfectly orthodox interaction between the legislature and the courts.

The Hon. D. F. MOPPETT [10.04]: I thank the Attorney General for that advice. I once again commend the amendments to the House. It is obvious nothing is at stake. Morrison's mill is closed. Even if it were operating State Forests could prevent any logging taking place while that appeal is being determined. This House would be better informed if we had the judgment of the court. I understand what the Attorney General has said. Parliament could say despite the appeal decision it is still determined to go ahead. If that was the wish of the House we would have to abide by it, as would the people of Coolah and of New South

Wales. In the meantime, it is not an unreasonable request of the members of this House to support the proposition that these areas be excised from this schedule and to show opposition to the schedule attached to the motion for revocation so that the reserved area of forest lands can be held in trust, in effect, until this matter is determined.

Reverend the Hon. F. J. NILE [10.05]: Following on my question, it would be important to know whether the Government is actually bringing this legislation on tonight to circumvent the appeal to the Supreme Court. In other words, the legislation will then become a factor in the decision of the Supreme Court. The Supreme Court may determine that the appeal would have been upheld but because of this bill the basis of the appeal is neutralised. Can the Government provide information that that is its intention, or is it just a coincidence?

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [10.06]: I do not believe it is the intention of the Government to seek to circumvent any court decision. The effect of the legislation would be a matter the court itself would have to determine.

Question - That the amendments be agreed to - put.

The Committee divided.

Ayes, 15

Mr Bull	Rev. Nile
Mrs Chadwick	Dr Pezzutti
Mrs Forsythe	Mr Ryan
Mr Gallacher	Mr Samios
Dr Goldsmith	Mrs Sham-Ho
Mr Kersten	<i>Tellers,</i>
Mr Lynn	Mr Jobling
Mrs Nile	Mr Moppett

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Noes, 19

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

Pairs

Miss Gardiner	Mr Egan
Mr Hannaford	Ms Saffin
Mr Rowland Smith	Mrs Symonds

Question so resolved in the negative.

Amendments negatived.

Schedules agreed to.

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

FORESTRY ACT: REVOCATION OF DEDICATION

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [10.17]: I move:

1. That, in accordance with the provisions of section 19 of the Forestry Act 1916, this House agrees to the revocation of the dedication of those areas of State forests indicated on the Schedule hereunder:

REVOCATION SCHEDULE

State Forest	SF. No.	Parish	County	Area (ha) (Approx.)	Portion	Purpose
Bondo	967	Garnet, Goobarragandra	Buccleuch	1,350	Part	Addition to Kosciusko National Park
Micalong	593	Cooleman, Garnet, Nimbo	Buccleuch	930	Part	Addition to Kosciusko National Park
Yadboro	974	Burrill, Yadboro	St. Vincent	1,700	Part	Addition to Morton National Park
Yalwal	643	Buangla	St. Vincent	1,550	Part	Addition to Morton National Park
Bundella	511	Bundella	Pottinger	2,347	Whole	Part proposed Coolah Tops National Park
Warung	457	Cunna, Moan & Warung	Bligh	7,140	Part	Part proposed Coolah Tops National Park

2. That the foregoing resolution be communicated by Address to His Excellency the Governor.

By leave, my speech in support of the motion for revocation will be incorporated in *Hansard*.

The procedure under which State forests, or parts of State forests may be revoked is set out in section 19 of the Forestry Act 1916. The section provides for the revocation by His Excellency the Governor, but it is first necessary that a resolution be passed by both Houses of Parliament that a revocation be effected.

The State forest dedications proposed to be revoked comprise part of five State forests and one whole forest, as listed in the schedule. Following revocation, these lands will be reserved as national park and some will be subsequently declared as additions to existing wilderness areas.

Some of the lands the Government proposes to reserve as national park involve State forest lands which have been declared to be national forests or that have been set apart as flora reserves under the provisions of the Forestry Act. The revocation of State forests declared to be national forests, and the revocation of flora reserves, can be effected only by an Act of Parliament, as provided by sections 19A and 25A(4) respectively of the Forestry Act. A bill providing for such revocations has been introduced during this session of

Parliament.

As the honourable members are aware, in April of this year, seven new wilderness areas were declared, being Barrington, Budawang, Kanangra Boyd, Macleay Gorges, Werrikimbe, Goobarragandra and Warrazambil. Additions were also made to the existing Bimberi and Ettrema wilderness areas.

Although State forest lands adjoining those wilderness areas have been identified as wilderness by the National Parks and Wildlife Service, in keeping with the Government's forestry policy it is not intended to declare these lands as wilderness pending the conclusion of the interim assessment process.

However there are no impediments to the inclusion in the wilderness areas of non-productive or other State forest areas which may be inaccessible for logging, with the concurrence of State Forests of NSW.

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The first four State forest areas listed in the schedule fall into this category, that is, they are generally non-productive, and State Forests of NSW has agreed to their addition to the national park estate as a first step towards their declaration as wilderness.

A substantial part of the first of these areas, being part of Bondo State Forest, for practical purposes is already national park. Following an agreement between the National Parks and Wildlife Service and State Forests dating back to the early seventies, the State forest lands south and west of Boundary Road have been regarded as national park.

The revocation of the remainder of Bondo State Forest west of Barnetts Road as well as the revocation of part of Micalong State Forest south of the Lower Tumut to Canberra electricity transmission line will result in a well defined boundary between the Goobarragandra wilderness and State forest lands. I may add that the final boundary of the State forest lands to be revoked was determined following consultation with State Forests of NSW.

The part of Yadboro and Yalwal State forests proposed for addition to Morton National Park will eventually be declared as part of the existing Budawang and Ettrema wilderness areas respectively.

These two State forest areas are a small part of the State forest lands which have been identified as wilderness by the National Parks and Wildlife Service. State Forests of NSW has agreed to the addition of these lands to Morton National Park.

The land within the last two State forest areas proposed to be revoked being the Bundella State Forest and part of the Warung State Forest are to be reserved as the Coolah Tops National Park.

The Government's pre election nature conservation strategy identified Coolah Tops as one of the new national parks that it would establish. The Bundella and Warung State forests and associated flora reserves form the core of the Coolah Tops National Park proposal.

The proposed park makes a significant contribution to the establishment of a comprehensive, adequate and representative reserve system within the Brigalow belt south bioregion. The proposal makes a contribution to comprehensiveness by including seven forest communities and swamps; adequacy by reserving a greater proportion of those vegetation communities which characterise Coolah Tops and support high fauna populations enhancing their viability; representativeness by incorporating flora and fauna communities which are currently poorly represented in existing reserves in the bioregion and NSW.

The Government recognises that the establishment of this national park will have an effect on the local timber industry. However, as has already been announced, we are prepared to compensate the mill owners at Haggerty and Morrison's Coolah sawmill. The Government is looking for 100 per cent re-employment for sawmill workers and will offer an unprecedented level of assistance to the owners and the six remaining mill workers.

