LEGISLATIVE ASSEMBLY

Wednesday, 13 May, 1987

Mr Speaker (The Hon. Lawrence Borthwick Kelly) took the chair at 10.30 a.m.

Mr Speaker offered the Prayer.

PETITIONS

The Clerk announced that the following petitions had been lodged for presentation:

Warringah Shire Moorings

The Petition of citizens of Church Point, Bayview and areas of Warringah shire surrounding Pittwater, together with other boatowners and concerned citizens of New South Wales respectfully sheweth:

That the Maritime Services Board of New South Wales has formed a policy of conversion of existing swing moorings for boats moored in Pittwater and Sydney Harbour to fore and aft moorings, namely, moorings attached both to the front and rear of vessels, for the stated reason that many more moorings can be sited within a given space.

Your Petitioners therefore humbly pray:

That your honourable House will request or direct the Maritime Services Board either to reverse its policy or to limit the policy to areas which do not detrimentally affect either the environment or the interests of residents, boatowners or other citizens, for the following reasons: greatly increased parking problems in roads around Pittwater; increase in numbers of dinghies around foreshores; extra expense to mooring holders of laying rear mooring; restriction of navigation around waterways; likely damage to boats due to weather and restricted navigation; and increased pollution of waterways.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Longley**, received.

Warringah Shire Sewerage

The Petition of citizens of New South Wales respectfully sheweth:

That the health, environment and amenity of areas of Bilgola Plateau, Taylors Point and Clareville Beach are seriously disadvantaged by lack of sewerage services.

Your Petitioners therefore humbly pray:

That the New South Wales Government will take urgent steps to connect the aforementioned areas to the sewerage system.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Longley**, received.

Sydney Harbour Bridge Toll

The Petition of citizens of New South Wales respectfully sheweth:

That Sydney Harbour Bridge is an integral part of Sydney's metropolitan main road system and, as such, should be toll free. Any toll on the Sydney Harbour Bridge discriminates against the residents and commerce of the North Shore. Sydney Harbour bridge toll collection impedes traffic flow, wastes time and increases fuel consumption and airborne pollution. As the proposed $1 toll, indexed, will substantially increase costs for many North Shore businesses, jobs will be threatened.

Your Petitioners therefore humbly pray:

That your honourable House will seek the introduction of legislation to abolish the toll on the Sydney Harbour Bridge, as a matter of urgency.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Longley**, received.

Cabarita Ferry

The Petition of citizens of New South Wales respectfully sheweth:

That the citizens of Concord strongly support the representations made by the mayor of Concord, Alderman Peter Woods, supported by Concord council, to have initiated forthwith a ferry service from Cabarita to the city and return as part of the new Parramatta River ferry service. It is to be noted that mayor Woods was able to get the support of the proprietor of Sanders Marina for the ferries to use this wharf on a trial basis, and that Concord council would have set up temporary car parks for the trial period. The Government's previous promises are noted, and it is to be known that the citizens of Concord demand to be fairly treated.

Your Petitioners therefore humbly pray:

That your honourable House will agree to immediately commence a ferry service for Concord.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Zammit**, received.

QUESTIONS WITHOUT NOTICE

BICENTENARY

Mr GREINER: My question without notice is directed to the Premier. In view of recent actions of Aboriginal activists, including the establishment of links with international terrorists and yesterday's protest at Portsmouth, what arrangements are being made to ensure strict security for the major Sydney bicentennial celebrations, particularly for visiting dignitaries? As the Government is partially funding the First Fleet re-enactment, will the Premier pressure the organizers to abandon proposals to fly the Aboriginal flag when the fleet enters Port Jackson, so as not to further inflame the situation?

Mr UNSWORTH: It is difficult to ascertain what interest the Leader of the Opposition has in the bicentenary. After all, he said that the bicentenary was eminently postponable.

Mr Greiner: That is rubbish. I did not say that.

Mr UNSWORTH: He did say that. The Leader of the Opposition now seeks to deceive the Parliament. That is what he said in this House, as recorded in *Hansard.* The Leader of the Opposition said that the bicentenary is eminently postponable.

Mr Greiner: Stop lying.

Mr SPEAKER: Order! Did the Leader of the Opposition say that the Premier is lying?

Mr Greiner: I did.

Mr SPEAKER: I ask the Leader of the Opposition to withdraw that remark.

Mr Greiner: I withdraw.

Mr UNSWORTH: The attitude of the Leader of the Opposition to the bicentenary has been inscribed in *Hansard* for all to see. That is an embarrassment to all honourable members opposite because of the situation with which they are now confronted each time they attend a bicentennial activity in their electorate. Recently I alluded to an incident when the honourable member for Gloucester was nearly reduced to tears. While she was drooling over a model of a bicentennial funded theatre at Taree, I pointed out to those present that in the Parliament she had voted against that proposition.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Gloucester to order.

Mr UNSWORTH: The Leader of the Opposition has the hide to come into this Parliament and talk about the bicentenary. Not satisfied with that, he seeks to create division within Australian society. Implicit in his question is the attitude of Aborigines in Australia towards the bicentennial celebrations. My predecessor made the point quite clear that it could be said that the Aboriginal community has nothing to celebrate in terms of what the bicentenary means. During the past 200 years European settlers have perpetrated indignities on the indigenous Australian, of which all citizens should be ashamed. The Leader of the Opposition is seeking to create division within Australian society.

[*Interruption*]

Mr SPEAKER: Order!

Mr UNSWORTH: Had the Leader of the Opposition been diligent and willing to carry out his responsibilities as a member of the New South Wales Bicentennial Council, he would have realized the importance of the celebrations to all Australians. When the bicentennial organization was established by former Prime Minister Malcolm Fraser, it was said that the bicentenary would be a bipartisan activity in which the oppositions and the governments of the Commonwealth and of each State would co-operate in planning Australia's 200th birthday. At that time the Leader of the Opposition was given the exalted title of vice-president of the bicentennial organization in New South Wales. What has the vice-president done? Nothing. He does not attend the meetings of that council. He takes no interest in the activities of the council. Had he attended the meetings, he would have become acquainted with a fine Aboriginal woman, Joyce Clay, who has attended the council meetings and been diligent in carrying out her responsibilities. She has sought to bring together New South Wales Aboriginal people in the celebrations. She has gone to the Aboriginal

people and assisted with the development of the Aboriginal programs that have been funded by the bicentennial council to ensure that next year when the bicentenary is celebrated the Aboriginal people of this nation will not be left out. Had the Leader of the Opposition been willing to have attended meetings, he would have known this.

[*Interruption*]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr UNSWORTH: But no, the Leader of the Opposition raises issues in this Parliament relating to the activities of this miserable person from Tasmania who visited Libya seeking to create an intolerable situation in our society. The Leader of the Opposition has not bothered to concern himself with the bicentenary celebrations. He has sought to divide and to continue the type of policies that the Liberal Party has introduced in this nation for years.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Dubbo to order.

Mr UNSWORTH: Those policies have set people against one another. The Leader of the Opposition is seeking to set white against black.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Bass Hill to order.

Mr UNSWORTH: The Leader of the Opposition referred also in his question to a protest at Portsmouth. Obviously he is concerned about Portsmouth. He would like to be there. As I have said on a previous occasion he snuggled up to the British Consul-General and scored himself an all expenses paid visit to Portsmouth.

Dr Metherell: Just as Ron Mulock has done.

Mr UNSWORTH: Mr Mulock is representing me and the Government of New South Wales. He is perfectly entitled to be there.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Davidson to order.

Mr UNSWORTH: As I said yesterday, the Leader of the Opposition was on a free lunch at Rothschilds bank yesterday. He thought he would have his nose in a trout in Portsmouth today. That is why he is concerned about Portsmouth. To make matters worse, the honourable member for Lane Cove is representing him. One could not be more poorly represented. Even the Leader of the Opposition is embarrassed about that.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Ryde and the honourable member for Murrumbidgee to order.

Mr UNSWORTH: The Leader of the Opposition is concerned at the prospect of demonstrations in Sydney and throughout New South Wales next year during bicentenary celebrations.

Mr Greiner: Hear! Hear!

Mr UNSWORTH: Did the Leader of the Opposition say "Hear! Hear!"? If the Leader of the Opposition is concerned, why has he not attended New South Wales Bicentennial Council meetings? He should discuss with the council members the planning for next year. He knows nothing about what will happen next year, because he is not the least bit interested.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Bligh to order.

Mr UNSWORTH: I attended council meetings for four years. I am now represented at that council by the honourable member for Ashfield, who has a great interest in bicentennial activities.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Bligh to order.

Dr Metherell: The honourable member for Ashfield is not even here.

Mr SPEAKER: Order! I call the honourable member for Davidson to order.

Mr UNSWORTH: If the honourable member for Ashfield is not in Armidale, he must be attending a meeting of the council. If the Leader of the Opposition is concerned about what is going to happen next year, he should take an interest in the activities of the council and ask the members of the Opposition to support the bicentenary instead of continually complaining in this Parliament about what the Government has done to ensure the success of our 200th birthday. The Government is willing to put on record what it has achieved in its years in office. The Leader of the Opposition may not have been born in Australia, but this is his adopted country and he ought to take an interest in it. He ought to be interested enough to learn of the achievements that the pioneers of this nation have been able to place on record. That is what next year is all about. Next year will be a celebration of the people, by the people, for the people.

[*Interruption*]

Mr SPEAKER: Order!

Mr UNSWORTH: An effective, co-ordinated body has been established to ensure that when celebrations commence next year the community will not be inconvenienced. Last year Australia celebrated the 75th anniversary of the Royal Australian Navy. Even the little admiral sitting opposite was swanning around Sydney harbour that day. I understand that the Leader of the Opposition was a private only, but the little lieutenant sitting beside him should be able to inform him about the 75th anniversary of the Royal Australian Navy.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Oxley to order.

Mr UNSWORTH: There were no cadets at Loreto Convent. The Leader of the Opposition was one of only two boys who attended a girls' school—the Loreto Convent. The organization of the 75th anniversary celebrations of the Royal Australian Navy ensured that the hundreds of thousands who visited Sydney Harbour to witness the great spectacle—

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Davidson to order.

Mr UNSWORTH: The honourable member for Davidson does not know which day it was. That was the day when people went down to see the *Missouri.* The organization that was put into effect on the day of the 75th anniversary of the Royal Australian Navy is in place now, is working, and is well organized. Already I have written to the Governor-General and all State Governors, all State Premiers, the Prime Minister, and to dignitaries throughout Australia, inviting them to come to Sydney to participate in the celebrations on 26th January. I record my disappointment that the Premier of Queensland has another commitment that day and will not attend. If there was potential for anyone being done a disservice, for anyone coming to harm, that has been diminished by the fact that Bjelke-Petersen will not be coming.

The Leader of the Opposition may be assured that the matter he is concerned about, the potential for disputation involving all Australians, whether black, white or in between, will be taken into account by the excellent organization that the Bicentennial Council has already put in place. I am not in a position to say whether the ship coming from Portsmouth will be flying the Aboriginal flag, but I shall make inquiries and inform the Leader of the Opposition at an appropriate time.

NEWCASTLE STATE TAX OFFICE

Mr PRICE: My question without notice is addressed to the Minister for Finance, Minister for Co-operative Societies and Assistant Minister for Education. Will the Minister inform the House whether it is true that the Opposition has called for the establishment of a State tax office in Newcastle? Further, will the Minister inform the House and the citizens of the Hunter Valley how the Hunter region is being served by the State Department of Finance and what is the real situation regarding a State tax office at Newcastle?

Mr DEBUS: It is true that the Leader of the Opposition pledged that a Liberal Party-National Party government would establish a State tax office in Newcastle. He made that statement in the *Newcastle Star* on 6th May. One of the reasons given by the Leader of the Opposition for the establishment of a State tax office in Newcastle is that, "commercial rents are lower in Newcastle than in the central business district in Sydney and there is ready access to a skilled and efficient work force". The Leader of the Opposition appears not to know that for those very reasons operations of the Department of Finance are being decentralized to Parramatta.

The Leader of the Opposition made his election promise in Newcastle after meetings he had in Newcastle with the Newcastle Chamber of Commerce and the northern branch of the Chamber of Manufactures. One would have thought there was ample opportunity at such a meeting for the Leader of the Opposition to get his facts right. I have had the experience in my electorate of the Leader of the Opposition making an announcement to the effect that he would give great assistance to the tourist industry in the Blue Mountains. He indicated that the government of the day, which is this Government, did nothing to help tourism. The reported remarks of the Leader of the Opposition were accompanied by a photograph of him standing in the middle of the foundations of the new hotel at Leura. The Leader of the Opposition consistently puts himself forward as an efficient resource and money manager. He claims that a Liberal Party–National Party government would run the State's economy in a rational and business-like way. I suppose that is why he has been

making promises about a tax office at Newcastle. No doubt the honourable member for Waratah was as surprised as I was at the claim of the Leader of the Opposition. The honourable member for Waratah and the citizens of Newcastle know that Newcastle has had a stamp duties office for some years and that for more than one year Newcastle has had a full regional office of the Department of Finance.

Mr Pickard: That is a sub-branch of the Parramatta office.

Mr SPEAKER: Order! I call the honourable member for Hornsby to order.

Mr DEBUS: The address of that office is 384 Hunter Street, Newcastle, which is just a hop, step and a jump down the road from the Chamber of Manufactures.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Gordon to order.

Mr DEBUS: The Leader of the Opposition made a surreptitious press release yesterday—restricted as I understand to the Newcastle area—in which he made the point that was just made by way of interjection by the honourable member for Hornsby. He said that the Newcastle office is just a small regional office that does not provide all the facilities available in the city. The fact is that that office provides the full range of services of the Department of Finance and it services the whole area from Gosford to the Queensland border. If the Leader of the Opposition reads page 25 of the recently tabled annual report of the Department of Finance, he will see under the heading "Newcastle Regional Office" that revenue collected through that office in 1985–86 was $42 million and that local business and professional groups, including the Newcastle Chamber of Commerce, the Newcastle Law Society, the Society of Accountants, and many other professional groups were consulted prior to the establishment of that office and that liaison with those groups is maintained regularly.

The interview reported in the *Newcastle Star* of the Leader of the Opposition's undertaking to provide a Department of Finance office at Newcastle—and there already was an office at Newcastle—was an attempt to show that the Opposition would not neglect the Hunter region. There was never any better evidence that the Leader of the Opposition knows almost nothing about the Hunter region. By the very evidence of his promise, he is continuing to neglect that area. I shall give the Leader of the Opposition a bit of help. I inform him that the Government is planning to establish a full regional office of the Department of Finance at Wollongong towards the end of this year. I should like to be charitable to the Leader of the Opposition to this extent by saying that perhaps when he made his absurd election pledge for Newcastle he thought he was in Wollongong and not Newcastle. Perhaps he thought he was taking the XPT to Wollongong. We do not want the Leader of the Opposition or his successor to call on the Unsworth Government at the end of next year to establish an office in Wollongong when an office has already been in existence for twelve months.

ELECTRICITY TARIFFS

Mr W. T. J. MURRAY: My question is addressed to the Minister for Industry and Small Business and Minister for Energy and Technology. Did he advise the local government energy conference at Armidale that he had received a report on the proposed increase in bulk electricity tariffs? For what reason has the Minister withheld the information from county councils about tariff increases and from what date they will apply? Is it a fact that consumers living in cold climates such as Armidale, Glen Innes, Tenterfield and Walcha face significant increases this winter in their already high electricity bills—increases that many pensioners have not budgeted for?

Mr COX: I shall not again go through the details of electricity tariffs. I am getting weary of educating the National Party on this matter. I did open the energy conference at Armidale and indicated that I expected to have the report this week from the Tariff Review Committee. My understanding is that I shall receive that report tomorrow. The Leader of the National Party said that people in the Armidale electorate had been hard hit. He did not say that some years ago the Labor Government established the Electricity Distribution Fund and as a result for last year alone country areas of New South Wales received electricity subsidies of $25 million. Also he did not say that the electricity council of the Armidale electorate received a subsidy last year of $670,000. The year before, it received more than $400,000.

So that the Leader of the National Party on his return to Armidale can give the good news to the Armidale residents he may tell them—and I shall be telling them this on Tuesday—that they will get more than $670,000 under the new arrangement. The Leader of the National Party also mentioned pensioners. I inform him that the Government will take care of pensioners in Armidale. The Leader of the National Party did not say that 9 000 domestic customers in the Armidale electorate—because of the Government's equalizing arrangements—have not had an increase in electricity tariffs for more than two and a half years. The coalition parties were in office for a long time and never made any steps to equalize electricity tariffs. Because of the Government's decision to equalize tariffs if there are to be any increases in electricity tariffs for Armidale consumers, under the new arrangements they will be marginal.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Gordon to order.

Mr COX: Opposition members are completely silent because they know the Government has taken positive action to improve energy charges in rural New South Wales. It was a Labor Government that introduced a common rate of industrial high voltage tariffs. Large industrial consumers in this State are at no disadvantage in regard to electricity tariffs. The Government is continuing a process of attempting to equalize tariffs throughout New South Wales. The Leader of the National Party did not mention that the Government has introduced a baseline scheme enabling disadvantaged people to meet electricity bills. This year alone more than $2.5 million will be spent on that scheme.

The Leader of the National Party did not mention that the Government has introduced the Community Advisory Retrofitting Energy Service which conducts an energy audit of homes with high electricity bills, so people can be assisted to save electricity. The Leader of the National Party did not mention that the Government had introduced the off-peak hot water system scheme under which consumers are given a $100 interest-free loan. He did not mention

those things because that would kill the story. I hope the Leader of the National Party continues to ask me questions about rural energy charges.