Government support to those at the Coolah sawmill falls under the forest industry structural adjustment package. Assistance under that package includes:

- business exit assistance for the mill owners, which entails compensating the mill owner's business based on an independent assessment of value and profits prior to the Government policy's impact

- options for assistance to the six remaining workers include financial assistance with relocation to a new job, training and special redundancy payments

- jobs are still available with the National Parks and Wildlife Service and also under negotiation is alternative work with other employers in the region

- officers from the Government structural unit are working in conjunction with TRAIN, the forest industry training company, to coordinate assistance to the workers. A forest liaison officer from TRAIN is in constant contact with the workers, and he is negotiating on their behalf for future employment and training and is advising them about other types of assistance available.

The mill's foreman has already received a new foreman's position at the upper Hunter timber mill and he is eligible for financial assistance for his relocation costs.

The Government is committed to assisting those people affected by conservation decisions such as the creation of this new national park.

Mr President, I commend the motion to the House.

The Hon. D. F. MOPPETT [10.17]: I do not intend to take much of the House's time on this matter, as it is obvious that the House has made up its mind in relation to the overall move to reduce forest areas and create new national parks. It would be vexatious to call the House to divide on the motion at this stage. I shall, however, take a few minutes to say how much the Opposition regrets the substantial dislocation that has occurred in the forestry industry. I am very concerned about where the residents of New South Wales will source their timber supplies if we continue to erode the areas of useful forest that are available from our natural woodlands. It is not adequate to say that plantation forests will supply the needs of a nation such as Australia. Most honourable members would know that Australia imports a substantial amount of timber. I do not think I would be challenged in saying that Australia imports a billion dollars worth of timber.

It is important to recognise that in drawing timber from other areas of the world Australia is not pulling its weight, because it is not a country that can say that it is short of land resources and therefore ought to be able to draw renewable resources from other areas of the world that are better endowed. Obviously, there are areas of much greater population density than Australia. We cannot continue to dismantle the forest and timber industries in New South Wales and rely increasingly on imported timber to make up the gap. There are moves afoot to encourage timber plantation in New South Wales. However, I do not believe those moves are adequate.

Timber plantations should not entirely replace the natural timber that has been drawn from our forests over many years, which I believe in many cases improve the aesthetic and pure conservation values of our country - a matter often referred to by the Hon. I. Cohen. I am sure that the Attorney General, and Minister for Industrial Relations, who listens intently to Opposition contributions and who has been particularly gracious in listening to me this

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evening, would be aware that the Commonwealth Scientific and Industrial Research Organisation recently completed a two-year study of forests in the northern part of New South Wales. The CSIRO, which employed 32 ecologists to conduct that study, could not establish a statistically reliable difference between the flora and fauna in logged forests and the flora and fauna in unlogged reserve areas. That has been put forward as the basis for the setting aside of many of these areas.

The Hon. I. Cohen often regales us with reasons for setting aside forest areas. The biodiversity in these areas is being threatened by continued harvesting. The CSIRO, the most renowned research organisation in this country, has clearly established that the effect of harvesting on biodiversity is not nearly as great as it is made out to be. In fact, in many cases it is not measurable. It is sad that substantial forest areas are being

withdrawn. Many special areas in flora reserves that are managed by State Forests have been withdrawn. These areas, the pride of local districts, were valued as recreational areas by local people and as jewels by tourist industries. Whilst resources are being set aside in a physical sense, they are not being backed up with sufficient financial resources to ensure that the objectives that have been advocated by the Minister are met. I believe that this State and the people of New South Wales run the risk of falling between two stools.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [10.24], in reply: I acknowledge the arguments put by the Hon. D. F. Moppett and the appreciation he has of the issue. But, as he rightly recognises, the House has indicated by its support of earlier legislation that, in essence, it desires to take a particular course. I urge the House to take the same view in relation to this revocation motion.

Motion agreed to.

SPECIAL ADJOURNMENT

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

That this House at its rising today do adjourn until Tuesday, 25 June 1996, at 10.00 a.m.

LIQUOR AND REGISTERED CLUBS LEGISLATION AMENDMENT BILL

Second Reading

The Hon. R. D. DYER (Minister for Community Services, Minister for Aged Services, and Minister for Disability Services) [10.25]: I move:

That this bill be now read a second time.

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

The bill will introduce a range of public interest amendments to the Liquor Act 1982 and the Registered Clubs Act 1976.

The amendments are important because - for the first time - the licensing laws will be amended to directly acknowledge the level of harm that is related to alcohol consumption in our community.

The bill will introduce into both acts the concept of "harm-minimisation", in recognition of the harm - the violence and the anti-social behaviour - associated with the misuse and abuse of alcohol. The bill will also introduce for the first time requirements for compulsory responsible service training across the liquor industry.

The measures in the bill attempt to put some balance back into the liquor laws - in the interests of the community at large, our young people, and the liquor industry itself.

I am pleased that the liquor and registered clubs industries themselves have been very supportive of responsible serving programs and training; and the peak liquor associations are working well with government on various projects to ameliorate the impact of alcohol abuse in the community.

Clearly, the willing efforts of industry are not enough. It has come to notice that some elements of the liquor industry have turned up their noses at self-regulatory industry codes that aim to ensure the responsible serving of liquor.

Despite cautions being given, some have said "When it's the law, I'll comply"; and "When the Government legislates, then I will stop".

Despite the efforts of the peak liquor associations, who have been involved with government in developing and implementing the

industry codes, the associations themselves are unable to compel their members to comply with industry codes.

The efforts of the organisations represented on the Liquor Industry Consultative Council, the main industry advisory council to the Government on liquor matters, are especially acknowledged. In particular, the Australian Hotels Association has shown strong leadership to its members and to the industry in being prepared to improve industry standards concerning codes of practice and programs to combat underage drinking.

The efforts of the Distilled Spirits Industry Council, which also works closely with government on alcohol programs, are also acknowledged.

I turn now to the details of the bill. There are four main objects.

The first main object is to introduce into the Liquor Act and the Registered Clubs Act a statement that harm minimisation is a primary object of the legislation.

The second main object is to strengthen the provisions of those Acts in relation to the responsible service, supply, promotion and consumption of liquor.

The third main object is to increase the penalties in both Acts concerning the sale and supply of liquor to minors, and to introduce a new maximum penalty of \$10,000 and 12 months imprisonment in aggravated circumstances where the offence is sufficiently serious to warrant that higher penalty.

The fourth main object is to introduce a range of miscellaneous administrative amendments which will improve the operation of the legislation.

As I have said, the first main object is to introduce into both Acts an explicit "harm minimisation" object. I will quote the entire object because of its importance -

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"A primary object of this Act is harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour). The court, the board, the Director of Liquor and Gaming, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for harm minimisation when exercising functions under this Act. In particular, due regard is to be had to the need for harm minimisation when considering for the purposes of this Act what is or is not in the public interest."

The bill does not provide a definition of "harm minimisation" beyond what is stated as the primary object. The harm minimisation approach to liquor policy and programs is well developed and widely accepted. It is a useful and sensible approach because it acknowledges that a large proportion of the population drinks alcohol safely - without any harm to themselves or to others. Thus, it is not about prohibition or wowserism.

A key part of the harm minimisation policy is that it also allows a preventive approach to alcohol problems - so that potential problems can be averted. The costs to society of alcohol misuse and abuse are so great that we must find effective preventive strategies. This legislation is therefore a tangible and significant contribution towards a preventive approach.

The practical effect of inserting the "harm minimisation" object into the Acts will be to re-orientate the law so that the harm associated with the misuse and abuse of liquor will be a factor in the decisions made by the Licensing Court, the Liquor Administration Board, the Director of Liquor and Gaming, the Commissioner of Police, and others with specific functions.

It will have the effect of strengthening the existing "public interest" provisions. It will ensure that the other liquor provisions are implemented within the context of the harm-minimisation object.

This approach to alcohol problems acknowledges that - while a large proportion of the population drinks alcohol sensibly and with safety - the level of alcohol-related harm in the community warrants continued government and community action.

In supporting the harm-minimisation approach, the Government is not advocating prohibition. That is an important point. The Government is committed to pursuing sensible and realistic policies and programs, recognising that alcohol is consumed by many people with safety - without harm to themselves or others.

Honourable members would be aware that the Premier convened a special alcohol forum in August this year, and hundreds of government, community and industry participants attended. The harm minimisation approach was endorsed by that forum. Follow-up to the forum is now well under way, and priority is being given to the development of an adult alcohol strategy for New South Wales which will build on the momentum and interest generated by the forum.

The second main object of the bill is to strengthen the law in relation to the responsible service of liquor; the responsible promotion of liquor; and the responsible consumption of liquor.

This object is dealt with in several ways. The amendments will enable the Licensing Court to impose a condition on any new or existing licence to prohibit or restrict activities, such as liquor promotions or liquor discounting, that might encourage misuse or abuse of liquor - such as binge drinking and excessive consumption.

As well, the court will be required to refuse to grant an application for a new liquor licence unless it is satisfied that practices will be in place at the premises as soon as the licence is granted that ensure as far as reasonably practicable that liquor is supplied and served responsibly on the premises, that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.

This will ensure that applicants for liquor licences will be required to consider the matter of responsible service in their application to the court, and present a program setting out how they will manage the premises, the patrons, and the liquor service to ensure the responsible serving of liquor.

The amendments will also provide that the court, in considering an application for an extension of trading hours by hotels, liquor stores, restaurants or vessels, may not grant the application unless it is satisfied that practices are in place and will remain in place that ensure as far as reasonably practicable that liquor is being sold, supplied and served responsibly, and that all reasonable steps are taken to prevent intoxication on the premises.

Further, the responsible serving amendments will introduce three new grounds for complaint under the disciplinary provisions of the legislation.

Such complaints about licensed premises and clubs may be made by a range of parties - including the police, the Director of Liquor and Gaming, and local councils. The three new grounds for complaint will be:

1. That the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor by patrons (such as binge drinking or excessive consumption);
2. That intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises; and
3. That acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises.

Further, the bill will specifically allow the Liquor Administration Board, when dealing with a complaint under the provisions concerning the "quiet and good order" of the neighbourhood, to impose a condition to prohibit or restrict activities such as promotions or discounting that could encourage misuse or abuse of liquor, including binge drinking or excessive consumption.

Another important amendment will insert new regulation-making powers in both Acts so that regulations may be made to require the responsible service of liquor. The nature of the regulations which may be made is set out in the bill.

Regulations will be able to be made requiring licensees, managers, and other persons engaged in the sale, supply, service and promotion of liquor and other activities on licensed premises to undergo courses of training that will promote responsible practices in those activities.

Further, the regulations to be made may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale or service of liquor.

It is in the best interests of the industry and the community that these matters be dealt with by regulation. In that way, the peak associations can participate in the formulation of regulations and be fully consulted on regulations that affect them.

The new regulation-making power concerning courses of training will allow the staged introduction of compulsory responsible service/patron care training across the industry. The aim is to ensure that all relevant personnel in the liquor and clubs industries have this training.

Compulsory training is already a requirement of the Liquor Act but it applies only to new licence applicants. To date, only applicants for hotel, restaurant and motel licences are required to undertake that training. Other

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liquor licensees, club secretary managers and bar and service staff are not presently required to have responsible service training.

It is therefore proposed to extend compulsory responsible service training, in a staged manner, to ensure that all relevant liquor licensees, club secretary managers, and staff and personnel with responsibilities for the service of liquor receive training in responsible service/patron care. There is obvious merit in extending the requirement to license categories such as retail liquor stores, vessels, functions licences, airports, public halls, theatres, universities, and caterers.

This clearly has wide industry implications and therefore needs to be developed carefully and fully, and with the input of the relevant agencies and the liquor industry. The proposal also needs to be phased in so as not to cause undue hardship. The regulations will enable that to occur.

The intoxication provisions in the law have attracted some attention in past months, and the maximum penalty under those provisions is to be increased from \$2,000 to \$5,000.

The intoxication provisions say that a licensee shall not permit intoxication on the premises, and where a person is intoxicated on the premises, the licensee shall be deemed to have permitted the intoxication - unless he proves that he and his employees took all reasonable steps to prevent it.

The third main object of the bill is to increase the penalties relating to the sale and supply of liquor to minors, and to introduce a new higher penalty to apply in situations involving more serious "aggravated" circumstances where liquor has been supplied to children.

The legislation currently provides a penalty regime that generally imposes maximum penalties of \$500 for minors themselves; \$1,000 and \$2,000 for parents and other adults; and \$2,000 for licensees and their staff.

The current penalties are considered to be inadequate in relation to the seriousness of the underage drinking problems in our community.

In addition, the liquor legislation lags behind other state legislation when it is considered that a shopkeeper who sells a cigarette to a minor may be liable under the Public Health Act for a maximum penalty of \$5,000.

The bill rectifies these discrepancies, and establishes a new penalty regime in both Acts for offences concerning minors.

It establishes a maximum penalty of \$5,000 for offences involving the sale and supply of liquor to minors by licensees and their staff and other adults. The bill retains the existing \$500 maximum penalty for minors themselves.

In addition, the bill will introduce a new maximum penalty of \$10,000 or 12 months imprisonment (or both) - where the circumstances are sufficiently serious to warrant consideration of that higher penalty. The bill describes the "circumstances of aggravation" for this new higher maximum penalty as follows:

"circumstances of aggravation exist in relation to an offence under this section if and only if both of the following apply:

- (a) the information by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the information) so serious as to warrant the imposition of a penalty in excess of 50 penalty units, and
- (b) the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units."

These new provisions give a clear message to the industry and to the community about how seriously the Government views the underage drinking problem in our society.

The increased penalties are directed at those in our community who act irresponsibly and make very poor judgements by supplying liquor to children. I would like to make it especially clear that the new penalties are not directed at parents who choose to give their children liquor. The law at present allows parents to supply liquor to their children when they are not on licensed premises. That will not change.