ALDERMANIC ALLOWANCES

Mr QUINN: I direct my question without notice to the Minister for Local Government and Minister for Water Resources. Will the Minister inform the House of progress made by the Department of Local Government in a review of aldermanic allowances? Is the Minister aware of the position adopted by the Opposition on this matter?

Mrs CROSIO: The honourable member's question is timely. I wish to inform the House what has been occurring in relation to fees for local government service. Since assuming responsibility for local government in February last year, I have received many representations from metropolitan and rural councils on this matter. As honourable members know, attendance fees for council members were first set in 1963 at a level of $15 a day, up to a maximum of $500 per annum. The next increase in fees was effective from January 1981 when they were increased to their present level of $30 a day with a maximum of $1,000 per annum. For some time it has been apparent that those fees are nowhere near the real costs borne by individuals who are elected representatives of councils.

The review referred to by the honourable member for Wentworthville was initiated by me to ascertain what increases, if any, should be made to the allowances. That review canvassed a wide range of options and addressed the many related issues that need to be considered when making recommendations on this matter. Following the extensive review by the Department of Local Government, Cabinet this week accepted a proposal to allow councils to increase the fees paid to their elected members. The new decision, which will be effective from the September council elections, will allow councils to pay members up to $60 a meeting, with a maximum of $3,000 per annum. This proposal provides councils with the discretion to set a reasonable daily meeting fee, with increased daily and annual limits which recognize the real costs that can be incurred by council members. In addition, a further amendment will be made to enable the town or shire clerk to authorize payments of fees and reimburse expenses. This change will significantly streamline administrative procedures.

It is worth noting that these increases will not fully reimburse a moderately busy elected member for various expenses incurred. However, I have consistently maintained that the basis of local government service has always been its voluntary nature. Consequently, the fees paid have been in the nature of compensation for out-of-pocket expenses and personal time lost rather than a reward or wage for work performed, or compensation for wages lost. Central to the concept of local government is that members serve in a voluntary capacity, and their concern for and knowledge of the local community provides them with a unique opportunity to serve and improve that community. In determining this latest fee increase, I wish to make it clear that this philosophy, in which I and the Government have always believed, will continue. The increase will provide a reasonable basis to adequately compensate council members for their voluntary involvement in local government.

In answer to the second part of the honourable member's question, I am aware of statements attributed to Opposition members on fees for council members. It is important that we examine those statements in the context of what the Leader of the Opposition is reported to have said in the *Sydney*

Morning Herald recently. When questioned on the future of the coalition in New South Wales, the Leader of the Opposition said, among other things:

> . . . the continuation of the Coalition in its present rock solid state is the way to maximise the non-Labor vote. And that is the way we are going to go. We will not have any differences on any significant matter.

So said the Leader of the Opposition. I am sure he considers the question of whether council members should receive fee increases to be a significant matter.

[*Interruption*]

Mrs CROSIO: The Leader of the Opposition should not laugh too much as there appears to be a difference of opinion on where the coalition stands on this matter. I have a copy of the minutes of the 1986 annual general meeting of an important regional local government group, the Western Sydney Regional Organisation of Councils, held on 12th December, 1986. The minutes record an alderman asking the Leader of the Opposition whether the Liberal Party would be willing to consider increasing the present aldermanic allowance of $1,000 a year. The Leader of the Opposition is quoted as saying that he saw no reason not to increase the allowance. In February, just two months later, the rather inexperienced Opposition spokesman on local government, the honourable member for Goulburn, issued a media release under the heading "National News"—which was rather foolishly put together—arguing a case for leaving aldermanic fees at their present level. In that release the spokesman for this supposedly rock solid Opposition called on the State Government to resist mounting pressure to increase yearly payments to aldermen. The Opposition spokesman made the following claim:

> Once the precedent of increased allowances to aldermen and councillors has been established, then it won't be long before they are seeking to become full-time, fully-paid local government politicians.

I must say—and I am sure most reasonable understanding people in local government would agree—that I disagree with the honourable member for Goulburn. Apparently the Leader of the Opposition also disagrees with the honourable member. I ask the Leader of the Opposition and the honourable member for Goulburn, for the information of the House and the people in the gallery, whom we should believe. We are talking about a rock solid coalition; we are talking about one side laughing at the other; we are talking about statements, made two months apart, in direct contradiction of statements by the Leader of the Opposition that the coalition will survive in New South Wales because it will speak with one voice on policy matters.

[*Interruption*]

Mr SPEAKER: Order! I ask the honourable member for Davidson to resume his seat.

Mrs CROSIO: The least that the Liberal Party and National Party could do is to tell each other when they will determine or promote so-called rock solid policies. They should have the integrity to inform the people of New South Wales through this House exactly where they stand on their policies and directions. That statements issued by the Leader of the Opposition should be countermanded by the so-called spokesman on local government within two months does not show a united coalition on rock solid proposals.

LEGIONNAIRE'S DISEASE

Mr COLLINS: I address a question without notice to the Minister for Health. Is the Minister aware of departmental reports commissioned by his predecessors warning of the dangers of the presence of Legionnaire's disease in New South Wales hospitals? What special precautions were taken after the Minister's predecessor promised action in 1984, and were the recommendations made by an interdepartmental committee three years ago carried out?

Mr ANDERSON: I should have thought that the Deputy Leader of the Opposition would have raised the issue of Legionnaire's disease much earlier than he has. He has not seen fit to do that. I should have thought he would have raised the matter in a different way.

[*Interruption*]

Mr ANDERSON: It is no wonder the ratings of the Opposition are dropping.

Mr Collins: Get on with it.

Mr ANDERSON: I will get on with it. In view of the extensive information that was conveyed yesterday to the public of New South Wales, particularly those living and working in the Illawarra area, I should have thought it likely that the Deputy Leader of the Opposition would have raised the question earlier. It is important to note the different attitude of members on this side of the House. You, Mr Speaker, the honourable member for Heathcote and the honourable member for Kiama have been speaking with me constantly on the matter of the legionella outbreak and its consequences for those who live and work in the Illawarra in an attempt to ensure that appropriate action is being taken on the matter. But what do we have from the Opposition? Its only contribution on this matter is to ask me about reports to my predecessors.

Mr Collins: That is what question time is all about.

Mr ANDERSON: I know what question time is about.

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr ANDERSON: It is significant that the Deputy Leader of the Opposition does not raise issues affecting the people of Wollongong at the present time. He does not acknowledge what is being done at the present time, and does not acknowledge that the Department of Health has adopted, and continues to adopt, the policies established by the National Health and Medical Research Council. I am not familiar with every report that has been presented to my predecessors. Because of the effects of the legionella bacillus and the consequent outbreak of atypical pneumonia in the past week or so, I have been concerned to ensure that the Department of Health, in the interests of the health of the people of that region, was taking appropriate action. I issued a press release on this matter yesterday. I thank members of the press gallery for the responsible way they reported the facts that I made available.

In that press release I gave a considerable amount of technical information about the outbreak in Wollongong, and said the circumstances were changing from day to day. However I added that at the very point at which I had become aware of the situation, the Chief Health Officer, Dr Adams, had been actively involved in monitoring that situation and the responses that the Department of Health was making. Indeed, he sent a team of experts to Wollongong. They remain in Wollongong. We have acquired the assistance of

an internationally recognized expert. We have the involvement of officers of the Department of Public Works. We have co-operation from the local council and from local industry and commerce. Indeed I believe we have the co-operation of the people of Wollongong, which is to be applauded. All those things need to be kept in mind. Dr Adams, having attended a major meeting on another matter in Canberra yesterday, is going to Wollongong today to see what is happening. I think I know where the Deputy Leader of the Opposition is heading with his question. In the early days of detection of this disease it was suggested that Wollongong hospital was responsible for the legionella bacillus being in the airconditioning unit.

[*Interruption*]

Mr ANDERSON: He certainly would like it to be so. The airconditioning unit at the hospital has been checked regularly. The Health Department has circularized people with water coolers and airconditioners about the need for regular cleaning and the like. It is significant that the issue was raised in the House in the way in which it was. I have said that I would act in this matter in accordance with the expert advice available to me through the Department of Health and the experts assisting the department on this particular issue. I propose to do so again. I conveyed information to the public through my press release yesterday to ensure that the New South Wales public and particularly those in the Illawarra region are aware of the most up to date information and are provided with the results of the activities of the Health Department and others up to that time.

The Deputy Leader of the Opposition and the people of this State can be assured that, at the earliest opportunity after I receive reports from the experts involved in the investigations down there, I will act upon those reports. I have already mentioned the activities and concerns of Mr Speaker, the honourable member for Heathcote and the honourable member for Kiama. Just this morning the honourable member for Albury, whose renown spreads far beyond the borders of this State, came to me about this matter and made some suggestions about ensuring the health of those beyond the boundaries of Wollongong. In particular he mentioned Albury. Those are the types of attitudes expressed by those on this side of the House. Compare those attitudes with the infantile, point-scoring exercise undertaken by the Deputy Leader of the Opposition today. I assure the House that if as a result of the investigations in Wollongong—

[*Interruption*]

Mr ANDERSON: If the Deputy Leader of the Opposition is patient I will conclude my answer and he may then ask another question. It is significant that he has not asked me a question about the anti-heroin campaign. Not one word of support for that campaign has been heard from the Opposition.

Mr Collins: Is the Minister allowing supplementary questions now?

Mr ANDERSON: It is not for me to allow them. I am quite happy if the Deputy Leader of the Opposition wants to ask me a question on that subject. In fact I should be delighted if he asked me a question on that and a number of other issues. I should like the honourable member for Mosman to ask me a question about the anti-heroin campaign. Yesterday he issued a press release, but it did not get a run. No wonder he was late in arriving at the House this morning; he must have been caught up on the bridge. I anticipate that, at the conclusion of the investigations and of the activities undertaken by the department in the Wollongong area, recommendations will be made to me. The

House can accept my assurance that when and if such recommendations are made to me, I will be acting promptly on those recommendations. The Deputy Leader of the Opposition through his question has directed my attention to some reports to my predecessors, but he has not identified those reports. He has my assurance that I will examine the matter. However, my first priority on the issue of legionnaires disease in the past few days, and certainly until the matter is resolved, has been and will be in protecting the health of the people of Wollongong.

TOURIST ACCOMMODATION

Mr DAVOREN: I direct a question without notice to the Minister for Sport and Recreation, Minister for Racing and Minister for Tourism. In view of the fact that a State tourism development study released last week found a growing shortage of tourist accommodation in Sydney, what action is the Government taking to address the problem?

Mr CLEARY: It is a fact that there is a shortage of tourist accommodation in New South Wales and in Sydney in particular. Doubtless the reason for that is that New South Wales, and Sydney in particular, are regarded as prime destinations for overseas and interstate tourists. The statistics would support that. Some 35 per cent of interstate tourists come to New South Wales, compared with 29 per cent going to Victoria and 19 per cent to Queensland. Some 53 per cent of overseas visitors come to New South Wales through Sydney airport, with 73 per cent of overseas and domestic tourists visiting New South Wales via Sydney airport.

Last year the Premier established a development council, comprising some New South Wales Ministers and individuals in private industry. Consequent to the establishment of that council I set up a task force to consider Sydney's tourist needs. The task force comprised individuals in the tourist industry. Last week, at a function in the parliamentary theatrette, the task force released a report, which has been accepted by the Government. The report has been somewhat critical about some aspects of the Government's attitude to the development of tourism in New South Wales. However, to the Premier's credit, he has accepted those criticisms. The report outlined certain steps that should be taken.

I am pleased to advise that since the release of the report, the number of tourist beds in the Sydney region, either planned for development or soon to be completed, has increased by 1 879. That increase is part of a development program that is planned to provide, during the next five years, an additional 8 074 rooms. That will ensure that New South Wales will be able to accommodate the increased tourism that the Australian Tourism Commission suggests will occur. That commission has said that New South Wales tourism will increase by 17 per cent. That increase will result in a considerable amount of additional revenue to the State, increased employment and the stimulation of our economy.

The task force report suggests that if tourism in New South Wales can be increased by 10 per cent, an additional $700 million will be spent in the State, and an additional 13 000 jobs created. The report also refers to education. I am pleased that the Minister for Finance drew attention to remarks made by the Leader of the Opposition at a function in the Blue Mountains at the Fairmont Resort—a development approved by this Government. The Leader of the Opposition not only said what the Government was not doing for tourism, but also said there was a need for hospitality education resources

within New South Wales. Since then I am delighted to have been informed by the Minister for Education that the New South Wales Department of Technical and Further Education has an enrolment of 12 000 students in hospitality courses throughout the State. Obviously there is a considerable demand for those courses, and the Government is making a conscious effort to ensure that it achieves increased tourism, and the resultant benefits to the State. The provision of those courses will ensure that the tourist industry will have available employees who are capable of servicing tourists to this State.

I suggest that all honourable members look at this report and consider the potential and the advantages of tourism to this State. Tourism is our greatest growth industry. It is worth $7 billion annually to New South Wales, and provides employment for 130 000 people, a figure that is continually escalating. The Government is not standing still with its promotion of tourism. Nor is it confining its attention to the Sydney metropolitan area. The Minister for Planning and Environment has released an environmental plan for the North Coast. That is linked with a strategy plan that my department has released. It identifies areas of land from Tweed Heads to Newcastle that can be developed for tourism. However, both the report of the task force and of the Australian Tourism Commission emphasize that any sites that are identified for tourism development must meet strict conditions of the Planning and Environment Assessment Act, as well as those of local councils.

The Government will not allow tourism in New South Wales to explode to the extent that it has on the Gold Coast, which has become a concrete jungle. Any development that takes place on the New South Wales North Coast, south coast or in the metropolitan area will be controlled by strict environmental assessment and local council guidelines. Any development that is approved must conform with the environment and amenities of the local area, whether it be a bungalow style or multi-storey development. The Government will not allow an upsurge of tourism in New South Wales to diminish purely because of a lack of beds. The Government will do all that it can to ensure that development applications, having met the necessary conditions, will be expedited through the right channels and that developers will be allowed to get on with providing necessary facilities.

ADDITIONAL SITTING DAYS—HOURS OF SITTING

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [11.26]: I move:

> That this House shall meet for the despatch of business on Wednesday, 27th May, 1987, at 10.30 a.m., and on Friday, 29th May, 1987, at 10.30 a.m.

Question put.

The House divided.

Ayes, 53

Mr Akister	Mr Face	Mr Neilly
Mr Amery	Mr Ferguson	Mr Paciullo
Mr Anderson	Mr Gabb	Mr Page
Mr Aquilina	Mr Harrison	Mr Petersen
Mr K. G. Booth	Mr Hatton	Mr Price
Mr Brereton	Mr Hills	Mr Quinn
Mr Carr	Mr Hunter	Dr Refshauge
Mr Cavalier	Mr Irwin	Mr Rogan
Mr Christie	Mr Knowles	Mr Sheahan
Mr Cleary	Mr Langton	Mr Shedden
Mr R. J. Clough	Mr McGowan	Mr Unsworth
Mr Cox	Mr McIlwaine	Mr Walker
Mr Crawford	Mr McManus	Mr Walsh
Mrs Crosio	Mr Mack	Mr Whelan
Mr Davoren	Mr Mair	Mr Wilde
Mr Debus	Mr H. F. Moore	*Tellers,*
Mr Doyle	Mr Moss	Mr Beckroge
Mr Duncan	Mr J. H. Murray	Mr Wade

Noes, 31

Mr Armstrong	Mr Hay	Mr Pickard
Dr Aston	Mr Jeffery	Mr Schipp
Mr Baird	Mr Kerr	Mr Small
Mr Beck	Mr Longley	Mr Smiles
Mr J. D. Booth	Miss Machin	Mr Webster
Mr Causley	Dr Metherell	Mr Wotton
Mr Collins	Mr T. J. Moore	Mr Yabsley
Mr Cruickshank	Mr W. T. J. Murray	
Mr Fahey	Mr Owen	*Tellers,*
Mr Fisher	Mr Park	Mr Phillips
Mr Greiner	Mr Peacocke	Mr West

Pairs

Mr Keane	Mr Caterson
Mr Mulock	Mr Dowd

Question so resolved in the affirmative.

Motion agreed to.

DECLARATION OF URGENCY

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [11.32]: I declare that the following bills are urgent:

Sydney Harbour Tunnel (Private Joint Venture) Bill
State Roads (Sydney Harbour Tunnel) Amendment Bill
Miscellaneous Acts (Sydney Harbour Tunnel) Repeal and Amendment Bill
Darling Harbour Authority (Amendment) Bill

Mr T. J. Moore: On a point of order. A number of members have sought to obtain copies of the bills; they are not available.

Mr Brereton: That is not true.

Mr T. J. Moore: Sessional orders require that bills be available and circulated to honourable members.

Mr Brereton: The bills were circulated.

Mr T. J. Moore: Attempts were made by honourable members this morning to obtain copies of the bills, but they are not available.

Mr SPEAKER: Order! The honourable member for Gordon has said that copies of particular bills are not available. I am informed that copies are available.

Question—That the bills be considered urgent—put.

The House divided.

Ayes, 50

Mr Akister	Mr Face	Mr Paciullo
Mr Amery	Mr Ferguson	Mr Page
Mr Anderson	Mr Gabb	Mr Petersen
Mr Aquilina	Mr Harrison	Mr Price
Mr K. G. Booth	Mr Hills	Mr Quinn
Mr Brereton	Mr Hunter	Dr Refshauge
Mr Carr	Mr Irwin	Mr Rogan
Mr Cavalier	Mr Knowles	Mr Sheahan
Mr Christie	Mr Langton	Mr Shedden
Mr Cleary	Mr McGowan	Mr Unsworth
Mr R. J. Clough	Mr McIlwaine	Mr Walker
Mr Cox	Mr McManus	Mr Walsh
Mr Crawford	Mr Mair	Mr Whelan
Mrs Crosio	Mr H. F. Moore	Mr Wilde
Mr Davoren	Mr Moss	*Tellers,*
Mr Debus	Mr J. H. Murray	Mr Beckroge
Mr Doyle	Mr Neilly	Mr Wade

Noes, 34

Mr Arkell	Mr Hatton	Mr Peacocke
Mr Armstrong	Mr Hay	Mr Pickard
Dr Aston	Mr Jeffery	Mr Schipp
Mr Baird	Mr Kerr	Mr Small
Mr Beck	Mr Longley	Mr Smiles
Mr J. D. Booth	Miss Machin	Mr Webster
Mr Causley	Mr Mack	Mr Wotton
Mr Collins	Dr Metherell	Mr Yabsley
Mr Cruickshank	Mr T. J. Moore	
Mr Fahey	Mr W. T. J. Muray	*Tellers,*
Mr Fisher	Mr Owen	Mr Phillips
Mr Greiner	Mr Park	Mr West

Pairs

Mr Keane	Mr Caterson
Mr Mulock	Mr Dowd

Question so resolved in the affirmative.

Declaration of urgency agreed to.

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) BILL

ELECTION FUNDING (AMENDMENT) BILL

Formal stages and first reading agreed to.

Second Reading

Mr UNSWORTH (Rockdale), Premier, Minister for State Development and Minister for Ethnic Affairs [11.38]: I move:

That these bills be now read a second time.

The purpose of these bills is to amend the Parliamentary Electorates and Elections Act 1912 and the Election Funding Act 1981 to enhance uniformity between State and Commonwealth electoral legislation and, in particular, to enhance the efficient administration of this State's electoral laws. Before I turn to a detailed analysis of the provisions of the bills, I should like to indicate that the basis of these proposals results from: reforms implemented by the Commonwealth as a result of the inquiries and recommendations of the first report of the Commonwealth Joint Select Committee on Electoral Reform; and considerations of administrative efficiency and effectiveness which have been identified by the New South Wales Electoral Commissioner.

I turn now to some of the more important features of the Parliamentary Electorates and Elections (Amendment) Bill so that honourable members will be aware of the extent to which the proposals outlined in the bill will assist the voters in this State. Many of the clauses of the bill are directed to the purpose of maintaining the joint Commonwealth and State electoral roll agreement. Failure to maintain uniformity with the Commonwealth would cause considerable confusion to electors. The confusion would arise from differing qualifications for enrolment and the loss of protection to be afforded to certain voters. The provisions of the bill will make it easier for people to enrol and to stay on the roll.

[*Interruption*]

Mr SPEAKER: Order! I ask honourable members to reduce the level of audible conversation.

Mr UNSWORTH: In order to ensure that all people entitled to vote are able to do so, the rolls to be used at an election will remain open for three days after the issue of the writ for that election, rather than closing at 6 p.m. on the day of the issue of the writ, as is at present the case. Young persons will be able to claim provisional enrolment at seventeen years of age and become fully enrolled when they turn eighteen without being required to complete any further claim for enrolment. This provision will ensure those persons the right to vote on reaching their eighteenth birthday in circumstances where they turn eighteen years of age after the rolls to be used at an election have closed and up to or on polling day.

Also the bill will enable electors temporarily living overseas to retain their enrolment, irrespective of whether they have a current address in New South Wales. This proposal will ensure that such people have the opportunity of remaining on the roll and not be prevented from voting. This entitlement will have particular benefit for those persons employed in the services and their families. Also the bill brings the State legislation into line with Commonwealth legislation by providing for the enrolment of itinerant electors, that is, persons otherwise eligible to vote but not having a real or fixed place of living. Persons

under this category may be travelling, or away from their home base, for an extended period because of their employment.

Provision has also been made to enable those electors who are or are likely to be working in Antarctica to be eligible to vote as Antarctic electors. A system of silent enrolment will be introduced. This will permit electors who consider that the publication of their addresses on the publicly available electoral roll would endanger the personal safety of themselves or their families to make a request that their addresses not appear, or be deleted from the roll. Requests for silent enrolment will be required to be accompanied by particulars of the relevant risk and will have to be verified by a statutory declaration.

The bill also provides for a system of registered postal voters. A register will be established so that people unable to attend a polling place for certain specified reasons may be sent an application for a postal vote as soon as an election is announced. The conditions for an elector being eligible to be registered include: distance from nearest polling place; patient in a hospital; infirm or incapacitated person. These arrangements will assist electors who cannot obtain a postal application form and ballot paper without considerable inconvenience. Provision is also made to extend the system of postal and pre-poll voting. Under these provisions the Electoral Commissioner will be empowered to appoint places for pre-poll voting. This will enable the Electoral Commissioner to provide further assistance to voters in country electorates who would otherwise be required to travel long distances to the office of the returning officer to make a pre-poll vote.

The bill makes provision for the introduction of a penalty notice system to replace the present legislative provisions dealing with persons who fail to vote. The present system has proven to be cumbersome and administratively costly. The bill will bring the existing system into line with penalty notices issued under the Justice Act. This system is already in use in connection with minor offences under various statutes including the Motor Traffic Act, and Local Government Act. In addition, the bill provides ample safeguards for those persons who have valid reasons for not being able to vote on polling day.

Various penalties under the Act have been increased to bring them into line with comparable Commonwealth penalties for similar offences. Where a corresponding offence does not arise under the Commonwealth Act, the penalty for the New South Wales offence has been increased in a manner that is consistent with the approach adopted in relation to penalties. A further feature of the bill enables voting procedures to be varied so that an elector will be able to vote as an ordinary voter at any polling place within that person's subdivision. This measure will obviate the necessity for electors making out an absent vote when voting in their own electoral district.

The bill will also assist electors with physical disabilities. At present an elector must sign their claim for enrolment or transfer with their personal signature. The bill will enable a person to sign on behalf of a disabled person, provided a registered medical practitioner has certified in writing the person's disability. A number of matters dealt with in the bill concern the nomination of candidates. First the bill provides that if a candidate who has been nominated by a political party dies before the close of nominations, the nomination period is extended by one day. This will ensure there is sufficient time for a party to organize for the nomination of a replacement candidate to represent that party's interest.

It has become obvious in recent by-elections that for a nominal sum, people have been abusing the democratic process and obtaining as much publicity as possible at little cost. Accordingly, the bill makes provision for an increase in the deposit required for the nomination of candidates. For nomination to the Legislative Assembly the deposit will be increased from $100 to $500, and for nomination to the Legislative Council the deposit will be increased from $200 to $750. In addition the number of nominators for a Legislative Assembly candidate will be increased from six to thirty and in the case of legislative council candidates from six to fifteen.

The bill also authorizes returning officers to reject nominations where it is clear that a candidate is not enrolled for any electoral district in the State. These measures are designed to stop frivolous nominations that result in the voting public being misled and the consequential waste of taxpayers' moneys in printing ballot papers and preparing for an election. It is the Government's intention that these provisions will reduce the incidence of candidates who nominate purely for monetary gain or personal prestige or who have no intention of proceeding with their candidature. As an additional safeguard the bill proposes a system for ensuring that how-to-vote cards do not mislead the public. All how-to-vote cards issued on polling day will be required to have been previously registered with the Electoral Commissioner. The commissioner will be empowered not to register how-to-vote cards that do not meet certain criteria. This includes where: the how-to-vote card does not have the authority of the particular candidate's or party's official representatives; the material contains suggestions as to party or group affiliations which are likely to mislead or improperly interfere with the casting of a person's vote.

Also the Government is concerned that political parties should be able to field candidates at an election, secure in the knowledge that unscrupulous persons or organizations will not be able to use the name of these parties for personal advantage. Accordingly, it will be an offence for any person to print, publish or distribute any electoral matter: that is intended or likely to mislead an elector because of the way in which it uses the name, of a party included in the register of parties kept under the election Funding Act; or uses the word independent in conjunction with such a name or form of name in a way that suggests or indicates an affiliation with a registered party. For example, it would be an offence for any person to issue electoral matter under the name Independent Labor, Independent Liberal or Independent National or similar to the name of any other party registered under the Election Funding Act. However, it will still be possible to issue electoral matter incorporating the word independent provided that it does not infringe on the name of any registered party.

I turn now to the provisions of the Election Funding (Amendment) Bill. I indicate that in addition to the matters raised in relation to uniformity with the Commonwealth, it is proposed that the Election Funding Act be amended to make it clear that donations that are made on the condition that they are to be used for purposes other than electoral expenditure related to an election are not required to be disclosed. That will bring New South Wales legislation into line with Commonwealth legislation. Under the Commonwealth provisions a donation made upon condition that it is used solely, for example, for the administrative purposes of the party and not for a Commonwealth election is not required to be disclosed. The threshold limits set in 1981 above which a contribution to a party, group or candidate is required to be disclosed have been increased. For a party or group the increase is from $1,000 to $2,500, for a candidate the increase is from $200 to $500. In addition the opportunity has been taken to bring the provisions concerning the register of parties more into

line with the Commonwealth provisions. In summary, the bills essentially provide for uniform voting procedures between the State and the Commonwealth and provide for a number of mechanisms that will assist the efficient administration of electoral laws in this State. I incorporate additional explanatory material for the benefit of honourable members. I commend these bills.

Parliamentary Electorates and Elections (Amendment) Bill

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 states that the Parliamentary Electorates and Elections Act 1912 is referred to in the proposed Act as the Principal Act.

Clause 4 is a formal provision which gives effect to the Schedule of amendments to the Principal Act.

Clause 5 is a formal provision which gives effect to the Schedule of savings and transitional provisions.

Clause 6 amends the Justices Act 1902 in a manner that applies the follow up and enforcement provisions of that Act to penalty notices served on persons who fail to vote at an election under the Principal Act.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

Schedule 1 (1) is an amendment by way of statute law revision.

Schedule 1 (2) amends section 3 of the Principal Act—

(a) to insert definitions of "Antarctic elector", "Commonwealth Act", "Commonwealth subdivision", "Eligible overseas elector", "Itinerant elector" and "Real place of living";

(b) to transfer from section 22 to section 3 of the Principal Act certain definitions; and

(c) to include in section 3 a referential provision at present contained in section 26 of the Parliamentary Electorates and Elections (Amendment) Act 1928.

Schedule 1 (3) substitutes section 20 (Qualification of electors) of the Principal Act so that the requirements for entitlement to be enrolled as an elector in New South Wales will be the same for New South Wales and Commonwealth elections. In particular, proposed section 20 provides—

(a) that an elector whose name is on the roll for a subdivision will (subject to sections 20 (3) and (4) and 21) be entitled to vote at any election for the assembly;

(b) that a person who is provisionally enrolled under proposed section 33A will not be able to vote unless the person has turned 18 on the day for taking the poll for an election; and

(c) for categories of electors other than Antarctic electors, eligible overseas electors, and itinerant electors (proposed sections 20A–20C and 154AD), for a new residential requirement of 3 months residence in a subdivision as a real place of living (instead of 6 months continous residence in Australia and one month in the subdivision).

Schedule 1 (4) inserts proposed sections 20A–20C to expand the categories of persons entitled to be enrolled by including those categories entitled to be enrolled under the Commonwealth Electoral Act 1918:

Proposed section 20A (Enrolled voters leaving Australia) provides that any person enrolled and noted on the Commonwealth electoral roll in New South Wales as an eligible overseas elector will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act. An "eligible overseas elector" is an enrolled elector temporarily living overseas who intends to return to live in Australia within 3 years after departing from Australia.

Proposed section 20B (Eligibility of spouse or child of eligible overseas elector) provides that any spouse or child of an elector enrolled and noted on the electoral roll as an "eligible overseas elector" who has applied for enrolment on the Commonwealth electoral roll in New South Wales from outside Australia upon turning 18 years of age, and who has been enrolled and noted on the Commonwealth electoral roll as an "eligible overseas elector" will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act.

Proposed section 20C (Itinerant electors) provides that any person who is not qualified to be enrolled as an elector only because he or she does not satisfy the subdivisional residential requirement and who has been enrolled and noted on the Commonwealth electoral roll in New South Wales as an "itinerant elector" will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act.

Schedule 1 (5)—

(a) amends section 21A of the Principal Act to provide that the Principal Returning Officer and such other staff as are necessary for the administration of the Act shall be appointed under and subject to the Public Service Act 1979 instead of by the Governor on the recommendation of the Public Service Board; and

(b) authorises the Principal Returning Officer to act in the office of the Electoral Comissioner when that office is vacant.

Schedule 1 (6) repeals section 22 of the Principal Act as a consequence of the insertion of the definitions contained in that section in section 3 of the Principal Act.

Schedule 1 (7) inserts proposed section 23 (4) which will enable the Governor to declare a subdivision to be a remote subdivision. The amendment is ancillary to that inserting proposed section 114AA (Registration of general postal voters).

Schedule 1 (8) amends section 26 so that the roll will not show the residence of the new categories of eligible overseas elector or itinerant elector.

Schedule 1 (9) contains an amendment to section 27 (3) consequential to the amendments relating to eligible overseas electors and itinerant electors. The amendment is necessary because these electors will not be subject to compulsory enrolment and transfer provisions.

Schedule 1 (10) amends section 29 (Printing of districts) so that rolls will in future be printed by district not subdivision. The amendment is consequential to the proposed amendment to section 115 enabling voters absent from the district which includes the subdivision for which they are enrolled to vote in other districts. Consequential amendments for this purpose are made to sections 30, 50, 79, 81B, 89, 97, 100, 106, 114F and 114ZR (Schedule 1 (11), (25), (28), (30), (34), (36), (38), (40), (44) and (52)).

Schedule 1 (11) amends section 30 to provide for the Electoral Commissioner to determine the fee to be paid for purchase of a copy of the roll instead of the fee being prescribed by the regulations.

Schedule 1 (12) amends section 32 (Addition of names to rolls) of the Principal Act—

(a) to enable the names of 17 year olds claiming provisional enrolment to be added to the roll;

(b) to prescribe who may witness a claim for enrolment; and

(c) to provide for enrolment by persons so physically incapacitated as to be unable to sign a claim for enrolment.

Schedule 1 (13) amends section 33 of the Principal Act so the new categories of eligible overseas elector, itinerant elector and Antarctic elector are not subject to the provisions of that section.

Schedule 1 (14) inserts proposed section 33A (Claims for provisional enrolment). The section will enable the provisional enrolment of 17 year olds who are otherwise qualified.

Schedule 1 (15) substitutes section 34 of the Principal Act. Proposed section 34 (Compulsory enrolment and transfer of enrolment) includes provisions—

(a) exempting from compulsory enrolment the persons to whom proposed sections 20A–20C and 33A relate;

(b) specifying the action to be taken by a registrar in relation to a claim for enrolment received by him or her which relates to a subdivision for when he or she has not been appointed as a registrar;

(c) providing that the requirement that an elector notify changes of address within subdivisions within 21 days applies also to persons to which proposed section 38A applies;

(d) increasing the maximum penalty for failure by an elector to notify changes of address within subdivisions within 21 days from $4 to $50 and omitting a continuing offence provision; and

(e) providing that proceedings against a person for non enrolment shall not be instituted against that person after the necessary claim to be enrolled has been sent or delivered.

Schedule 1 (16) repeals sections 35–37 of the Principal Act and substitutes proposed section 35 (Registration of claims) to ensure consistency with section 102 of the Commonwealth Electoral Act 1918. The proposed section includes provisions—

(a) requiring a registrar, on receiving an enrolment or transfer claim to take necessary action such as enrolling and notifying the claimant, effecting a deletion in the rolls for the subdivision for which he or she is registrar, giving notice of transfer to other claimants, notifying claimants that they are already correctly enrolled and notifying claimants that their claims have been rejected;

(b) requiring a registrar, on receiving notice from another registrar of a transfer of enrolment, to delete the elector involved from the relevant roll;

(c) requiring a person whose claim is rejected to be informed of the reasons for his or her rejection and right to appeal to a Local Court;

(d) providing that a claim under section 34 received between 6 pm on the day that is 3 days after the issue of the writ and the close of polling for an election will not be considered until after the close of polling; and

(e) providing for the removal of a name from the roll at any time pursuant to a notification of transfer from a registrar.

Schedule 1 (17) inserts proposed section 38A (Request for residence not to be shown on roll). Persons who consider the publication of their residential addresses on the roll would endanger the personal safety of themselves or their families, may have granted a request made to the registrar that their residential address not appear on, or be deleted from, the roll. Such a request would have to be accompanied by particulars of the relevant risk and be verified by statutory declaration by the person making the request, or some other person.

Schedule 1 (18) contains an amendment consequential to the amendments relating to provisional enrolment of 17 year olds.

Schedule 1 (19) inserts proposed section 41A (Computer records relating to the roll). The amendment enables the functions of the registrar in maintaining the rolls to be carried out by use of a computerised system approved by the Electoral Commissioner.

Schedule 1 (20) amends section 42 of the Principal Act—

(a) to increase from 50 cents to $2.00 the deposit to be lodged by a person other than an officer objecting to an enrolment; and

(b) to change the ground for forfeiture of the deposit from the objection having been frivolous to the objection having been made without a reasonable belief by the objector that grounds for the objection existed.