Accordingly, parents are not penalised for providing their teenage children with a glass of wine with a special dinner, or a celebratory glass of champagne for a birthday or special occasion. The law allows that to occur.

However, that is not to say that parents should not exercise a high degree of care when they do decide that it is all right for their children to drink alcohol.

I would like to comment briefly on the extensive consultation program that was undertaken in the development of the bill.

Some 10 government agencies provided input, as well as the Liquor Industry Consultative Council, and the recently-established committee on underage drinking. Numerous useful suggestions were made in that process.

Before I turn to the final object of the bill I would like to emphasise that the harm-minimisation and other measures contained in the bill represent just the first stage of the Government's liquor reforms.

It may be that the proposals contained in this bill will need some further fine-tuning. As well, further amendments to the licensing laws will also be necessary to fully achieve the objects of the Government's policies.

The fourth and final object is to introduce a range of machinery and administrative amendments to improve the operation of the liquor laws.

The amendments are matters brought forward by the Liquor Administration Board, the Police Service, government officers and the liquor and registered clubs industries.

I do not intend detailing those amendments in my address, and I would refer honourable members to the explanatory material provided with the bill.

I commend the bill.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [10.26]: The Opposition supports the Liquor and Registered Clubs Legislation Amendment Bill but intends to move some amendments at the Committee stage. Alcoholism is a major problem. Antisocial behaviour, which concerns everyone in the community, has attracted a great deal of attention in recent times. The summit held by the Minister some time last year culminated in this bill and the Liquor and Registered Clubs Legislation Amendment (Enforcement) Bill, which will be debated later tonight. The community must address these serious issues. This legislation is one way of attempting to do that.

Harm minimisation associated with the misuse and abuse of liquor is the novel but worthwhile tag that has been attached to this legislation, which I hope will lead to the responsible supply and promotion of liquor throughout New South Wales. Hotels and clubs have a long history in Australia

and New South Wales. We have three different liquor outlets: hotels, our oldest and most notable; clubs, which are a relatively new innovation, but which have gone ahead in leaps and bounds in the provision of liquor to the community; and liquor stores. Traditionally, liquor outlets have been hotels but, in more recent times, people have been able to purchase liquor at supermarkets throughout suburban Australia and other areas in our community. They fulfil an important role in the responsible distribution and sale of liquor for patrons who require it from time to time. This legislation is all about the irresponsible supply of liquor.

I am disappointed that the Minister for Gaming and Racing went to a great deal of trouble to denigrate one of the fine clubs in my area, the Sailors Soldiers and Airmen's Club in Albury. For some extraordinary reason he has been misled about the way in which that club operates. That notable club, which has always responsibly dispensed liquor in Albury, has a proud history and record of service to the community. Out of the blue the Minister attacked personnel at that club. I believe that they met earlier today with the Minister in Parliament House to discuss his complaints. Alcoholism and anti-social behaviour have been a problem in Albury. That has been a problem in many other areas. The Opposition and the Government should consider some of the extended hours that hotels at present enjoy. Some hotels are failing in their responsibilities, with their patrons spilling out into established residential areas of the suburbs, causing much disturbance and certainly participating in a great deal of antisocial behaviour.

There has been a lot of community input into this issue in Albury. The hotels and clubs there have been negotiating with the local municipal council and with local community leaders to try to resolve the issue. The Minister's comments in the Legislative Assembly added nothing to the debate; they served only to denigrate the personnel in Albury. People in the clubs who serve the community, with the exception of paid staff, are almost always volunteers. They can well do without snide remarks of a Minister who has the protection of coward's castle when delivering the rubbish he did on that occasion. I hope the Minister has apologised to the Albury Sailors Soldiers and Airmen's Club. He has had ample time to do so. This legislation will strengthen the hand of government, and licensing and liquor authorities, to assist the law enforcement agencies to try to curb antisocial behaviour and the irresponsible service of alcohol in the future.

I should like to raise a number of issues. I have received many representations from the main players in liquor distribution: the Liquor Stores Association, the Registered Clubs Association and the Australian Hotels Association. I will comment on some perceived anomalies and on amendments that the Opposition proposes to move in Committee. One of the definitions in section 4 of the Liquor Act refers to "beer". The Liquor Stores Association understands the intention of that definition. That definition could include ginger beer, which, of course, is not always an alcoholic beverage. That flaw in the legislation could have been addressed by the Government, but it has chosen not to do so.

The Liquor Stores Association also has a problem with the proposed section dealing with local councils. It considers that the present definition in the Act is adequate, but is concerned about the power which would be given to other authorities by the proposed amendment. Paragraph (b) of the definition of "local consent authority" to be inserted in section 4(1) does not specify the criteria under which consent is to be given, leaving open its interpretation and application. Sections 40(6)(a) and 40(6)(b) in the Act already adequately provide for the obtaining of approvals and consent in the making of a licence application. The reference in the Act to the variation of trading hours is one of the matters to be discussed by the local government working party.

The Australian Hotels Association is concerned about schedule 1[20] to the bill, which deals with the conditions of licences and with what it sees as a radical reform of the Liquor Act. The use of regulations to determine the rights and obligations of all licensees of hotels, motels and other licensed establishments is unprecedented. By itself, proposed section 125C is not objectionable, but when coupled with proposed sections 20(2)(a1) and 20(2A) the rights and obligations of licensees will be subservient to the public interest. A licensee may lose the rights attaching to his licence or he may be made aware at a relevant time that he has breached the condition of his licence. The AHA considers this to be an unprecedented, unconventional and objectionable use of regulation-making powers.

Proposed sections 20(2A), 104(4)(d) and 125C(2)(a) make reference to a new regulation making power that will authorise the making of regulations requiring or encouraging the adoption of responsible practices. These proposed sections refer to restricting promotions and other activities, including discounting. Discounting alone will not lead to abuse. Other circumstances which give rise to persons consuming alcohol excessively within a time period must coexist with discounting. The proposed sections also refer to restricting promotions and other activities, including discounting, which are likely to result in binge drinking or excessive consumption.

The Minister in another place referred to specific promotional nights. He also mentioned a higher school certificate free drinks night at a hotel. It is totally irresponsible for an establishment to provide free drinks to students celebrating the higher school certificate. In that situation the students will drink until they are out of their minds, and therefore the provision of free drinks is not to be condoned. There is a difference with liquor
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stores because promotion is part of business competition. One has only to drive past a liquor store at any time of day or night to see the discount promotions that all liquor stores engage in. The proprietors are concerned. I understand that the Minister does not propose to go so far as to limit the competitive nature of liquor stores, but it is certainly within the power of this legislation for him to do so.