Schedule 1 (21) amends section 45 of the Principal Act—

(a) to provide that a notice of objection may be sent to the elector's postal address, place of living known to the registrar or place of residence shown on the roll; and

(b) to enable a frivolous or vexatious objection to be dismissed without giving notice of objection to the person objected to.

Schedule 1 (22) substitutes section 47 (2) and (3) and so repeals the requirement that a sum of $10 be paid to a person objected to if the objection is held to be frivolous. Provision is made instead for notice of the determination of an objection to be given to the objector and person objected to.

Schedule 1 (23) inserts proposed section 47A (Assistant divisional returning officers). The provision is consequent on the appointment by the Commonwealth of assistant divisional returning officers.

Schedule 1 (24), (26) and (27) contain consequential amendments relating to proposed section 33A (Claims for provisional enrolment).

Schedule 1 (28) amends section 75 of the Principal Act to provide for the appointment and termination of appointment of returning officers to be made on the recommendation of the Electoral Commissioner instead of the Public Service Board.

Schedule 1 (29) amends section 79 (Nominations of candidates)—

(a) to make it clear that a candidate must be enrolled as an elector;

(b) to increase from 6 to 30 the number of nominators required to sign a candidate's nomination for election to the Legislative Assembly;

(c) to replace section 79 (5A) of the Principal Act to make it clear that if at the close of nominations for an election for a district a person is nominated for any other district or for both that election and a periodic Council election all the nominations are void;

(d) to require candidates to certify that the place of residence shown on their nomination is correct;

(e) to extend by one day the hour of nomination in the event of the death of a candidate nominated before nominations close;

(f) to increase from $100 to $500 the deposit required to accompany a nomination of a candidate for the Legislative Assembly; and

(g) to provide that a member of the Assembly wishing to contest a vacancy in the Commonwealth Parliament (and wishing to recontest his or her seat if he or she fails at the Federal election) must resign only prior to the hour of nomination instead of 21 days prior to the issue of the Commonwealth writ.

Schedule 1 (30) amends section 81B (Nomination of Council candidates)—

(a) to make it clear that a candidate must be enrolled as an elector;

(b) to increase from 6 to 15 the number of nominators required to sign a candidate's nomination for election to the Council;

(c) to require candidates to certify that the place of residence shown on their nomination is correct; and

(d) to extend by one day the hour of nomination in the event of the death of a candidate nominated before nominations close.

Schedule 1 (31) replaces section 81D (Dual nominations) of the Principal Act to make it clear that, if at the close of nominations for a periodic Council election a person is nominated for that election more than once or for that election and an election for the district, all the nominations are void.

Schedule 1 (32) amends section 81F to increase from $200 to $750 the deposit required to accompany a nomination of a candidate for the Legislative Council.

Schedule 1 (33) amends section 86 to make it clear that writing implements other than pencils may be used to mark ballot-papers.

Schedule 1 (34) amends section 89 consequentially to proposed amendments to section 115 and proposed section 33A.

Schedule 1 (35) amends section 90 (How scrutineers to be appointed)—

(a) to make it clear that the prohibition in section 90 (2) against interfering with or attempting to influence any elector within a polling-booth does not prevent a scrutineer entitled to be present at the polling-booth from wearing or displaying

any badge or emblem of a candidate or political party (proposed section 90 (6)); and

(b) to enable a returning officer or deputy to have a scrutineer who misconducts himself or herself removed from the polling-booth by a police officer.

Schedule 1 (37) repeals section 99 and substitutes proposed section 99 (Questions to be put to voter) and 99A (Person whose residence is not on the roll) which simplify the existing provisions and provide for questions to be put to an elector whose residential address is not on the roll as a consequence of proposed section 38A. The new form of section 99 takes into account the amendments proposed to be made to the Principal Act relating to absent voters, eligible overseas electors and itinerant electors.

Schedule 1 (39) inserts proposed section 103A (Vote of person whose residence is not on the roll) in the Principal Act to make special provision in respect of voting by a person whose residence does not appear on the roll and for the scrutiny of any votes.

Schedule 1 (40) (d) amends section 106 of the Principal Act as a consequence of the proposed amendment to section 35 (4) of the Act.

Schedule 1 (41) amends section 114A (Application for postal vote certificate and postal ballot-paper) of the Principal Act to enable an elector—

(a) who by reason of caring for a person who is seriously ill or infirm or approaching maternity at a place other than a hospital is unable to attend a polling-booth (proposed section 114A (1) (d1)) or who will be at work on polling day (proposed section 114A (1) (g)) to be able to vote by post; and

(b) to enable an elector to sign an application for a postal vote certificate and ballot-paper with his or her mark.

Schedule 1 (42) inserts proposed sections 114AA (Registration of general postal voters) and 114AB (Dispatch of electoral materials to registered postal voters). Proposed section 114AA provides for the registration of prescribed electors as general postal voters on a Register of General Postal Voters established for each subdivision. A prescribed elector is a person who is—

(a) an elector who lives more than 20 kilometres, by the nearest practicable route, from a polling place;

(b) an elector who is a patient in a hospital which is not a polling place or declared institution under section 114ZN;

(c) an elector who though not a hospital patient is, because of serious illness or infirmity, unable to travel from his or her residence;

(d) an elector being kept in prison (within the meaning of the Prisons Act 1952);

(e) an elector enrolled pursuant to a claim under proposed section 32 (3); or

(f) an elector certified by a doctor to be so physically incapacitated as to be unable to sign his or her name.

Proposed section 114AB requires the returning officer for a district, as soon as practicable after the issue of a writ for an election to be held in the district, to deliver or post to each elector registered as a general postal voter by virtue of a claim under section 32 (3) or who, when applying for registration qualified as a prescribed elector under section 114AA (1) (e) or (f), a postal vote certificate printed on an envelope addressed to the returning officer and the appropriate postal ballot-paper.

Schedule 1 (43) amends section 114C (Duty of witnesses) to make it an offence, with a penalty of $1,000, to visit any elector for the purpose of witnessing a postal vote application (proposed section 114C (3)). An exception is made in the case of a witness, previously requested to do so, visiting an incapacitated or seriously ill elector, or an elector approaching maternity, for the purpose of witnessing the elector's application (proposed section 114C (4)). Schedule 1 (43) also contains an amendment to section 114C (1) that is consequential to the amendment to section 114A (1) (b).

Schedule 1 (44) amends section 114F to provide that a returning officer need only number applications for postal vote certificates and postal ballot-papers received by the returning officer in consecutive order by district not subdivision.

Schedule 1 (45) inserts proposed section 114GA (Person claiming to vote, whose name is noted under section 114G) to provide that a person who has been noted as being

a person to whom a postal vote certificate or postal ballot-paper has been issued who claims not to have received, or to have lost, the certificate or ballot-paper, may nevertheless vote. The ballot-paper of such a voter will be dealt with as if the vote were a disputed vote under section 106 of the Principal Act.

Schedule 1 (46) amends section 114H (Directions for postal voting)—

(a) to make amendments consequential to those relating to the General Register of Postal Voters and the proposed amendment to section 114H (1) (f);

(b) to enable an elector to sign a postal vote certificate (in the presence of an authorized witness) with his or her mark; and

(c) to extend the existing provision for an elector who requires assistance to mark his or her postal ballot-paper because he or she is blind to include electors who are otherwise so physically incapacitated or so illiterate that they require assistance to mark their papers. Such an elector may indicate how he or she wishes the ballot-paper to be marked by presenting to the authorized witness a statement in writing (which may be or include a how-to-vote card) specifying the manner in which the ballot-paper is to be marked.

Schedules 1 (47) and 1 (48) amend sections 114J and 114K as a consequence of proposed amendment to section 114H (1) (g).

Schedule 1 (49) amends section 114P (Application for permission to vote before polling day) of the Principal Act to enable an elector—

(a) who, by reason of caring for a person who is seriously ill or infirm or approaching maternity at a place other than a hospital, is unable to attend a polling booth or who will be at work on polling day to apply to make an application to vote before polling day;

(b) to sign an application to vote before polling day with his or her mark;

(c) to omit the requirement that such an application be witnessed by an authorized witness (section 176C of the Principal Act will still require the application to be witnessed by some person);

(d) to extend the period in which such an application may be made by one day; and

(e) to enable any such applications to be made at places and hours appointed by the Electoral Commissioner instead of at the office of the returning officer during the ordinary business hours of that officer.

Schedule 1 (50) provides that an elector may sign a declaration under section 114Q in respect of pre-poll voting by making his or her mark instead of with his or her personal signature.

Schedule 1 (51) amends section 114T to extend the existing provision for an elector who requires assistance to mark his or her ballot-paper under section 114Q because he or she is blind to include electors who are otherwise so physically incapacitated or so illiterate that they require such assistance.

Schedule 1 (52) contains an amendment to section 114X consequential to the repeal of the requirement that an application for a pre-poll vote be witnessed by an authorised witness.

Schedule 1 (53) amends section 114ZA (Application for a postal vote certificate and postal ballot paper) of the Principal Act to provide that an application for a postal vote certificate and postal ballot-paper may be signed by making a mark instead of a personal signature. A consequential amendment is made to section 114ZA (6).

Schedule 1 (54) amends section 114ZD as a consequence of the proposed amendment to section 114H (1) (f).

Schedule 1 (55) makes a consequential amendment to section 114ZR (4) in respect of pre-poll voting at declared institutions.

Schedule 1 (56) amends section 115 (Voting outside district)—

(a) so that electors absent from the district which includes the subdivision for which they are enrolled may vote as absent voters at a polling place in any other district. Persons absent from the subdivision of the district for which they are

enrolled but voting within another subdivision of the same district will, because of the proposed new arrangements for the printing of the rolls by district (section 29), no longer need to vote as absent voters; and

(b) provide for the making of a declaration by such a voter in the form prescribed instead of in the form of Schedule 11.

Schedule 1 (57) substitutes section 117 (Returning officer satisfied to accept ballot paper for further scrutiny) of the Principal Act so that—

(a) if an absent voter's ballot papers are sent to a district other than that for which the voter is enrolled (because when filling out a declaration to vote outside the district a mistake was made in describing the district), ballot papers for the Assembly election will be rejected but those for the Council accepted for further scrutiny; and

(b) if an absent voter's declaration is not attested the accompanying ballot papers may, in specified circumstances, still be accepted for further scrutiny.

Schedule 1 (58) and (59) contain amendments consequential to the proposed substitution of sections 120C-120F.

Schedule 1 (60) substitutes sections 120C-120F of the Principal Act to provide for the service of a penalty notice by the Electoral Commissioner on an elector who fails to vote at an election. The penalty notice would enable the elector to avoid further proceedings (fine $50) by giving sufficient reason for the failure to vote or by paying to the Electoral Commissioner a penalty not exceeding $50.

Schedule 1 (61) and (62) contain amendments consequential to the proposed substitution of sections 120C-120F.

Schedule 1 (63) amends section 129C to facilitate the transmission of ballot papers by enabling all papers used at a polling place to be parcelled together instead of requiring all ballot papers to be parcelled together by polling booth at the polling place.

Schedule 1 (64) amends section 151A of the Principal Act to make it an offence to print, publish or distribute electoral matter—

(a) that is intended or likely to mislead an elector because of the way in which it uses the name or a form of the name of a party included in the Register of Parties kept under the Election Funding Act 1981; or

(b) using the word "Independent" in conjunction with such a name or form of name in a way that suggests or indicates an affiliation with the party.

Schedule 1 (65) provides that it is not an offence under section 151B of the Principal Act to post up or exhibit a poster on or at the electoral office of any member.

Schedule 1 (66) inserts proposed section 151F (Distribution of electoral matter on polling day) and 151G (Registration of electoral matter). Proposed section 151F makes it an offence to distribute any electoral material in the nature of a "how-to-vote" card unless the material is registered by the Electoral Commissioner in accordance with proposed section 151G.

Proposed section 151G establishes a system for the registration of electoral material by the Electoral Commissioner. The Electoral Commissioner will not register electoral material—

(a) that contains directions or suggestions as to how to vote in accordance with the ticket of a political party, group of candidates or candidate if the party, group or candidate is not registered under the Election Funding Act 1981 or the application is not made by their official representatives;

(b) that contains any representation or indication that a candidate is a member of a particular political party or group of candidates if the party or group is not registered under the Election Funding Act 1981 or the candidate's affiliation is not included in the Register of Candidates under that Act;

(c) if the material is intended or likely to mislead or improperly interfere with the casting of votes because of the use of matter indicating any party or group affiliation; or

(d) if the material contains words that are obscene or offensive.

Schedule 1 (67) inserts Division 18 (Special provisions relating to the polling in Antarctica) in Part V of the Principal Act. An elector who is or expects to be working in Antarctica is to be able to give notice to the registrar requesting that the elector be treated as an Antarctic elector while the elector is in Antarctica. The division provides for the appointment of officers to conduct elections at Antarctic stations and provides procedures for the conduct of the poll by those officers at the stations. Provision is also made in respect of the procedures to be followed at the close of the poll (at 6 p.m. by standard time in New South Wales on the day of the polling). Particulars of electors who have voted and of the marking of each ballot-paper are to be transmitted to the Electoral Commissioner who will transcribe the particulars onto a postal ballot-paper to be sent to the appropriate returning officer and to then be treated as a postal vote.

Schedule 1 (68) amends section 163 (Inquiries by Court of Disputed Returns) to provide for certain statements made by the Electoral Commissioner in relation to the marking of ballot-papers to be conclusive evidence of the particulars stated.

Schedule 1 (69) repeals Schedules 11 and 20 as a consequence of the amendment of section 115 (1) (c) and the proposed repeal of section 120H, respectively.

Schedule 2—Amendments to the Principal Act Relating to Penalties

Schedule 2 (1) increases the maximum fine for an offence against section 38 (Penalty on officer neglecting to enrol claimants) of the Principal Act from $50 to $1,000.

Schedule 2 (2) and (3) increase the maximum fine for an offence against section 51 (Witness to application must be satisfied of truth of statements) and section 52 (Failure to transmit claim), respectively, from $200 to $1,000.

Schedule 2 (4) increases the maximum fine for an offence against the regulations made under the Principal Act from $50 to $500.

Schedule 2 (5) provides for the imposition of a maximum fine of $1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 90 (4) (offences by scrutineers) of the Principal Act. At present a maximum fine of $50 may be imposed for such an offence.

Schedule 2 (6) increases the maximum fine for an offence against section 93 (Who may be present at polling-booth) of the Principal Act from $50 to $500.

Schedule 2 (7) provides for imposition of a maximum fine of $1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 106 (Disputed vote) of the Principal Act. At present a period of imprisonment not exceeding 3 months may be imposed for such an offence.

Schedule 2 (8) provides for imposition of a maximum fine of $1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 111 (Ballot-papers not to be removed from polling-booth etc.) of the Principal Act. At present a maximum fine of $50 may be imposed for such an offence.

Schedule 2 (9) provides for imposition of a maximum fine of $1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 112 (False answer to questions etc. or double voting a misdemeanour) of the Principal Act. At present a maximum period of imprisonment of 6 months may be imposed for such an offence.

Schedule 2 (10) provides for imposition of maximum fine of $1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 114A (Application for a postal vote certificate and postal ballot-paper). At present a maximum fine of $100 or imprisonment for a period of one month may be imposed for offences under section 114A (2B) or (3).

Schedule 2 (11) provides for imposition of a maximum fine of $500 for an offence against section 114C (1) (Duty of witnesses to application) of the Principal Act. At present a maximum fine not exceeding $100 or imprisonment for a period not exceeding one month may be imposed for such an offence.

Schedule 2 (12) provides for the imposition of a maximum fine of $1,000 for an offence against section 114I (Duty of authorised witness) of the Principal Act. At present a maximum fine not exceeding $250 or imprisonment for a period of 3 months may be imposed for such an offence.

Schedule 2 (13) provides for the imposition of a maximum fine of $1,000 for an offence against section 114J (penalty for unlawfully marking etc. a ballot-paper) of the Principal Act. At present a maximum fine of $500 may be imposed for an offence against subsection (2) (opening of postal ballot-paper by person other than returning officer) of the section and a maximum fine of $100 or imprisonment for a period not exceeding one month may be imposed for an offence against subsection (3) (Failure to post or deliver application for postal vote certificate and postal ballot-papers).

Schedule 2 (14) provides for imposition of a maximum fine of $1,000 for an offence against section 114K (Duty of persons present when an elector votes by post) of the Principal Act. At present a maximum fine of $250 or imprisonment for 3 months may be imposed for such an offence.

Schedule 2 (15) increases the penalties for offences against section 114P (Application for permission to vote before polling day) of the Principal Act from a maximum fine of $100 or imprisonment for a period of one month to a maximum fine of $1,000 or imprisonment for 6 months, or both.

Schedule 2 (16) increases the penalties for offences against section 114Q (Procedure for voting before polling day) of the Principal Act from a maximum fine of $250 or imprisonment for a period of 3 months to a maximum fine of $1,000 or imprisonment for 6 months, or both.

Schedule 2 (17) provides for the imposition of a maximum fine of $1,000 or to imprisonment for a period of 6 months, or both, for an offence against section 114U (4) (offences by scrutineers) of the Principal Act. At present a maximum fine of $25 may be imposed for such an offence.

Schedule 2 (18) provides for the imposition of a maximum fine of $1,000 for an offence against section 114v (Penalty for unlawfully marking ballot paper) of the Principal Act. At present a maximum fine of $500 or imprisonment for 6 months may be imposed for such an offence.

Schedule 2 (19) provides for the imposition of a maximum fine of $1,000 for an offence against section 114w (Duty of persons present when elector votes under section 114Q) of the Principal Act. At present a maximum fine of $250 or imprisonment for 3 months may be imposed for such an offence.

Schedule 2 (20) provides for the imposition of a maximum fine of $500 for an offence against section 114ZA (Application for a postal vote certificate and postal ballot paper) of the Principal Act. At present a maximum fine of $100 or imprisonment for one month may be imposed for such an offence.

Schedule 2 (21) provides for the imposition of a maximum fine of $1,000 or to imprisonment for a period not exceeding 6 months, or both, for an offence against section 114ZT (4) (offence by scrutineer) of the Principal Act. At present a maximum fine of $25 may be imposed for such an offence.

Schedule 2 (22) provides for the imposition of a maximum fine of $1,000 for an offence against section 114ZU (Penalty for unlawfully marking ballot papers etc.) of the Principal Act. At present a maximum fine of $500 or imprisonment for 6 months may be imposed for such an offence.

Schedule 2 (23) provides for the imposition of a maximum fine of $1,000 for an offence against section 114ZV (Duty of persons present when elector votes pre-poll in declared institution) of the Principal Act. At present a maximum fine of $250 or imprisonment for 3 months may be imposed for such an offence.

Schedule 2 (24) provides for the imposition of a maximum fine of $1,000 or to imprisonment for a period not exceeding 6 months, or both, for an offence against section 115 (3) (knowingly making an untrue declaration to vote outside district) of the Principal Act. At present imprisonment for a period not exceeding 3 months may be imposed for such an offence.

Schedule 2 (25) and (26) increase the maximum fine for an offence against sections 129 and 129J (penalties for breaking seal of or opening packet or parcel) of the Principal Act from $500 to $1,000.

Schedule 2 (27) increases the maximum fine for an offence against section 147 (who guilty of the misdemeanour of bribery, etc.) of the Principal Act from $500 to $1,000.

Schedule 2 (28) increases the maximum fine for an offence against section 150 (Penalty for treating) of the Principal Act from $500 to $1,000.

Schedule 2 (29) increases the maximum fine for an offence against section 151 (Intimidation) of the Principal Act from $500 to $1,000.

Schedule 2 (30) provides for the imposition of a maximum fine of $5,000 (in the case of corporation) or $1,000 (in any other case) or imprisonment for a period not exceeding 6 months for an offence against section 151A (Printing etc. false information) of the Principal Act. At present a maximum fine not exceeding $500 or imprisonment for a period not exceeding 6 months may be imposed for such an offence.

Schedule 2 (31) provides for the imposition of a maximum fine of $500 for an offence against section 176B (Disorderly conduct at public political meetings) of the Principal Act. At present a maximum fine not exceeding $50 or imprisonment for a period not exceeding one month may be imposed for such an offence.

Schedule 2 (32) increases the maximum fine for an offence against section 176C (Signature to electoral paper) of the Principal Act from $250 to $1,000.

Schedule 2 (33) provides for the imposition of a maximum fine of $1,000 or imprisonment for a period of 6 months, or both, for an offence against section 176D (Untrue statements in forms) of the Principal Act. At present a maximum fine of $100 may be imposed for such an offence.

Schedule 2 (34) increases the maximum fine for an offence against section 176E (Witnessing electoral papers) of the Principal Act from $250 to $1,000.

Schedule 2 (35) provides for the imposition of a maximum fine of $1,000 or to imprisonment for a period of 6 months, or both, for an offence against section 176F (Forging or uttering electoral papers) of the Principal Act. At present a maximum period of imprisonment of 2 years may be imposed.

Schedule 2 (36) provides for the imposition of a maximum fine of $1,000 or imprisonment for a period not exceeding six months, or both, for an offence against section 177 (Offence of stuffing ballot box) of the Principal Act. At present a maximum period of imprisonment of one year may be imposed for such an offence.

Schedule 3—Transitional Provisions

Clauses 1–5 require the Electoral Commissioner to enrol those persons who were, before the commencement of the relevant provision of this Bill, enrolled on the Commonwealth electoral roll in New South Wales as "eligible overseas electors", "itinerant electors", "Antarctic electors" or who were enrolled without their residence being shown on the roll.

Clause 6 permits regulations to be made under the Principal Act containing further transitional provisions and savings relating to the effect of the proposed Act.

Election Funding (Amendment) Bill

Clause 1—Short Title

Provides that the Short Title will be Election Funding (Amendment) Act 1987.

Clause 2—Amendment of Act No. 78, 1981

Clause 2 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Schedule 1—Amendments to the Election Funding Act

Item 1—Interpretation

Item 1 includes in section 4 (1) the definitions of "abbreviation" and "electoral matter".

Item 2—Register of Parties to be kept

Item 2 amends section 26 (1) and repeals section 26 (2) so that the Register of Parties is kept by the Authority on a continuing basis.

Item 3—Application for Registration

Item 3 (a) repeals and substitutes section 28 (1) of the Principal Act.

Section 28 (1) has been redrafted and enables the Authority to register a party if the application is made by the party agent in the approved form.

Section 28 (1A) enables the Commissioner to register a party for the purposes of section 151A and 151G of the Parliamentary Electorates and Elections Act where an application is received within the period which is 60 days before the issue of the writs for an election and polling day.

Section 28 (1B) provides that a party shall not be registered in the period which is 8 days before polling day.

Item 3 (b) includes electoral matter in section 28 (2) (b) as an item on which the party's name, initials or abbreviations will be used.

Item 3 (c) increases from 100 to 200 the number of signatures of electors required for an application by a party not represented in Parliament.

Item 4—Refusal to Register

Item 4 (a) repeals section 29 (1).

Item 4 (b) repeals and substitutes section 29 (4) of the Principal Act.

Section 29 (4) has been redrafted to enable the Authority to refuse to register a party if its name (or a form of the name) is the same as, or similar to that of a registered party or a party currently represented in Parliament or uses the word "independent" in conjunction with the name of such party.

Item 5—Amendment of Register

Item 5 (a) includes a new section 30 (4A) in the Principal Act and provides procedures whereby an application on behalf of a registered party may be made to vary the party's particulars in the Register.

Item 5 (b) inserts a new section 30 (10) in the Principal Act which provides for de-registration of a registered party if the Authority is satisfied that the party has ceased to exist, or, in the case of a party not represented in Parliament its membership has fallen below 200, or the registration was obtained by fraud or misrepresentation, or a registered party did not endorse a candidate in a general election held after its registration.

Item 6—General entitlements of parties

Item 6 is a consequential provision.

Item 7—Political contributions that are to be disclosed

Items 7 (a), (b) and (c) substitute $2,500 and $500 for $1,000 and $200 respectively in section 87 of the Principal Act to provide for an increase in the maximum amount of political contributions made to parties, groups and candidates exempted from the disclosure requirements of the Act.

Item 7 (d) repeals paragraph 87 (7) (c) and inserts a new paragraph to ensure that a party or group or candidate need not disclose contributions made to the party, group or candidate if the money paid is to be used for a purpose other than electoral expenditure relating to an election.

Item 8—Transitional provisions

Item 8 includes in Schedule 2 to the Principal Act clauses 5 and 6 which are transitional provisions.

Debate adjourned on motion by **Mr Greiner.**

INDUSTRIAL ARBITRATION (TRIBUNALS AND DELEGATIONS) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr HILLS (Elizabeth), Minister for Industrial Relations and Minister for Employment [11.50]: I move:

That this bill be now read a second time.

This bill will facilitate further the functions of the Industrial Commission of New South Wales and conciliation commissioners. Honourable members will recall that the Industrial Arbitration (Industrial Tribunals) Amendment Act 1986 introduced new provisions on the composition of full benches of the Industrial Commission. The distinction was made between benches hearing solely a question of law and benches hearing other matters mainly of an arbitral nature. In the light of experience gained in the practical application of these provisions and consultation with the president of the Industrial Commission, it is now proposed to amend the relevant provisions so that reference to solely a question of law will be replaced by the term "substantially judicial questions". This amendment will improve the functioning of the Industrial Commission in Court Session.

The Act also created the statutory position of vice-president of the Industrial Commission. Mr Justice Cahill, a judicial member of the commission, was appointed to that position. The vice-president's administrative duties involve the assignment of conciliation commissioners to particular conciliation committees and the allocation of disputes to those commissioners. There are at present statutory provisions enabling the vice-president to delegate those functions. Consequently, it is proposed to vest the power in the vice-president so it can be exercised as circumstances require. This will enable the vice-president to delegate any of his day-to-day statutory administrative duties to the most senior conciliation commissioner—or, in his absence, the next most senior conciliation commissioner—while retaining his overall administrative responsibility.

The seniority of conciliation commissioners is determined under section 15 (1A) (a) of the Industrial Arbitration Act according to date of their appointment. Where two or more conciliation commissioners were appointed on the same day, their seniority is in such order of precedence as may be assigned by the Governor. It is proposed that the seniority of conciliation commissioners should not be determined automatically by the date of a commissioner's appointment, as is now the case, but should be determined by the Governor.

The bill also contains provision to validate certain proceedings which have been conducted by the Retail Trade Industrial Tribunal in the absence of assessors. Section 38O of the Industrial Arbitration Act 1940 states that the Retail Trade Industrial Tribunal shall consist of a chairman and two assessors. Section 38R (4) of the Act states that assessors shall assist and advise the chairman but shall not adjudicate on any matter before the tribunal. The question whether the chairman of the tribunal was obliged to sit with assessors on all occasions, regardless of the importance of the matter before the tribunal, was not raised until late 1986. The Court of Appeal gave a decision to the effect that the chairman of the tribunal must sit with assessors at the hearing of matters by the tribunal. His decision not to do so in that instance invalidated his award.

It is now proposed to validate decisions of the tribunal made when the chairman sat without assessors, and any awards or variations of awards flowing from those decisions. It is not intended that the proposed amendments will have any effect on the recent decision of the Court of Appeal. I am sure honourable

members will support the measures I have outlined and the improvements they will bring to the industrial relations system in this State. I commend the bill and table explanatory information to assist honourable members.

Debate adjourned on motion by **Mr Fahey.**

NURSES REGISTRATION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr ANDERSON (Penrith), Minister for Health and Minister for the Drug Offensive [11.54]: I move:

That this bill be now read a second time.

I am pleased to introduce yet another initiative this Government has taken to strengthen the organization and development of the nursing profession. The legislation represents another response to the needs of nurses. In particular, it will change the composition of the Nurses Registration Board, which is the statutory body responsible for establishing and maintaining the standards of practice of the nursing profession in New South Wales. The reforms incorporated in the proposed amendments to the Nurses Registration Act 1953 will enhance further the high esteem in which nurses are held in our community. They are the product of consultation with the Nurses Registration Board and of the Government's concern to include issues of importance to all nurses.

The main impact of the proposed amendments will be to significantly increase the representation of nurses on the Nurses Registration Board; expand the term of appointment for members of the board to four years; provide for a president and deputy president of the board; amend provisions relating to the enrolment of nursing aides and mothercraft nurses; and protect the interests of both nurses and the community by providing that the board be notified of the names of nurses who become mentally ill and who need care and protection. These amendments are important to both nurses and the community, and reflect the maturity with which the nursing profession manages its affairs.

The increased nurse representation on the Nurses Registration Board entails thirteen of the eighteen positions on the board being specially designated for nurses. This is in marked contrast with current provisions where only seven positions are expressly allocated for nurses, and is similar to changes now being made to the Medical Board. Proposed amendments to the Medical Practitioners Act provide that thirteen of the Medical Board's eighteen members will be medical practitioners. Specific representation is to be given to enrolled nurses. In the past, enrolled nurses or nursing aides, as they have been called have never been represented on the board and have never been able to vote in board elections. This means that 13 500 enrolled nurses will now be given representation. This will be welcomed as an important reform.

Other implications of the proposed changes to the board are the appointment of a barrister or solicitor; provision for nurses employed in public hospitals and area health services to be eligible for nomination for president; representation of the nurse education sector through the nominee of the Minister for Education; and provision for other interests to be represented through the four nominees of the Minister for Health. The Nurses Registration Act is also being amended to provide that the roll of nurses will include both enrolled nurses—nursing aides under present terminology—and mothercraft nurses. Over recent years, the term nursing aide has been disappearing from

use, and it is appropriate that the Act be amended to reflect both the increased status of the enrolled nurses and current terminology in their description.

To reflect the enhanced training required of mothercraft nurses, provision is made for enrolment of nurses into two categories: first, enrolled nurses, comprising the group presently known as nursing aides who are already entitled to be enrolled; and, second, enrolled nurses (mothercraft), comprising mothercraft nurses who are at present entitled to be registered as nurses. The placement of mothercraft nurses on the roll of nurses is a reflection of the duration of their training, and in no way indicates a decline in their status within the community or within the profession. The training of nurses leading to registration is now conducted in colleges of advanced education over a period of at least three years. Mothercraft nurses undergo a period of training of fifteen months, and it is appropriate that arrangements governing their professional standing reflect the duration of their training. Nurses with mothercraft qualifications, or who may become qualified pending decisions on the future of the mothercraft course, will continue to be classified and paid as registered nurses. That principle has been confirmed in writing by the Department of Health to the New South Wales Nurses Association.

The proposed amendments also include provision for a change of title for the head of the Nurses Registration Board from chairman to president. Nurses will now join with medical practitioners, dentists and pharmacists in having the title of president for the head of their professional registration board. One of the amendments addresses concern expressed within the nursing profession that the names of nurses who become mentally ill should, in their own best interests and those of the community, be notified to the Nurses Registration Board. The board has a statutory duty to remove from the register the name of every registered nurse who has become an incapable person or a patient or a protected person within the meaning of the Mental Health Act 1958. At present, however, it is difficult for the board to fulfil this duty as there is no requirement that the board be notified of such cases. Accordingly, in line with amendments to the Medical Practitioners Act, an obligation will be placed on superintendents of relevant institutions to notify the board of nurses who become mentally ill.

Similarly, and in line with recent changes to the Medical Practitioners Act, provision is also to be made for the Nurses Registration Board to be notified of registered or enrolled nurses who become temporary patients or continued treatment patients within the meaning of the Mental Health Act 1985, forensic patients within the meaning of the Mental Health Act 1983, or protected persons within the meaning of the Protected Estates Act 1983. The amendments to the Nurses Registration Act 1953, which I have described today, will serve to enhance and strengthen the nursing profession. The profession itself has sought some of these changes, and it is to be commended for its responsibility in seeking to ensure that the public interest is protected. As Minister for Health, I am pleased to bring before the House legislation which meets the needs of both the nursing profession and the wider community, and ensures that nurses will continue to be the highly valued and respected cornerstone of the health system in New South Wales. I commend the bill.

Debate adjourned on motion by **Mr Collins**.

FAIR TRADING BILL

AUCTIONEERS AND AGENTS (FINANCE) AMENDMENT BILL

Formal stages and first reading agreed to.

Second Reading

Mr CARR (Maroubra), Minister for Planning and Environment and Minister for Heritage [12.1]: I move:

That these bills be now read a second time.

The main bill brings to fruition an agreement reached in June 1983 at a meeting of federal and State consumer affairs Ministers that there should be uniform fair trading law in Australia. Following the deliberations of a uniformity working party, Ministers agreed in September 1983 that the Commonwealth Trade Practices Act 1974 provided the best basis for achieving uniformity. Specifically, it was decided to mirror its consumer protection provisions. The importance of this bill cannot be overstated. The complexity of developing and implementing uniform legislation within a federal system is well known, particularly when it is the States which pioneered the law already in place. It is a tribute to the spirit of co-operation among the Labor governments of Australia that uniform legislation has become a reality.

Division 1 of part 5 of the Trade Practices Act deals with unfair practices. It contains a general prohibition of deceptive, misleading or unconscionable business conduct, and specific prohibitions of a range of unfair practices including advertising, mail order, multi-level selling and unsolicited goods and services. In effect it establishes a commercial code of good conduct. Since its enactment it has become well understood and accepted in the business community. Active enforcement through public and private litigation has resulted in a substantial body of case law which provides a high degree of certainty for business compliance. The provisions relating to unfair practices make up the core of the uniform legislation. It was agreed among Ministers that inclusion of other provisions—dealing with product safety and information standards, conditions and warranties in consumer transactions, and enforcement remedies—would be determined by individual States according to their needs.

The Victorian Fair Trading Act 1985 came into operation in April 1986. Significant amendments were made to the Trade Practices Act in 1986, and these are incorporated in the bill now before the House. The South Australian Parliament is now considering a uniform bill, and Western Australia is finalizing its proposals. Thus the most populous States, and those with the most significant and well-managed economies, are party to the uniformity agreement. The benefits of uniform law are many. It means less duplication and waste, and thus reduces costs. It also allows for a common policy on law enforcement, resulting in greater consistency and more streamlined administration with clear distinction between Commonwealth and State issues. It provides opportunities for co-operative Commonwealth-State education and guidance programs directed at consumers and business. There will be more certainty about the rights and obligations of both parties to a transaction.

It is no exaggeration to say that the Fair Trading Bill is the most far-reaching and comprehensive reform of consumer law undertaken in the State since the Consumer Protection Act was introduced in 1969. That legislation provided the basis for a consumer protection regime which was a model both in Australia and overseas. Yet even the most successful measures become, in time, outdated and unwieldly. When developing uniform legislation, the opportunity was taken to review the Consumer Protection Act in the context of the economic, political and social climate of the 1980's. Those sections found to be duplicative or unnecessary are to be repealed outright. The remainder are simplified and modernized and incorporated in this bill. The Consumer Protection Act will be repealed.