Proposed section 25(1A) deals with a hotelier's licence and variation of trading hours. The AHA believes that these measures may add to confusion about the law. The section provides no assistance as to what might satisfy the court. How can the court be satisfied that responsible service practices will be in place for eternity, particularly if the method of operation of a hotel or its clientele changes? How can the court be satisfied that all reasonable steps are taken to prevent intoxication on the premises, and what are reasonable steps? In relation to proposed section 47A, the AHA believes it would be extremely difficult to put practices in place before a hotel is opened and when the hotelier is not aware of the type of clientele he may attract. Further, if the application is granted, how will these measures be enforced? Will conditions be imposed on the licence so that in effect the program becomes a condition of the licence? What will happen if the method of operation of a hotel changes and different practices are adopted? Will that result in a breach of a condition that would lead to enforcement action? Will a hotelier have to apply to the court every time he wants to change his practices?

Proposed paragraphs (d1), (d2) and (d3) of section 68(1) deal with grounds for complaint. These measures provide for intoxicated persons leaving premises, and persons who have been on licensed premises committing acts of violence, but do not specify that those persons must have consumed alcohol and become intoxicated on the premises. The Liquor Stores Association makes the good point that someone could go into a liquor store to buy alcohol, not consume any of it on the premises and leave the premises, and the liquor store would be found guilty under the proposed paragraphs. Obviously the AHA has similar concerns about this measure. The remote activities provisions are objectionable because they introduce guilt by association. The amendments will permit certain prescribed persons or organisations to file complaints against a licensee on the basis that certain activities in relation to intoxicated persons have occurred in an establishment. The amendments extend the liability to situations which may, but do not necessarily, lead to intoxication.

Further, a licensee who excludes someone who is intoxicated, as the licensee is required to do under the law, will leave himself open to prosecution because of proposed section 68(1)(d2). The licensee then has to assume responsibility for the behaviour of persons who were at one time in his hotel. Intoxication is deemed to be against the public interest, and a complaint can be issued specifying that the licence is not being exercised in the public interest for that reason. This section dealing with grounds for complaint is an important section of the legislation. One could imagine a person arriving at a hotel, having been to a hotel around the corner, walking in the door and being refused alcohol - as would be appropriate under this legislation - then leaving the hotel, later to be found trashing someone's car while walking down the street. The licensee of the hotel that the person had just left would be guilty under this legislation. When this legislation was drawn up some of those facts were overlooked.

There are concerns about proposed section 68(1)(d1). What is the nature of the conduct or activities that are likely to encourage misuse or abuse of liquor? Who decides this question? This proposed subsection is

obviously badly worded. Does it refer to the same person who is intoxicated while on the premises? Does it refer to a group of persons who have been intoxicated on the premises? Does it refer to an intoxicated person who happens to have been on the premises more than once? Does it refer to the same intoxicated persons who have frequently been seen? Or does it refer to the person viewing the premises who has frequently seen intoxicated persons leaving the premises? Who does the seeing? What is "frequent"? Why is it considered to be a matter worthy of complaint if the licensee can be prosecuted for permitting intoxication on licensed premises in any event? I hope the Government will respond to those concerns during this debate.

Proposed section 68(1)(d3) requires the hotelier to monitor the behaviour of every person who has ever been in his hotel. How can a licensee be responsible for the acts of individuals who have been in the hotel and later commit acts of violence or damage property? This subsection will require the hotelier to follow home every person who has been in his hotel to ensure that nothing untoward occurs along the way. Once at the person's home, the hotelier must remain there indefinitely. The section stretches the concept of causality in tort law to the farcical. What possible connection is there between some act perpetrated by an individual and the fact that that person may have been on licensed premises? The subsection reflects the tendency of society to place the blame for the actions of an individual on persons other than the individual. If the Government is concerned about the actions of the individual, then it should regulate the individual.

Under section 125(1)(b) a licensee shall not permit intoxication on licensed premises where that leads to indecent, disorderly, violent or quarrelsome conduct by an intoxicated person on the licensed premises. Section 125(3) provides that a person, whether or not he is the licensee, shall not on licensed premises sell or supply liquor to any person who is at the time severely intoxicated and the behaviour of that person is indecent, disorderly, violent or quarrelsome. The Australian Hotels Association is concerned about the liability of

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persons interested in licensed businesses for fees and penalties. If the licensee has been employed in good faith by sleeping investors, why should those persons be liable for the acts of an unscrupulous licensee? That is a matter that will be debated in legislation to come before the House. Proposed section 104(4)(d) deals with the quiet and good order of the neighbourhood. The Australian Hotels Association believes that provision is not consistent with the existing section. Proceedings may already be instituted against a licensee if the quiet and good order of the neighbourhood is disturbed by the activities within the hotel.

With respect to the provision relating to the sale or supply of liquor to a minor, the Liquor Stores Association believes that the existing penalty is already a major deterrent to licensees as there is always the added threat of the loss of the licence. The association contends that a great distinction should be made between sale or supply by a licensee and sale or supply by another person. The person who is not a licensee does not face the threat of loss of licence but is knowingly supplying to a minor. A licensee is more likely to be in some doubt as to the person's age. The proposed penalty of 100 units where circumstances of aggravation exist is quite heavy given the lack of a clear interpretation of what is meant by "circumstances of aggravation".

As to the sale or supply of liquor by a minor, the bill proposes a 400 per cent increase for the offence which relates to the sale of liquor by a minor but not necessarily to a minor. In the vast majority of licensed premises, only persons over the age of 18 years are employed because of this provision of the Act. The business in which it is most likely to occur is the family-owned business selling groceries and liquor. The Liquor Stores Association agrees that it should be an offence for a minor to sell liquor, but does not agree with the increase in the penalty. If the sale by a minor also includes a sale to a minor, there would be an additional offence under section 114 of the Act.

With respect to offences by licensees in relation to minors, the Australian Hotels Association and the Liquor Stores Association are concerned about the quantum of penalties. The Australian Hotels Association believes that this will result in an offence if the licensee fails to remove a minor, because the only way for the minor to be on the premises is by entering the premises. The main thrust of this section should be to remove that minor as soon as possible after the hotelier becomes aware that the minor is present. The Registered Clubs Association expresses a very important concern. The association believes that proposed section 125C(2)(a) should be deleted from the bill. It submits that there are already sufficient checks and balances to deal with this

area, and therefore it is undesirable to give a government department or agency interpretive powers on what are, in the association's view, commercial decisions that clubs should be free to make. In support of this view the following points are offered for consideration.

The parameters of a particular promotion do not per se make it responsible or irresponsible, that is, discounting of liquor does not mean that the promotion is necessarily either irresponsible or will lead to liquor abuse. It is the way in which the promotion is advertised, conducted and supervised that will determine its outcome in this regard. The Registered Clubs Act currently contains strong provisions that make it an offence to permit intoxication to occur. The association considers that placing emphasis on the club to ensure that intoxication does not occur is the correct approach. Irrespective of possible interpretations of whether a promotion could cause alcohol abuse, the real test, as currently stated in the Act, is whether the club has allowed intoxication to occur, in which case the full sanctions of the Act can prevail. The responsibility should be left with the club to ensure that a promotion is well conducted, rather than giving government agencies such a direct power to intervene based on their views of the prospects for alcohol abuse.