The Fair Trading Bill binds the Crown where it engages in commercial activities, giving citizens remedies in respect of government authorities as well as private businesses. This provision is in accord with a recommendation made by the Ombudsman following an investigation into alleged misleading advertising by a public authority selling land to private citizens. The rights created by this bill are not exclusively consumer rights. With very few exceptions, both commercial and consumer transactions are covered. In those limited cases where a specific definition of consumers is important, the definition includes certain transactions by small businesses and farmers. This does not alter the existing situation. In 1978 the Consumer Protection Act was amended to give effect to the Government's belief that small businesses and farmers are, in normal circumstances, in much the same position as the traditional private consumer when it comes to the resolution of problems met in buying goods or services. This did not, and does not, apply to goods purchased for resale. Honourable members would agree that in the current difficult economic climate this belief is even more valid.

Division 1 of part 2 of the bill deals with the functions of the commissioner. The existing functions derived from the Consumer Protection Act are adequate, and the only changes are to confer on the commissioner specific duties to promote business education and liaison, to issue guidelines and to undertake law review and reform. This parallels the role of the Trade Practices Commission, which has earned community respect for the services it performs in relation to information dissemination, research and evaluation. Division 2 restates existing provisions on legal assistance. This is not a traditional legal aid scheme, but permits the commissioner to grant legal assistance to consumers for test cases by which the wider public's interest can be served. Those provisions will be amended to limit assistance to strictly legal expenses and allow the commissioner discretion to take into account the means of an applicant before granting assistance.

The piecemeal development of Consumer Protection Legislation is reflected in the fragmented collection of inspectorial and investigative powers scattered throughout the Consumer Protection Act. These powers will now be consolidated and streamlined to secure compliance with respect to legislation within the consumer affairs portfolio. The information-gathering powers under the Trade Practices Act have been adopted in place of existing powers that had a similar effect. This was done in the interest of uniformity and consistency in law enforcement between different administrations. It also has an advantage in that the principles are well-established and have been reviewed by the courts on a number of occasions.

A common feature of most early consumer protection legislation was an advisory council composed of business and consumer representatives. Such a council operated in New South Wales between 1969 and 1981 and was the vehicle by which policy recommendations were conveyed to the responsible Minister. The bill will abolish the Consumer Affairs Council and provides for the Minister to appoint consultative committees to assist the commissioner in the examination of specific issues as the need arises. This change is a recognition of the fact that no one advisory body has all the answers to the legal, political, economic and social implications of fair trading policy. Provisions relating to the establishment and operation of the Products Safety Committee are retained in the bill. This committee has acknowledged expertise in consumer product safety, and the valuable role it plays in advising the Minister about dangerous goods and product safety standards will be enhanced with the introduction of product recall powers.

Part 3 of the bill deals with consumer product safety. It reproduces existing powers under the Consumer Protection Act to make regulations setting safety standards for goods—such as motor cycle helmets and children's nightclothes—and to ban or restrict the supply of unsafe goods. Although not part of the uniformity agreement, provisions relating to consumer product safety standards will be modelled on those in the Trade Practices Act, thus facilitating industry compliance and access to product safety information. A new initiative is the scheme for recall of unsafe products. This provides that suppliers who voluntarily recall consumer products for safety-related reasons must notify government authorities within two days of the recall. There is a reserve power for mandatory recall if the voluntary measures are unsatisfactory. The ability to ensure recall of dangerous products is an important adjunct to the banning of them, and New South Wales is pleased to adopt the Trade Practices Act provisions in order to prevent any loopholes in the operation of the scheme nationally. This is no draconian system. It relies in the first instance on the good will of business to act in the public interest by establishing effective recall codes. There is ample evidence throughout the mainstream of Australian business of major advances in the establishment of recall systems. New South Wales will continue to assist and encourage this development.

Part 4 of the bill proposes the adoption of those provisions of the Trade Practices Act that permit the making of regulations prescribing standards necessary to give consumers information about quality, nature or value of goods. Those product information standards are the modern equivalent of trade descriptions referred to in the Consumer Protection Act. In New South Wales, existing regulations cover, among other things, care labelling, date stamping, footwear and leathergoods. Apart from the benefits of modernization and simplification of those long-standing provisions, industry will be assisted by having complementary Commonwealth and State regulations expressed in similar terminology.

The uniform provisions of the bill are contained in part 5, dealing with fair trading, and part 6, dealing with enforcement and remedies. The central feature is the prohibition, in trade or commerce, of deceptive or misleading conduct. This will be a new concept for New South Wales. It will establish a code of good business conduct, rather than a specific offence. Breaches of the code will have civil, but not criminal consequences that will apply equally to commercial and consumer transactions. A second feature is the prohibition of unconscionable conduct. This provision is aimed at conduct that is clearly unfair or unreasonable, but may not be deceptive or misleading. It is not a new concept for New South Wales. The Contracts Review Act 1980 permits a court to grant relief in respect of consumer contracts that are unjust, unconscionable, harsh or oppressive. At the heart of the concept of unconscionability is the acknowledgement that parties to a transaction are not always of equal bargaining strength. One party may be in a position to impose unfair conditions through, for example, high pressure selling tactics; or another party may lack the mental capacity to make an informed decision. This provision will apply only to conduct in connection with the supply of goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption. A breach will give rise to civil, not criminal, consequences.

The remainder of part 5 creates a series of offences for specific unfair business practices. A number of these practices are already prohibited in New South Wales, and adoption of the uniform provisions will allow the repeal of the Consumer Protection Act, the Pyramid Sales Act, the Referral Selling Act and the Unsolicited Goods and Services Act. New offences are created for misleading conduct in relation to employment; misleading statements about

home-based businesses; making statements about price, that omit the full cash price; offering gifts and prizes without intending to provide them; accepting payment for goods or services without intending, or being unable, to supply them; using harassment or coercion against consumers; and sending unsolicited debit or credit cards to a person.

Part 6 deals with enforcement and remedies. It creates offences and permits the seeking of civil remedies where a person contravenes or aids and abets the contravention of the legislation. In conformity with the Trade Practices Act, any member of the community is entitled to seek an injuction from the Supreme Court to restrain a breach of the legislation. If loss or damage is suffered as a result of a breach, any person may sue for damages, or seek orders for compensation from the Supreme Court. In addition, the Minister or the commissioner may seek compensation orders on behalf of identified consumers who have suffered loss or damage as a result of a contravention of the Act.

The bill permits only the Minister or the commissioner to seek from the Supreme Court orders for corrective advertising; or an order to freeze the assets of a person against whom proceedings have been commenced if there is a real danger that consumers' funds otherwise will be dissipated. Too often in the past the effectiveness of even the most speedy action to restrain cheating was liable to be defeated by a shady business operator transferring his or her assets outside Australia, or into someone else's name, or otherwise hiding them. The Consumer Protection Act permitted the commissioner, with ministerial approval, to obtain an injunction to restrain breaches of any other legislation administered by the Minister. This power will be retained. Proceedings for offences may only be taken by the commissioner.

The bill specifies a range of penalties. Serious offences will be prosecuted in the Supreme Court and will attract maximum penalties of $20,000 for an individual and $100,000 for a corporation. These penalties, which I repeat are maximums, are uniform with the Trade Practices Act and will ensure consistency between Commonwealth and State legislation when dealing with similar offences. The bill provides also for prescribed minor offences to be dealt with by way of on-the-spot fines. These fines will be applied only when there can be no doubt that an offence has been committed, and will streamline enforcement of minor breaches. Those offences would include supplying goods without a care label or date stamp attached, or supplying goods that are subject to a product safety banning order.

Part 7 contains an initiative that not only is innovative but also leads consumer protection legislation in a direction wholly suited to the environment of the 1980's. This bill will provide for statutory recognition of appropriate codes of practice, and machinery for their enforcement. It acknowledges that detailed industry regulation can impose unnecessary burdens on honest business and unnecessary barriers to competition in a free market-place. Non-compliance with such a code will not be a criminal offence, but can be dealt with through administrative action taken by the Commissioner for Consumer Affairs. This means the commissioner can seek, from a trader who is in breach of a code, undertakings as to future conduct and action to rectify the consequences of past conduct. If the trader refuses to give such undertakings or fails to observe them, the commissioner may commence proceedings in the Commercial Tribunal for an order in similar terms. A right of appeal will lie to the Supreme Court from a division of the Commercial Tribunal on a question of law. Traders who flout the code and the commissioner's request for undertakings will be judged in part

by their peers, as the Commercial Tribunal consists of a panel of chairperson, industry representative and consumer representative.

The 1960's and 1970's were a time of enthusiastic legislative activity in the cause of consumer protection. Some critics saw that activity as a gimmick, a trendy issue that would not survive the harsh economic climate of the 1980's. The New South Wales Labor Government has never adopted such a short-sighted view. During the past decade, many achievements and benefits have resulted from the decision to give high priority to consumer protection. This Government is committed to the protection of the physical and economic interests of consumers. However, consumers represent only one side of the marketing equation. The policy of fair trading embodied in the fair trading bill recognizes that both sides benefit from fair competition in the market-place. There are compelling efficiency and equity arguments in favour of the vigorous pursuit of a fair trading policy.

I spoke at some length about the benefits of the uniform aspects of this legislation. It has many other benefits. It will establish one common commercial code. Through the codes of practice mechanism it will provide for special rules to facilitate fair dealing and avoid particular problems in specific industries. It will provide effective remedies for all citizens, and streamlined enforcement procedures that emphasize the need to stop unfair practices before they cause substantial loss and will consolidate the investigation and enforcement powers relating to the consumer affairs administration. It will safeguard the interest of the economically vulnerable, both consumer and small business, by providing opportunities for redress and ensuring that they receive the accurate information they need to make informed choices in market-place transactions. I commend the bills.

Debate adjourned on motion by **Mr Phillips.**

BILLS RETURNED

The following bills were returned from the Legislative Council without amendment:

Offences in Public Places (Amendment) Bill

Inclosed Lands Protection (Amendment) Bill

Superannuation (Retrenchment) Amendment Bill

State Public Service Superannuation (Retrenchment) Amendment Bill

Public Authorities Superannuation (Retrenchment) Amendment Bill

BAIL (AMENDMENT) BILL

Second Reading

Debate resumed from 6th May.

Mr FAHEY (Camden) [12.16]: The Opposition will not oppose this bill, which emanates from a review by the Government that might to some extent have been prompted by the comments earlier this year of the Chief Justice in the matter of *Regina* v. *Hilton.* The substantial reforms to the bail law in 1978 made fairly clear what factors or considerations a court must act upon when granting bail. Under section 32 of the Bail Act the only factors to be considered are, the probability of appearance at court; the interests of the person seeking bail; and the protection and welfare of the community. Prior to the 1978 reforms under the common law—particularly with regard to appeals from

decisions of the Supreme Court and the District Court to the Court of Appeal or the High Court—an appellant had to show exceptional circumstances before bail would be granted. As a result of these amendments, the grant of bail will again be based on the common law. It is interesting to note that the Chief Justice, in considering Hilton's application, said:

> The legislature could hardly have chosen words which would more clearly indicate an intention to prescribe exhaustively in section 32 the approach to be taken in determining a bail application. In the opening portion of section 32 (1) there is the mandatory requirement that the Court "shall take into consideration the following matters".

They are the matters to which I earlier referred. The Chief Justice continued:

> This is followed by equally mandatory limitation "and the following matters only".

That section certainly restricted the Court of Appeal's consideration of applications for bail after conviction and the question of conviction and sentence. During his considerations the Chief Justice referred to *Regina* v. *Giordano,* reported in 41 South Australian State Reports volumes 241 and 242. In that case Chief Justice King intimated that before and during the trial the primary, although not the only, consideration is whether an applicant will appear when required to do so. This consideration has a minor bearing only on the grant of bail after conviction. Obviously bail after conviction would not be granted unless circumstances were such that bail had been granted before and during the trial. After conviction, other cogent factors have to be considered. There are practical reasons why courts should exercise extreme caution about the grant of bail pending appeals. An appellate court does not sentence afresh in the light of circumstances that may change since the imposition of sentences.

The provisions of the Bail Act have been recognized as both comprehensive and exclusive of the availability of other machinery or procedures for the grant of bail. The essential question is whether under the Act bail should be granted. At the moment a court must decide the value of matters set out in section 32. As the Attorney said in his second reading speech, the granting of bail on appeal can sometimes devalue the finality of a jury's finding, and may lead to a proliferation of frivolous appeals. A situation could easily arise whereby, having exhausted the normal processes of law to the extent of a decision being made by a court and the doubts of conviction crystallized or clarified to some extent by the District Court or the Supreme Court, a convicted person could take advantage of any appeal process that might be available, adopting the view that there is nothing to lose. It is a matter of putting off the inevitable.

Many appeals to the Court of Appeal and to the High Court are upheld. But they are in the minority. To permit a proliferation of frivolous appeals would afford those in custody the opportunity to jam the court system, which is already somewhat overcrowded, and put the public to extra expense. The presumption of innocence that applies prior to conviction no longer applies, obviously, to a convicted person. Nevertheless one must consider the position of an appellant who may be acquitted ultimately. As the Attorney said in his second reading speech such a person would have cause for complaint if he is not granted bail when the sentence imposed by the courts was of long duration. The bulk of such a sentence could be served before a decision is arrived at by the Court of Appeal or the High Court. Justice in such circumstances would not be seen to be done.

The Opposition supports this amendment, which has been introduced after nine years. The review of the legislation is warranted and has been based upon the experience of the 1978 provisions. The provisions have been updated.

They will restrict the availability of bail but only in those cases where convictions have been recorded and sentences imposed. The provisions will have no bearing in respect of an appeal by way of hearing *de novo*. Again in such a case the presumption of innocence must be recognized by the courts and the provisions of section 32 will apply. The Opposition commends the Government for reviewing the provisions, the need for which was demonstrated clearly in Hilton's case. The legislation has been updated in practical terms and it will administer justice in much better fashion than the current legislation has done in the past.

Mr KERR (Cronulla) [12.25]: I was amazed to hear the Attorney General in his second reading speech attempt to justify the Bail Act, which was introduced in 1978 by this Government. Anyone who has even a trifling association with the criminal justice system in New South Wales—

Mr Sheahan: On a point of order. The House is not debating the Bail Act; it is debating amendments to the Bail Act. The honourable member should confine himself to those amendments.

Mr Kerr: On the point of order. In the Attorney's second reading speech he referred to substantial reforms introduced in 1978 by this Government. He said:

> In 1978 this Government made substantial reforms to the law of bail. Prior to the introduction of the Bail Act in that year, the rules for the granting of bail, and the criteria to be considered when deciding the question of bail, were to be found in the common law. This was an unsatisfactory position.

I am seeking to reply to those remarks—as I am entitled. The Attorney has said that the reforms are proper reforms.

Mr DEPUTY-SPEAKER: Order! The honourable member for Cronulla said that he is entitled to debate this aspect. I do not agree with his opinion. The amendments are in simple form, and although the honourable member may make passing reference to matters to which the Attorney may have referred in his second reading speech, that reference should be limited. The honourable member should confine himself to the scope of the amendments.

Mr KERR: I shall make passing reference to the remarks the Attorney made in his second reading speech about the reforms that were introduced in 1978 by this Government. The Bail Act is an absurd Act. It has caused police, at unnecessary expense, to interrupt their inquiries and investigations to attend courts for the purpose of providing information about bail applications. The time of the courts has been wasted. If the Attorney is interested in judicial opinion about the Bail Act, I refer him to a decision of Justice Hunt of 31st January, 1985, in which he said:

> The Act has been criticised time and time again by judges, not only of this court but of other courts in this State. And justly so, because it is an absurd piece of legislation, one which creates untold and usually unnecessary costs in bringing police evidence from every corner of the State and the applicants themselves into the city for the hearing—quite apart from the time of this court which is taken up each week in hearing so many applications which are doomed to failure from their inception.

The Government was prodded into introducing reforms to the Bail Act by the Court of Criminal Appeal. Despite the Government's administering the criminal justice system in this State for more than a decade, it has introduced reforms only after advice from judicial officers. The conducting of criminal investigation should have been at the forefront of the Government's activities in that time. The reforms to the Bail Act and the proposed amendments will provide a rigid and narrowly-defined code that will stultify the development of the common

law in relation to bail. In some respects they will prohibit courts from taking into account the realities of life. In determining a bail application Justice Hunt said the following about the realities of life:

> I am entitled to take into account the likelihood that an applicant will commit an offence while at liberty on bail only if I am also satisfied that such offence will involve violence or otherwise be serious by reason of its likely consequences.
>
> I myself would not like to have my briefcase stolen. I would probably be very angry and my insurance company would be even angrier, but I cannot say that its theft is a matter of violence or that the consequences of that particular stealing would be serious, especially not in the context of the phrase in which "serious" is to be found in the statute, of involving "violence or otherwise . . . serious by reason of its likely consequences".
>
> Yet that is the only type of offence which the applicant is likely to commit if allowed bail. There is not the slightest suggestion that he will not appear.

The Government talks about a return to basics, yet it ignores the recommendation of Mr Justice Hunt by bringing before this House reforms to the Bail Act. The Government's amendments to the Act fall within a very narrow range. Of course the Opposition supports the amendments, for they are the sorts of amendments we have been talking about since 1978 when the Bail Act was enacted. The shadow attorney general, at that time Mr Maddison, foreshadowed the problems that would arise. There is a difficulty in establishing a balance between the obligations of this Government to protect the community from the possible further ravages of an accused person with the fundamental principle of justice, which is always acknowledged—

Mr Sheahan: On a point of order. You have already ruled that the honourable member for Cronulla may make passing reference to the 1978 Act. However, he is now reading part of the debate that took place on that legislation in 1978. The question before the Chair is whether there should be some change in the arrangements under which bail is granted, not to accused persons but to convicted persons. I ask you to bring the honourable member for Cronulla back to the subject-matter of the bill.