Under the liquor industry's code of practice, unacceptable practices will include drink cards that provide a multiple of free drinks, extreme discounts or discounts of limited duration on a given day or night and/or have the capacity to be readily stockpiled by patrons or transferred to other patrons. In other words, the drink card must not, by design or potential misuse, create an incentive for patrons to consume liquor more rapidly than they otherwise might. The association supports that code of practice and actively fosters its application in the club movement. The Registered Clubs Association of New South Wales believes that the code, which was only formulated last year, should be given a chance to work before there is resorting to some of these new areas of legislation.

The code of practice allows for both the Government and the industry to play a role in educating and counselling industry members in desirable and undesirable practices, without the spectre of direct legislative interference. The association considers that the incidence of promotions designed to create alcohol abuse in clubs is so isolated that these legislative requirements to replace the code are not yet warranted. The Liquor Stores Association of New South Wales is concerned at the reference to discounting as a cause of alcohol abuse. Discounting alone will not lead to abuse; other circumstances which give rise to persons consuming alcohol excessively within a certain time period must co-exist with discounting. In no way should the Liquor Act or the Registered Clubs Act become vehicles for interfering with legitimate free market practices. The Acts should clearly state that abuse occurs only when discounting co-exists with other irresponsible promotion activities, and it is the other practices that should be the subject of the regulation-making powers in the amendments.

With respect to proposed section 125C(2)(c) the Registered Clubs Association advises that many of their smaller clubs experience difficulty in

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attracting candidates to fill positions on their boards of directors. There are a number of reasons for this, but one strong deterrent is the onerous duties and the responsibilities of directors imposed both by the Registered Clubs Act and the full force of the Corporations Law. The Registered Clubs Association Council considers that any mandatory requirement to train club personnel who serve in an honorary capacity will make the ongoing administration of many small clubs extremely tenuous. The association requests an amendment to exclude unpaid staff and honorary secretaries from the mandatory requirement to undertake training. As an alternative, the association favours cooperation with the Government in an education package consisting of an instructional video and other material being developed, regularly updated, and made available to all clubs where honorary personnel are involved in, or are responsible for, the service and promotion of alcohol.

I refer now to section 139, false or misleading statements. The Australian Hotels Association recommends that the section be omitted and an investigation conducted by the department into the relevance and appropriateness of the forms and documents required by the Liquor Administration Board and the court, with the intention that bureaucratic procedures be eliminated. I will now deal with the amendment of the Registered Clubs Act. Item [23] of schedule 2 to the bill inserts a new section 44B relating to responsible service. Subsection (3) provides for an industry code, and the clubs seek participation in the formulation of such a code;

and I shall move such an amendment in Committee. The bill also deals with proposed subsection (1A) of section 50, dealing with restrictions on the sale of liquor by registered clubs. The subsection significantly increases the penalties for an aggravated breach of section 50, which relates to the supply of liquor to a juvenile and not removing a juvenile from a bar area. This is the first time the Act has provided for imprisonment as a penalty.

The Registered Clubs Association is concerned that the circumstances giving rise to aggravation are very imprecise. Paragraph (b) of the proposed new subsection provides that the increased penalty can be imposed if "the court that convicts the person for the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units." The bill is silent as to what "other relevant considerations" might be. In other words, it is left entirely at the discretion of the magistrate. The association requests that the bill more specifically indicate the circumstances which must exist for the court to be satisfied that the offence is an aggravated one so that the court, secretaries and clubs clearly understand the criteria for such a finding.

With respect to proposed new section 55, dealing with false and misleading statements, the Registered Clubs Association is concerned that it provides that a person must not omit material matter from, among other things, a declaration or an affidavit that is lodged with the Licensing Court. Legal advice provided to the association is that an affidavit is regarded as a document that carefully presents evidence truthfully but, as far as possible, in the most favourable light from the client's point of view. Practitioners are continually making strategic decisions as to what to include or not include in affidavits and what evidence to lead orally from their clients or other witnesses when they give evidence in chief. What may be considered to be material from the point of view of one party to litigation may be seen in an entirely different light by the other party to the litigation.

Questions of relevance and materiality to the issues in dispute before the court are therefore often the subject of considerable argument and ultimately judicial determination. The association's legal advisers have indicated that if it is to be an offence to omit material matter from an affidavit, it will be extremely difficult to give legal advice to member clubs in relation to the nature of the evidence that they are to give in their affidavits. It will be difficult, if not impossible, to draft affidavits without the risk of omitting a matter which may subsequently be held to be material. Every person who swears an affidavit or makes a declaration which is filed in the Licensing Court is liable to be cross-examined on it.

One of the purposes of cross-examination is to elicit from a witness information that is not contained in the affidavit or declaration but may be of assistance to the court or, more particularly, to the party represented by the cross-examiner. There is no provision in the Supreme Court Act or the District Court Act that corresponds with proposed new section 55. The association submits that the matter is adequately covered by sections 29, 31 and 33 of the Oaths Act, and the Registered Clubs Association cannot see sufficient justification to warrant the inclusion. I have raised a number of issues brought to my attention by interested parties, matters worthy of bringing to the attention of honourable members. Obviously I will pursue some of those matters in Committee.

The input and general thrust of this legislation has met with considerable goodwill and determination in an endeavour to stamp out the misuse and abuse of liquor and to provide for responsible practices in the sale, supply, service and promotion of liquor in the future. The legislation increases penalties for offences concerned with the sale and supply of liquor to minors and to others involved in the distribution of alcohol in New South Wales. Major anomalies exist in the legislation and they should have attracted more attention from the Government before this legislation was introduced. It has been lying on the table since October last year. There has been considerable consultation

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with, and representations from, the Registered Clubs Association, the Australian Hotels Association and the Liquor Stores Association. They suggest that some of these issues could have been resolved and that the Government could have acceded to some of the requests of the industry to make the legislation more workable. The House should be aware of these concerns and I look forward in Committee to amending in some small way

the anomalies that have been brought to my attention.

Reverend the Hon. F. J. NILE [11.00]: The Call to Australia party supports the Liquor and Registered Clubs Legislation Amendment Bill, which seeks to increase penalties for offences concerned with the sale or supply of liquor to minors. The enactment of this legislation has the potential to reduce the consumption of alcohol; not as much as I would like but it moves in that direction. If this bill had sought to impose a liberal philosophy Call to Australia would have opposed it. The objects of the bill are:

- (a) to provide explicitly that "harm minimisation" (the minimisation of harm associated with misuse and abuse of liquor) is a primary objective of each Act and to provide that due regard is to be had to the need for harm minimisation by persons exercising functions under the Acts, particularly when considering the public interest,
- (b) to provide for responsible practices in the sale, supply, service and promotion of liquor (by preventing activities that encourage misuse or abuse of liquor and intoxication, and requiring licensees and staff to undergo courses of training in responsible service practices),
- (c) to increase penalties for offences concerned with the sale or supply of liquor to minors, the exposure of minors to gaming devices, and intoxication and violent behaviour on licensed and club premises,
- (d) to make miscellaneous and consequential amendments.