Mr Kerr: On the point of order. These matters were raised by the Attorney General in his second reading speech when he spoke about the presumption in favour of bail in the vast majority of serious matters. It is presumed that a person shall be granted bail unless there are exceptional reasons that that person should not be granted bail, and then that presumption does not apply. However, I am speaking about the presumption of guilt and the balance that must be struck.

Mr Sheahan: It is not a presumption of guilt; it is a finding of guilt in this case.

Mr Kerr: In this matter there is a finding of guilt by the court, but an application for appeal is still on foot. I am referring to the presumption of innocence and the balance that must be struck. These matters fall squarely within the amendments before the House.

Mr DEPUTY-SPEAKER: Order! The Attorney General is correct in saying that this bill deals only with convicted people making appeals to the Court of Criminal Appeal. I have already made a ruling on this matter. I was not in the chair when the Minister made his second reading speech. It may well be that the Minister should not have introduced the matters to which the honourable member for Cronulla referred. My ruling stands. The honourable member for Cronulla must keep within the confines of the subject-matter of the bill.

Mr KERR: In accordance with your rulings, I shall confine my remarks to the amendments dealing with a finding of guilt. It is a principle of British justice that—

Mr Akister: What would you know about that.

Mr KERR: The Minister for Corrective Services asks what I would know about British justice. He should be careful about his comments. As well as being Minister for Corrective Services, he has responsibility for fisheries. That gives him two opportunities to talk about the one that got away. In accordance with your ruling, Mr Deputy-Speaker, I shall return to the subject-matter of the bill. I was about to mention the concept of British justice, which enables a person—even after a jury has found that person guilty—to be entitled to lodge an appeal. For the information of the Minister for Corrective Services, the Court of Criminal Appeal or the High Court of Australia may release a person and quash the conviction by the jury. Under the precepts of British justice that person is then allowed to go free. I am grateful to the Minister for Corrective Services who by his interjection has enabled me to expand on that point of British justice. I am pleased to be able to educate him on that matter.

As I have said, a balance must be struck. Our system of justice is best served when matters reach finality as expeditiously as possible. For that reason, having obtained a conviction before the court at great public expense, the due processes of the law should take place. Intermediate steps such as bail applications do protrude into the finality of the procedure. In ensuring the rights of an appeal—and the rights of the appellant in this case—a balance must be struck. The community still is entitled to the protection of the Government from any wrongdoing by an accused person or an appellant. The Government should go a great deal further than the amendments to this bill. It has much to answer for its non-responsive attitude to the criticism by the State's judicial officers on this ill-considered Act that has been foisted on the criminal justice system of this State.

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [12.35], in reply: I thank the Opposition for agreeing on short notice to the change in the Government's program to enable it to get this important measure through this House and to the Legislative Council so that it may be speedily enacted. Some members of the Opposition are confused about the bill. However, I am grateful to the honourable member for Camden for his support and co-operation in enabling this matter to come forward. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GRAIN HANDLING (AMENDMENT) BILL

Bill received from the Legislative Council and read a first time.

Second Reading

Mr AKISTER (Monaro), Minister for Corrective Services and Assistant Minister for Transport [12.37]: I move:

That this bill be now read a second time.

The object of the bill is to amend the Grain Handling Act 1954 with respect to the functions of the Grain Handling Authority of New South Wales in relation to wheat and other grains. The amendments proposed will remove provisions requiring the Grain Handling Authority to give preference to wheat as opposed to other grains. At present the Grain Handling Authority management is constrained in allowing equitable use of both country and seaboard terminals for coarse grains by the provisions of section 12 (3) of the Grain Handling Act. That section provides that the Authority shall, in the exercise of its functions in relation to grains other than wheat, have the same objectives as it has under subsection (2) in relation to wheat, but shall not exercise its functions in relation to grains other than wheat in a way that interferes with the exercise of its functions in relation to wheat.

It is recognized that there may be circumstances in which it will not be possible to deal with all grains equally, and for this reason new subsection (4) includes a provision that the requirement is to be observed to the extent that is reasonably practicable to do so having regard to the authority's resources, facilities and commitments. The amendments will allow the Grain Handling Authority to act towards wheat and other grains on a more equitable basis. The Grain Handling Authority will continue to receive larger volumes of wheat than other grains and will continue to exercise its functions at minimum cost consistent with a satisfactory level of service to wheatgrowers and to purchasers of wheat as in the past. The Barley Marketing Board of New South Wales, the Grain Industry Consultative Group and the New South Wales Marketing Boards Association are in favour of the proposed amendments. Passage of the legislation in this session will enable its implementation during the next harvest. I commend the bill.

Debate adjourned on motion by **Mr Armstrong.**

[*Mr Deputy-Speaker left the chair at 12.40 p.m. The House resumed at 2.15 p.m.*]

LEGAL PROFESSION BILL

LEGAL PRACTITIONERS (AMENDMENT) BILL

MISCELLANEOUS ACTS (LEGAL PROFESSION) AMENDMENT BILL

Second Reading

Debate resumed from 12th May.

Mr PEACOCKE (Dubbo) [2.15]: I lead for the National Party in this debate. The bills before the House are of major importance to the State of New South Wales, its people, and specifically the legal profession. The legislation will have far-reaching consequences in the State. It is undisputed that it is time measures were introduced to control the legal profession. The legislation is designed to replace the Legal Practitioners Act 1898 which has been amended in a number of ways over some years. Many problems have existed in the introduction of the legislation and in the bills themselves. I wish to outline those problems and some of the extraordinary features of the introduction of the legislation.

The measures have been introduced with extraordinary haste and without adequate consultation with the Law Society of New South Wales or the legal profession. The legislation has been mooted since the Government came to office in 1976, about eleven years ago. The bills have been introduced by the Attorney General who is, of course, a solicitor who practised his

profession for less than six years, and then mainly as an employee—a solicitor without wide-ranging experience as a practising solicitor on his own account. The Law Society is concerned at the haste with which the legislation has been introduced. I wish to quote some parts of a letter dated 11th May to the Attorney General by Mr K. H. Dufty, the president of the Law Society. A copy of the letter is available for any honourable member wishing to refer to it. Mr Dufty said, *inter alia:*

> When the Law Society Council met on 7th May, 1987 it was the first opportunity it had to consider in concert the provisions of this Bill. Only a handful of its members have seen the various Parts as they were doled out to us piecemeal by your officers, but the quite ridiculous embargoes placed on distribution inhibited detailed discussion at an earlier date. Proof positive of the lack of foresight in denying wider distribution is the result of the debate last Thursday developed in the detailed critique of your handiwork, set forth at great length, in the accompanying commentary. Many new points were raised, as I had expected. The pity of it all is that you elected to plunge headlong on without waiting to consider those comments.
>
> You realize that this Society is charged with the responsibility for administering this Bill, if it ever becomes law. For more than half a century—

Mr SPEAKER: Order! The honourable member for Dubbo may be unaware of a ruling I made last week about reading the contents of letters. For the honourable member's information, I shall restate that ruling. If the honourable member is willing to give the name and address of the sender, and to whom the letter was sent, he may briefly mention the matters contained in it. However, he must use his own words. He is not permitted to read the entire letter. Such a practice would mean that people outside Parliament would be able to contribute to debates.

Mr PEACOCKE: I mentioned the name of the sender and the date of the letter. It was my intention to read only two paragraphs of the letter. I assume no objection would be taken to reading the second paragraph of the letter. It continues:

> For more than half a century it has administered the Legal Practitioners Act as amended in 1935, and has developed a unique expertise in this area of the law in consequence. To shut yourself off from the benefits of that expertise, as to such a considerable extent as you have done, is, I suggest, a serious error. Fortunately, it is still not too late for you to recognize that error and, more importantly, to rectify it. Your willingness to acknowledge this will demonstrate a mind which is open and receptive and—it must be said—is able to accept that no one person, nor even one Department, is the fountain of all knowledge.

This is a long letter, consisting of four pages. It shows very deep concern by the Law Society of New South Wales at the undue and extraordinary haste with which the legislation has been introduced. Last night the honourable member for Camden led for the Liberal Party in the debate on these bills. In response to an allegation by the honourable member for Camden that the Opposition is disappointed about advice to the profession, and particularly the Law Society, that the legislation would lie on the table of the House until the budget session in September, the Attorney General replied, "At no time did I give any such assurance or indication".

Mr Sheahan: That is true.

Mr PEACOCKE: That is not my information. The information I have, and I shall give it sequentially, is that following the Law Reform Commission reports and memoranda concerning the Legal Profession Bill, a letter was received from the Attorney's department in March 1984, inviting the president

of the Law Society to enter discussions with the department on the proposed terms. That is proper and right.

Mr Sheahan: That is undue haste, from March 1984?

Mr PEACOCKE: Yes, but I ask the Attorney General to listen to the remainder of what I have to say. That meeting was held between the then president of the Law Society, Mr R. H. McGeoch, and the treasurer of the society, Mr K. A. Garling. On 17th April, 1984, Mr McGeoch wrote to the Attorney General stating the substantial support and agreement of the council for the legislation. On 18th April, 1984, the Attorney responded, confirming that agreement had been reached. But nothing further happened until July 1986, apart from advice from the Attorney's department that the matter was under consideration and awaiting Cabinet approval. On 3rd July, 1986, the council considered the final proposals from the Attorney General's Department—essentially the same as those in April, 1984—and again confirmed its approval. By letter of 7th July, 1986, the Attorney confirmed this.

On 30th September, 1986 a letter from the Attorney was received indicating that consultation would take place and asking for a nominee of the council. By telephone the then president, Mr K. A. Garling, was nominated. Nothing further occurred with regard to consultation with that person. The society was asked for submissions generally on other matters relating to the reform of the Legal Practitioners Act, and those submissions were forwarded to the Attorney. No indication was given by the Attorney as to whether those submissions were acceptable. The Attorney attended a meeting of the council on 29th January, 1987 and told the council that the draft bill would be available within a few days. It was to be introduced, so he said, in May and allowed to lie on the table of the House until the budget session.

Mr Sheahan: That is not true.

Mr PEACOCKE: The Minister has his right of reply.

Mr SPEAKER: Order! I draw the attention of the honourable member for Dubbo to my earlier statement. The House is dealing with the bills, not a letter from the Law Society or the actions of the Attorney General. The honourable member has spent some time speaking to the alleged actions of the Attorney General. Surely the honourable member can make his own contribution and put dates to events. I ask him to return to the ambit of the bill, not the actions of the Attorney General.

Mr PEACOCKE: On that question, with due respect—

Mr SPEAKER: Order! The honourable member for Dubbo will not canvass my ruling. I have given the House a ruling that the reading of letters gives to those outside the Chamber a voice in this Parliament. The honourable member may make brief references to parts of the letter. However, he must not quote from it extensively.

Mr PEACOCKE: I am not referring to a letter at all at this stage. I am referring to my own notes.

Mr Sheahan: They are not the notes of the honourable member for Dubbo. He was not there on 29th January.

Mr PEACOCKE: They are notes I have prepared on the information I have been given.

Mr Sheahan: The honourable member does not know what I said and I do.

Mr SPEAKER: Order!

Mr Sheahan: On a point of order. I take this point of order so that the debate does not degenerate to nonsense. On 29th January, 1987, there was no proposal that the Parliament would sit in May. The proposal I put to the council of the Law Society was that I would table the bill before Easter, when there would be a two-week adjournment, and that it would be debated after that adjournment. I make that explanation to enable the honourable member for Dubbo to confine his remarks to the bill.

Mr SPEAKER: Order! I rule the Attorney General out of order. He may make an explanation when the Chair has no matter before it. The Attorney General has the right of reply in this debate, and he can use that right to correct information given by the honourable member for Dubbo.

Mr PEACOCKE: I reinforce my statement that the importance of this bill being discussed with the Law Society is most relevant to the bill itself. In my opinion, in the opinion of the Law Society, and the opinion of the honourable member for Camden, undertakings given by the Attorney General have not been honoured. That is how we see it, and we do not resile from that comment. To understand the importance of the bill, the provisions of which are far-ranging not only for the legal profession but also for the people of New South Wales, it is vital that the House is aware of some of the details and history of the legal profession.

The legal profession is an ancient and honourable one. There are some 9 500 practising solicitors, of whom 7 500 are in private practice, 1 500 work for government departments and about 500 work for corporations. The private practitioners have an annual turnover through their trust accounts of about $30,000 million. That is an enormous sum of money. At most, $2 million to $3 million have been defalcated, misused or misapplied by some solicitors. That is too large a loss of money for any profession to suffer. I mention the turnover of solicitors' trust accounts to indicate that the defalcations of solicitors, who form a tiny proportion of the profession, are but a minute part of the total turnover through solicitors' trust accounts.

The vast majority of lawyers of all descriptions in New South Wales, solicitors and barristers, are honourable, decent men who give one of the greatest services to the public of New South Wales that any profession could possibly give. They have the right to regard themselves as working in an honourable and respected profession—a profession that has gone to great lengths over the years to become involved in the community, to give it service not only for a reward and fee but also on many occasions at no charge at all. Few countries can boast such a fine legal profession as exists is New South Wales. It is the only profession that fully compensates those who suffer from the fraud of legal practitioners. I mention these facts because it is essential that the public and honourable members understand that the whole of the profession ought not to be condemned and totally and decisively regulated to the extent that they cannot carry out their functions just because some in the profession are dishonourable, thieves and criminals.

No part of society can claim that it does not have within its ranks its fair share of criminals. I instance mechanics, the medical profession, the teaching profession, politicians and the police. In every profession there are some dishonest people. However, solicitors come more under the microscope

because they often have access to large amounts of their clients' money. So it is proper that there be some regulation of solicitors' trust funds and the handling of those funds in the fiduciary relationship between solicitors and clients. No one contests that; least of all the solicitors, the Law Society which represents solicitors, or the Bar Association which represents barristers.

The legal profession has put itself to considerable expense to ensure that if any of its members defraud people, those defrauded will be fully and positively compensated. That has always been so. That does not apply with any other profession, trade or form of business. So although the Law Society might on occasions be ashamed of the actions of a few of its members, it can rightly be proud of its record. Why then is the Government attacking the legal profession, through this bill?

Mr Sheahan: Is the honourable member for Dubbo opposed to the bill?

Mr PEACOCKE: No, I am not. I am opposed to parts of the bill, and later I shall tell the Attorney General why. Why is the Government so bent on destroying an ancient and honourable profession, which probably is the only barrier to prevent the people being subjected to a totalitarian government? Is it because the Government wants every solicitor to be a public servant, who can be controlled? Is it because a free and independent legal profession can take a government to task, challenge matters in the courts, and defend the rights of individuals? Is it the objective of this Government—not only by this bill but also by other bills that are in the process of coming before this Parliament—to destroy this ancient and honourable profession, which maintains the independence of the community? Reluctantly, I believe that is so.

In 1976 the Government commenced its attack on the legal profession. At that time the Hon. F. J. Walker was Attorney General. The Government waited barely a month after its election to launch that attack. Since then it has ceaselessly encouraged the denigration of the legal profession. That is the background to the introduction of this bill. If this bill had been drafted following a reasonable period of close consultation with the Law Society, the Bar Association and members of the public, it could have established proper guidelines for the administration of the legal profession in New South Wales. Unfortunately, this bill is full of glaring inconsistencies and errors.

Mr Sheahan: Is the honourable member dealing with the correct bill today?

Mr PEACOCKE: I had the correct bill last evening, but the Attorney General did not.

Mr Sheahan: There was no clause 4 (1) in the bill last night.

Mr PEACOCKE: I shall not be distracted by this Attorney General.

Mr Sheahan: I am the only one you have.

Mr PEACOCKE: The Attorney General is poorly regarded outside the profession.

Mr Sheahan: Outside the profession?

Mr PEACOCKE: Outside, by the profession.

Mr Sheahan: I shall cease endeavouring to make an effort.

Mr PEACOCKE: In the Northern Tablelands electorate lawyers have launched a heavy attack on the Government, as a result of what the Government is doing to the profession. Ultimately the legal profession as a whole will attack the Attorney about this bill. In the Armidale area I have heard the Attorney referred to as crafty, uncommunicative, nasty, truculent and in many other ways. This is an extremely poorly drafted bill. It has been drafted at the instruction of an incompetent Attorney General, directing parliamentary draftsmen who have had no practical experience as solicitors or barristers working directly with the public for a number of years. That is the reason for some of the drafting and errors of principle in the bill. Those errors are evident on a close perusal of the bill. If the Attroney really wanted to achieve a good bill he would have circulated a draft not only among the Law Society councils and the barristers but also among solicitors in the market place, the law offices of the State and the public. He did not do that. Instead, he introduced the bill last Thursday, in breach of an arrangement he had made with the Law Society.

Mr Sheahan: That is not true; and the bill was not introduced last Thursday.

Mr PEACOCKE: The Attorney breached all the principles that we should value in this Parliament for the drafting of effective legislation. In that way, an excellent Act that was fair both to the public, the legal profession, the courts and every member of Parliament could have been drafted. All honourable members have a vested interest in ensuring that the legal profession is preserved, within reasonable controls, in a way that protects the personal rights of individuals. God help us if the day ever comes when ultimately the free and independent legal profession is destroyed. If that day comes, we will have a totalitarian government, such as in an East European republic, which is really what this Government is fast becoming. There are many problems with the bill.