The bill places considerable emphasis on the term "harm minimisation". The Call to Australia party is a temperance party which does not wish to set a bad example to others. One of its rules is that it does not allow alcohol to be served at any of its social functions, dinners and other events, not just political rallies, because it recognises the harm caused by alcohol. We recognise also, as the Government does, the reality that there is a multi-million dollar liquor industry in this State. Every effort should be made to reduce the impact of alcohol. That used to include the availability of alcohol because of the harmful effect it has on our society, not just on an individual's health but on their potential and their employment. There is also the possibility of accidents in the workplace caused by the consumption of alcohol.

There have been some terrible accidents on public transport, buses or trains, when drivers have been intoxicated. There are also a huge number of road accidents, which is why the police undertake roadside breath testing activities - and I am pleased that that is a high priority of the Government. A large number of domestic violence cases result from alcohol abuse. The two main considerations in this debate are that there is a liquor industry, and that the product causes a lot of harm. I am concerned at the philosophical background that is emphasised in this bill. One is the implications for harm minimisation, and I note that the Minister has argued that this bill puts some balance back into liquor laws. What was the imbalance? Is the Minister suggesting that the law was too soft and therefore it has been made tougher; or has it been too tough and this legislation provides some moderating effect? It is a bit like the gambling industry. Is the Government becoming a partner with the liquor industry?

I recognise that the Government has to lay down laws and principles for the control of liquor and liquor outlets, but I believe the Government should keep at arms distance from the liquor industry and not be dictated to by that large industry. Honourable members know that since 1992 Call to Australia has given notice of its alcohol beverages advertising prohibition legislation. I have spoken to senior members from both sides of politics, the coalition and the Labor Party. When I first discussed it with the Labor Party it was in Opposition. I have again briefly discussed it with senior members of the Government and they have indicated to me that the tobacco advertising prohibition legislation was fair enough, although it initiated a lot of controversy and advertisements in newspapers attacking both Bob Carr and me.

There was a cartoon showing Bob Carr and me in bed together. That would be a most unusual situation, but the cartoon was very clever and used the humorous angle. John Singleton was responsible for it. Senior government members have said to me that tobacco advertising prohibition was one thing, but it was quite another story to take on the liquor industry and interfere with the advertising of alcohol. I accepted from the

brief remarks made to me that it is a bit like pulling the tiger's tail; that it would take a very brave Minister and a brave Government to take on the liquor industry and prohibit alcohol advertising, including on billboards, as well as the sponsorship of sporting activities. Call to Australia has been attempting to get warning messages on liquor containers, cans, bottles and so on.

We give a warning to the Government that it should not be intimidated by the size or the financial power of the liquor industry in this State; that it must not let the tail wag the dog. The bill has four main objects in amending the Liquor Act and the Registered Clubs Act, the first of which is that harm minimisation is a primary objective of each Act. The Minister has given a detailed explanation of harm minimisation. There is no definition of that term other than that the first object says that harm minimisation is the minimisation of harm associated with misuse and abuse of liquor, which I presume could arise from violence and other antisocial behaviour. Some years ago harm minimisation was adopted as a philosophical approach to illegal drugs in our nation. I understand this started in the Federal health department and was accepted by the States.

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I am in touch with many drug rehabilitation programs and there is now a great deal of disquiet amongst people running them that those who are abusing drugs have become addicts to heroin and so on, and the workers in the field are concerned about this philosophical approach of harm minimisation. In some cases in the illegal drug scene harm minimisation requires that we teach young people how to use illegal drugs like heroin and how to use needles safely and clean them. That seems to work against any so-called war against drugs. If harm minimisation in this legislation has the same connotation as it has with illegal drugs, will we have to teach young people how to drink alcohol? Will there be more acceptance of the consumption of alcohol?

I understood that the policy of both sides of politics was to reduce the consumption of alcohol and the availability of alcohol outlets. I am wondering tonight whether there is a subtle change occurring. Before that change occurs there should be far more discussion with people involved in detoxification centres, such as the Salvation Army and Alcoholics Anonymous. How do they feel about the primary object of this legislation being harm minimisation associated with alcohol? Are they happy with that? I have not discussed it with them because until I read the material I was not conscious of the emphasis on that term. I will certainly discuss it with them. Maybe the Government can reassure me that it has had discussions with the Salvation Army, Alcoholics Anonymous and other groups and that they are happy with this philosophical approach.

There seems to be a different emphasis. The Minister said in his second reading speech that the bill is not about prohibition or wowsersism. Is there a running away from the previous approach of trying to reduce the harmful impact of alcohol in our society by reducing consumption and restricting outlets, trading hours, the number of hotels and so on? Will the new approach of harm minimisation mean that a hotel, if it has nice conditions and well-trained staff, will be able to trade 24 hours a day, seven days a week, 52 weeks a year? That is not made clear in the legislation. The Minister also said in his second reading speech that the practical effect of inserting the "harm minimisation" object into the Act will be to re-orientate the law. What does that mean? Has there been something wrong with the law up to this time? Has it been going in the wrong direction? We are apparently changing direction - re-orientation - so in which direction will we be going in the future?

Concern has been widespread in the community about alcohol as well as nicotine. There has been a groundswell - I do not think it has been organised by anyone - leading to positive changes in the availability and control of tobacco. I sense the same groundswell occurring with regard to liquor. I hope the new approach is not meant to slow that process down by influencing people to accept that if there are road accidents and domestic violence resulting from alcohol use we will just have to live with it. From my reading of the magazines and papers of the liquor industry I know that it has been concerned about what has been happening with regard to tobacco. Perhaps the clever people in the alcohol industry want to move to self-regulation so that there is no restriction of advertising and sponsorship of sport. I hope that the Minister is not being led along such a path.

The Minister said in his second reading speech that the amendments to the Act will provide that a court, in

considering an application for an extension of trading hours by hotels, may not grant the application unless it is satisfied that practices are in place, and will remain in place, to ensure as far as is reasonably practicable that the liquor is being sold, supplied and served responsibly. Previously more factors would have been considered. It appears that now, if a hotel can be shown to be nice, family oriented, with good conditions and well-trained staff, it may operate for virtually unlimited hours - 24 hours a day. I hope that is not the intention.

I am pleased that the bill will still require hotels and liquor stores to operate quietly and with good order in the neighbourhood. In the past residents could stop hotels from opening in their suburb. The public must be able to raise complaints about hotels and other liquor outlets disrupting a community. We support the concept of training staff. In the past compulsory training applied only in respect of new licence applicants. Now all persons serving liquor will be required to have undergone responsible service training. In America the barman serving liquor and/or the hotel licensee or manager have been held in some way responsible for damage or death caused by a person intoxicated by the product being served. The intoxication provisions of the bill state that a licensee shall not permit intoxication on the premises and where a person is intoxicated on the premises the licensee shall be deemed to have permitted the intoxication unless he proves that he and his employees took all reasonable steps to prevent it.

We support the introduction of higher penalties for more serious aggravated circumstances in which liquor has been supplied to children. The present penalty is \$500 for minors and \$2,000 for parents and other adults and \$2,000 for licensees and their staff. The penalties will be brought into line with those applying to people selling cigarettes to minors: the maximum penalty for sale and supply of liquor to minors by licensees and their staff and other adults will be \$5,000. The existing \$500 maximum fine will be retained for minors. A new maximum penalty of \$10,000 or 12 months imprisonment or both will apply in particularly serious cases when the court deems it appropriate, having regard to the quantity or nature of the liquor involved, the age of the person involved or other relevant considerations. We support the increased penalty.

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Parents will still be able to supply liquor to their children when not on licensed premises, usually in domestic situations, but we hope that parents will exercise a high degree of care in influencing children to take up the drinking of alcohol. I am personally pleased that the number of people who do not drink alcohol is increasing. In view of the large amount of alcohol consumed, it may surprise honourable members to learn that total abstainers make up about 24 per cent of the adult population. When I was first elected to the Parliament I campaigned to have non-alcoholic wine available in the dining room. It has become so popular that often the dining room runs out, as is the case at present. Non-alcoholic wines are very tasteful and satisfying and I hope the dining room will continue to serve them. With those remarks I support the bill.

The Hon. ELISABETH KIRKBY [11.20]: I was informed after the dinner break that the Liquor and Registered Clubs Amendment Bill, the Liquor and Registered Clubs Enforcement Bill and the Liquor and Registered Clubs Minor Entertainment Bill were to be debated this evening, but I had no idea that so much time would be spent debating them. Frankly, I was surprised by some of the remarks of the Deputy Leader of the Opposition, and I realise that most of what he said will be repeated in Committee. Some of his comments were extremely partisan. Reverend the Hon. F. J. Nile said that he reads every copy of the Australian Hoteliers Journal that he receives. All members are sent copies of this publication. I concede that when I started receiving my copies, I read them too. However, now, the minute it arrives on my desk I throw it into the wastepaper basket - because I know exactly what it contains, and I do not agree with any of it. Every premise raised in that journal was raised tonight by the Deputy Leader of the Opposition. I cannot support many of his remarks. He suggested that the provisions in the bill are somewhat loose. He said that according to the bill ginger beer could be interpreted as meaning beer.

I spent some time examining the clauses of the bill but I found nothing that suggests such a thing. He also said that an hotelier would not know until he took out a licence what type of clientele his establishment would attract. Therefore, he suggested the hotelier could not be held responsible under the provisions of the Act for the actions of any undesirable clientele. I cannot believe that in a competitive industry such as the hotel

industry one would not inquire about such matters as clientele, costs, profit margins and business operations prior to taking up a licence. Quite frankly, one would be mad not to conduct such a business survey. Obviously, if one was fortunate enough to take up a licence for premises that attracted well behaved middle-class clientele, one would have few problems. It is equally obvious, however, that if one took up a licence for premises in some of the less savoury areas of Sydney, for example, one would be buying into trouble. If one does not understand the business and does not know how to handle one's clientele, one would be better off not taking up the licence. In some areas the clientele is not particularly manageable, and one would have to be aware of such matters before entering the business.

The Deputy Leader of the Opposition suggested also that it is difficult for licensees to determine the true age of some patrons. I remind him of the proof-of-age cards that are available now. If there is a concern about a person's age - and I acknowledge that with the majority of young people between the ages of 15 and 21 it is difficult to determine their ages - surely a licensee will instruct his staff to require that person to produce his or her proof-of-age card.

The Hon. R. T. M. Bull: Have you never heard of false IDs?

The Hon. ELISABETH KIRKBY: The Deputy Leader of the Opposition referred to false identification cards. If it is known there is a racket in false identification cards -

The Hon. D. J. Gay: It is not an organised racket, but the kids all use them.

The Hon. ELISABETH KIRKBY: The Hon. D. J. Gay said all the kids are using false proof-of-age cards. I do not know on what evidence he bases that statement. However, if he has information in that regard, he should pass it on to the relevant authorities so that it can be policed.

The Hon. R. T. M. Bull: They know about it.

The Hon. ELISABETH KIRKBY: The Deputy Leader of the Opposition says that the authorities know about it.

[Interruption]

The PRESIDENT: Order! I entreat those members interjecting, if they wish to contribute further to the debate, to seek the call in Committee.

The Hon. ELISABETH KIRKBY: The Australian Democrats support the legislation. We support the comments of the Minister for Gaming and Racing. The bill will introduce a range of public interest amendments to minimise the harm associated with the misuse and abuse of liquor, which is a primary objective of both Acts, provided that persons having functions under the Acts - and these are not just those holding licences or the employees of licensees; they also include the Licensing Court, the Liquor Administration Board, the Director of Liquor and Gaming and the Commissioner of Police - have due regard to the need for harm minimisation when exercising these functions. The bill requires responsible practices to be implemented in regard to the sale, supply, service and promotion of liquor. This is currently addressed by a voluntary code of practice, which

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includes the prevention of activities which encourage the misuse and/or abuse of liquor, such as "all you can drink" offers, and the staged introduction - it will not be imposed immediately on licensees - of mandatory training in responsible service practices for licensees and staff.

The implementation of responsible service practices will be made a precondition for the granting of a liquor licence, a club registration or an extension of trading hours. I have spoken before in this Chamber about the extension of trading hours. On more than one occasion the Leader of the Opposition has conceded that the introduction of ad hoc extensions of trading hours by the previous administration was a bad option. I am sure

that the Hon. D. F. Moppett would agree that a number of hotels in small country towns having extended trading hours to 1 and 2 in the morning is not helping the situation one bit. Extended trading hours are destructive of family life and lead to greater alcohol abuse. Reverend the Hon. F. J. Nile belongs to a party that does not promote liquor and does not serve liquor at any of its functions. My party does not have a similar ethos. I certainly drink liquor, as do other members of my party. But that does not mean to say that we believe that country towns the size of Boorowa, which has a small catchment area, should have three hotels with extended trading hours until 2 o'clock in the morning. That is a ridiculous situation.

The bill should never have been introduced; frankly, it should be withdrawn. If it were, there would be far fewer problems, far less juvenile crime and far less domestic violence. I certainly do not want to be regarded as a wowser, and those who know me would not consider me a wowser so far as liquor is concerned, but I strongly believe that the introduction of extended trading hours in this State has been a disaster. I prevail upon the Minister for Community Services, who has a deep concern about juvenile justice and juvenile crime, to talk to his Cabinet colleagues and suggest that extension of trading hours provisions be reconsidered and a new measure introduced. Responsible serving practices should be adopted by licensees and/or managers of licensed premises. I am amazed that the Deputy Leader of the Opposition finds it necessary to promote the views of the Australian Hotels Association and the Registered Clubs Association, neither of which has the best interests of the community at heart. They may have the best interests of their profits at heart, but that may not be in the best interests of the community. I support the Liquor and Registered Clubs Legislation Amendment Bill. I flag to the Opposition that in Committee I shall not support its amendments.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

House adjourned at 11.32 p.m. until Tuesday, 25 June 1996, at 10.00 a.m.