Mr Sheahan: Tell us a couple.

Mr PEACOCKE: There is a need for a practical, workable Act, but that cannot be said of this bill. The Attorney has failed to consult adequately with experts. For instance, by this bill the Law Society will have no power to make or recommend regulations under the Act. There was such a power under the previous Act. Although the second reading debate on this bill has not been completed, the Attorney has foreshadowed a substantial number of amendments to be made.

Mr Sheahan: There are nine amendments.

Mr PEACOCKE: The Attorney General should be ashamed that it is necessary to move even one amendment. If the Attorney General had any worthwhile consultation and if he had any knowledge of the private practice of law, he would not have had to move one amendment. The Act is strongly and wrongly consumer oriented. It is dominated by councils of lay people, who of course often blame lawyers for poor legislation such as continually emanates from this House, much of it introduced by the Attorney General. That legislation is prepared by impractical, doctrinaire theorists. Such an example is the gazumping legislation that was trumpeted into this House by another Minister as being the great save-all from delays occasioned during conveyancing contract exchange. That legislation proved to be a dismal failure. The Attorney General asked me to be specific about some changes that should be made to this bill. I shall refer first to clause 3.

Mr SPEAKER: Order! Does the honourable member for Dubbo intend to go through the bill clause by clause?

Mr PEACOCKE: I shall refer to a number of clauses.

Mr SPEAKER: Order! I remind the honourable member that during the second reading debate on a bill, only the general principles of the bill should be discussed.

Mr PEACOCKE: To develop my remarks I shall refer to a few clauses only. Clause 3 contains the definition of an "unrestricted practising certificate". It is the view of the Law Society that this should be deleted. The term will have decreased relevance by reason of the Law Society's regulation of a solicitor's rights to practise as a sole practitioner and the difficulties that will confront the administration of the proposed mandatory continuing legal education scheme. Why does clause 36 apply to solicitors only? It should apply equally to barristers. Where is the consistency of approach to the two limbs of the profession? Clause 53 is said to be necessary in the interests of maintaining confidentiality for the proceedings of committees. Subclause (3) of clause 53 should be amended by inserting after the word "rights" the words "and obligations". Clause 53 provides for lay representation on committees. For a long time the Law Society has agreed willingly to lay representation on its various committees. Subclause (1) of clause 53 reads:

> The Attorney General may, after consultation with the Law Society Council, direct, by written order, that any specified committees or kinds of committees of the Law Society or Law Society Council must include in their membership a specified or determinable number of lay members.

Subclause (2) of clause 53 reads:

> A direction has no effect to the extent that it would require the membership of a committtee to have more than one-quarter of its membership composed of lay members.

For the purposes of consumer representation it is one thing to appoint lay members to committees. But, when the nitty gritty of the legislation is analyzed there is no good reason why one-quarter of the membership should be made up of lay members who probably are not familiar with the law and, therefore, should not form part of the membership.

Mr Christie: It keeps them honest.

Mr PEACOCKE: The honourable member for Seven Hills says, "It keeps them honest". Does a lay member control the functions and responsibilities of police prosecutors? Is a lay member or professional member appointed to the executive of every union? Is a lay member appointed to medical boards?

Mr Sheahan: Yes.

Mr PEACOCKE: To hospital boards?

Mr Sheahan: Yes.

Mr PEACOCKE: To dental boards, and the like?

Mr Sheahan: Yes.

Mr PEACOCKE: If lay members are appointed to such boards, is the representation one-quarter of the membership? The Opposition does not oppose the principle of lay members forming part of the membership of committees; we oppose the number of lay members.

Mr Sheahan: What turns on the number of lay members? They would be outnumbered three to one.

Mr PEACOCKE: It represents the thin edge of the wedge and eventually the Attorney will have control of the committees.

Mr Sheahan: A socialistic dictatorship?

Mr PEACOCKE: Absolutely. That is what the Government advocates.

Mr SPEAKER: Order! The honourable member for Dubbo is entitled to be heard in silence.

Mr PEACOCKE: I refer now to clause 55. The bill does not distinguish between the functions of trust account inspectors, as they are currently described in section 42 of the Legal Practitioners Act, and investigators appointed for a specific task in accordance with section 82A of that Act. Section 82A of that Act is the section that most closely resembles clause 55 of this bill. The Law Society has to approve any increase in the powers of inspection or investigation granted to trust account inspectors. It is acknowledged that clause 55 attempts to achieve that objective. It is acknowledged also that in particular cases investigative work undertaken by inspectors may be similar in scope and detail to that undertaken by a specially appointed investigator.

I have been informed by the Law Society that it is concerned to ensure that the education and investigative skills of inspectors are the subject of continuing development so that inspections will be more effective. Obviously the Attorney agrees with that proposition because this bill will control the use of clients' moneys by solicitors. A fundamental activity of an inspector is the constant supervision of solicitors' trust accounts. This supervision is managed currently, as near as practicable, by an annual cycle of inspection and in-depth investigation of all solicitors' accounts, transactions, and affairs that would not normally be undertaken by an inspector in the same exhaustive manner as that which an investigator under section 82A of the Legal Practitioners Act may be obliged to adopt.

In his second reading speech the Attorney said that clause 55 will enable the Council of the Law Society, by an instrument of appointment, to specify the particular affairs to be investigated. The clause does not appear to confer on the society or its council any such discretion. The clause empowers the society merely to appoint investigators to investigate the affairs of a solicitor or solicitors. The word "affairs" is given wide definition in subclause (9) of clause 55, which has the effect of making it mandatory for an investigator to furnish a report in respect of every investigation whether or not the inspection revealed any misconduct or irregularity. Subclause (7) of clause 55 requires that a copy of the report be forwarded to the solicitor and to the Attorney General if there are reasonable grounds for suspecting professional misconduct, improper conduct, or irregularity in relation to the affairs of the solicitor.

The definition of professional misconduct can be found in part 10 of the bill. The vague references to improper conduct and irregularity may oblige an investigator or inspector to furnish the Attorney General with a report that may contain matters of a relatively trivial nature. The reporting requirements imposed on inspectors as a result of their being brought within the operation of clause 55 will be wasteful and could impair their efficient operation. Although the definition of "affairs" in subclause 9 of clause 55 purports to have wide variation, it is unduly limited in its reference to accounts. It refers only to accounts kept pursuant to part 6 of the bill. An investigator ought to have the power to investigate all accounts that might be maintained by a solicitor or associate, if the solicitor's affairs are to be comprehensively investigated.

Subclause (8) of clause 55 contains various provisions relating to the costs of investigation, which may be recovered from a solicitor who is the subject of investigation, unless the investigator's report discloses no professional misconduct, improper conduct, or irregularity. Although such a provision is undoubtedly appropriate to the special investigation of the kind that may now be undertaken under section 82A of the Legal Practitioners Act, it would be inappropriate and administratively cumbersome for the society to include recovery of costs of an inspection that might reveal only minor irregularities. Although payment may be waived by the society under paragraph (b) of subclause (8), that would require the specific exercise of the council's discretion in each case. If honourable members were aware of the volume of work that is handled by the Council of the Law Society, they would understand that this provision will cost the society dearly in terms of time. A separate provision should be introduced for trust account inspectors, which will grant to inspectors wider powers of investigation and recognize their particular functions to distinguish them from investigators of the type that may be appointed under section 82A of the Legal Practitioners Act.

I turn now to clause 55 (6), which reads: "A solicitor who contravenes subsection (3) or (5) is, whether or not convicted for the contravention, guilty of professional misconduct". I understand the need in that clause to compel lawyers to comply with the requirement to produce documents and so on. But when a man is not convicted or nothing is found against him, is it right that he be found guilty of professional misconduct, which could lead to his being struck off the roll. What sort of penalty is that?

Mr Sheahan: He has a defence. It is not peremtory.

Mr PEACOCKE: Nevertheless, he is exposed to the risk.

Mr Sheahan: What do you do?

Mr PEACOCKE: What about when a person is tried in the court and acquitted; is that person to be put in double jeopardy?

Mr Sheahan: What is your attitude to the motion in regard to Judge Collins? Do you want him tried in the Parliament without any opportunity to be heard. You are a hypocrite, own up.

Mr PEACOCKE: I am not talking about Judge Collins.

Mr SPEAKER: Order! I call the Attorney General to order.

Mr PEACOCKE: Clause 55 (7) (b) indicates that a copy of the report should go to the Attorney General. I have already said that that would be unduly cumbersome. That is a very poor clause and will create major problems. In his second reading speech the Minister said:

> . . . under clause 55 the Council of the Law Society will be able, by an instrument of appointment, to specify the particular affairs to be investigated . . .

That clause does not appear to confer on the society or its council any such direction. The clause will merely empower the society to appoint an investigator "to investigate the affairs of a solicitor or solicitors" and the word affairs is given wide definition in subclause (9). The effect of clause 55 (1) (b) will be to make it mandatory for an inspector to furnish a report in respect of every investigation and inspection whether or not his inspection revealed any misconduct or irregularity.

Subclause (7) requires a copy of the report to be sent to the solicitor and a copy to be sent to the Attorney General, if there are "reasonable grounds for suspecting professional misconduct, improper conduct or irregularity in relation to affairs of the solicitor". The definition of professional misconduct, which is in part 10 of the bill, contains vague references to improper conduct and irregularity. I shall not deal with every clause of the bill. I refer to clause 56 (1), which reads:

> An investigator shall not, unless making a requirement under section 55 (3), and his . . . assistant shall not, make an unauthorised disclosure of—

Various matters are listed in this clause. This provision does not apply to the Attorney General. I believe that the bill should be amended to include that particular coverage so that the Attorney General cannot in this House or anywhere else reveal any of the things an investigator should not reveal. Other factors also will cause great expense to the Law Society. Clause 57 provides that a number of annual reports will be submitted to the Attorney General on the activities of the society and the Bar Council over the previous twelve months. Obviously it is necessary for some accounting of the activities of what after all is a statutory body. Why should there be all these specific reports? Would not it be simpler and proper to furnish the annual report of the society and the Bar Council; that would adequately cover anything that the Attorney General would need to know. That is another fault in the drafting of this bill, which comes about because of a real lack of understanding of the costs to the profession of the operation of the society.

I deal now with clause 58 (3) (c), which relates to the constitution of the advisory council. This clause provides that the advisory council shall consist of nine members appointed by the Attorney General. Two members will be practising barristers nominated by the council, and two members will be practising solicitors nominated by the Law Society council. However, four members of the council will be appointed to represent the community, "of whom not more than one may be, or be eligible to be admitted as, a barrister or solicitor". Why should there be that imbalance? It is fundamental to the administration of law in New South Wales and solicitors of New South Wales that people who take part in that administration on all its committees should be the peers of those people, who have knowledge of the law, are honourable, decent, honest men, who seek only to improve the quality of their profession and to protect the rights of the public. Why must there be four lay members of this committee? Why is it the penchant of this Government to provide advanced consumerism on every piece of legislation? Does that policy apply to the union movement or the police force—where else does it apply? Why does this have to be so?

Mr Sheahan: Many of the organizations you are talking about are investigated by the Ombudsman at the request of the community. Are you going to ignore that comment?

Mr PEACOCKE: I ignore the Minister, because obviously he has a stupid approach to this bill. He does not want to consult with anyone who might be able to advise him. His inability to draft an adequate legal practitioners or legal profession Act probably stems from his abject lack of experience of practice.

Mr Sheahan: Is this a get square for last night?

Mr PEACOCKE: Get square for last night? Why would I bother to get square with the Minister. Let us face realities. The Minister has prepared a vital bill for this State but never once practised in his own right, independently of

anyone else, as a solicitor. How could one expect to get a great piece of legislation from him.

Mr Christie: That is why he is on this side of the House and you are on the Opposition side.

Mr PEACOCKE: I can assure the honourable member that it will not be for long.

Mr Sheahan: Does that definition of practice on their own account independent of anyone else apply to Ken McCaw and Jack Maddison as well.

Mr PEACOCKE: I shall not listen to the bleatings from the Government side of the House. I have often heard such rubbish. Subclause (1) (a) of clause 60 of the bill is open to the construction that its provisions apply to any person acting as a solicitor, including a person acting as a solicitor in New South Wales. If so construed, it would apply to solicitors practising in another State and require them to comply with the provisions of clause 61 (1) and (2) in respect of money received otherwise than in the course of practice in New South Wales. It is presumed that the subclause is intended to apply only to persons while they are practising as solicitors in New South Wales and to regulate their actions, notwithstanding that they might be acting concurrently in relation to the receipt of money in another capacity such as one of those specified in the relevant clause. One would consider that the draft revised section 41 of the Legal Practitioners Act, approved by the Council of the Law Society in October 1986, contains provisions that were capable of less ambiguous construction than clause 60 (1) (a). The society's draft contained a number of provisions that would have overcome the problem now perceived with the present clause.

The remaining subclauses of clause 60, particularly subclauses (2) and (4), and clause 61, should be replaced by provisions in line with those previously proposed by the Law Society in its revised draft of the proposed section 41. Though the society's definition of controlled moneys, in subsection (10) of the Law Society's draft submitted to the Minister, invoked the term "associated party" as defined in subsection (1) (a) of the draft, to encompass a solicitor's indirect control of money, and was designed to make a solicitor accountable for specific recording procedures for only that money over which the solicitor exercised a continuing control, the legislation prescribes the solicitor's obligations by reference to the concept of control exercised directly or through an associate at the point of receipt.

This is a vital provision of the legislation. The immediate consequence of subclause (4) is, as the draftsman has already been advised, the imposition on solicitors of the obligation prescribed by clause 61 in respect of money passing through a solicitor's hands, even in the most transitory fashion, to a third party. Although that result was noted by the Attorney General in his second reading speech as an intended objective, it is perceived by anyone with any common sense as a massive and unnecessary administrative burden upon solicitors, without justifying utility in terms of client protection. A large proportion of the funds that might be affected would be those exchanged on conveyancing settlements, where money is usually only exchanged against receipt of documents of title, and such circumstances do not themselves constitute an area of significant risk.

I do not know whether the Attorney General has ever attended a large conveyancing settlement where cheques were floating in all directions—not passing through trust accounts but to banks, mortgagees, mortgagors, vendors and so on. If he has done so, he will realize the difficulty of having money

floating everywhere. What is the purpose of this subclause? Does it mean that anyone will be protected? No risk is involved. All people attending conveyancing settlements are there to watch their own interests and the interests of their clients.

The only other significant consequence of the approach adopted by the draftsman in clauses 60 and 61 is that the obligations of solicitors to account for money are made alarmingly indeterminate by subclauses (2) and (4) of clause 60, and the distinction between trust money and controlled money is rendered uncertain. That fact is apparent on an analysis of the provisions of clause 61, which I shall examine later. By linking the definition of associate to the definition of money received in subclause (4), the legislation purports to require a solicitor to bring within the accounts to be maintained under clause 61, money of which the solicitor may be a co-trustee, merely because the solicitor in the course of his practice advised payment of the money to his co-trustee.

What would be the position of a solicitor such as Mr David Somervaille, a highly respected solicitor in Sydney and a senior partner of Dawson Waldron, who was involved as one of the trustees of the Murdoch trust? Three or four trustees controlled the money of the Murdoch family in Australia. If one of the co-trustees appropriated money belonging to that trust, would clause 61 mean that Mr Somervaille, a man of great honour who would never do such a thing, would be responsible and be dealt with under the legislation? That illustration shows the absurdity of these clauses. Clause 61 in its present form is imprecise, unworkable, and should be replaced.

The Law Society provided the Attorney General with a draft of a proposed new section 41 which endeavoured to state precisely the obligation of a solicitor in dealing with another person's money, by indicating what money should be deposited to a trust account, what money need not be treated in that way, and, by its definition of controlled money, indicating the duties of solicitors to account for money controlled by them outside their trust accounts. The provisions of the legislation purport to impose a wider primary obligation of accountability by virtue of the receipt provisions of subclause (4) of clause 60, but fail to define clearly the terms of that obligation in clause 61.

Though the full extent of a solicitor's duties may be set out in the regulations to be prescribed, those duties will be required to relate to the definitions of trust account and controlled money provided in the bill, and to the fundamental obligations which the legislation creates. Subclause (1) of clause 61 provides that if a solicitor receives money in the circumstances I have described, he must comply with the provisions of subclause (2) and, until then, he shall hold the money exclusively for the other person. The words "until then" must refer to the solicitor's compliance with subclause (2) which provides:

> This section is complied with if the solicitor:
>
> (a) complies with such regulations as may be in force in relation to trust money . . . and pays the money to the credit of a general or separate trust account . . .; or
>
> (b) complies with such regulations as may be in force in relation to controlled money and pays the money to, or as directed by, the person for whom the money is held.

Assuming that money can be correctly identified as trust money, subclauses (1) and (2) (a) of clause 61 require that it will be held exclusively for the person on whose behalf it is received, until—and I stress the word until—it is deposited in a trust account. The clause is silent on any obligations the solicitor may have thereafter to hold the money exclusively for the person, or disburse it as directed. Subclause (2) (b) contemplates the disbursement of money as directed by the person for whom it is held, but refers only to controlled money.

The definitions in subclause (8) of clause 61 of trust money and controlled money do not assist clarification of the status of the money referred to, nor the obligations of a solicitor. Controlled money is defined as "money referred to in subsection (1) that is not proposed to be paid . . . to the credit of a trust account". When the Law Society discussed the matter with the Attorney General, its proposed definition of controlled money included money withdrawn from a solicitor's trust account and dealt with in a manner that gave the solicitor continuing control. Many obvious things are wrong with these clauses. It would take hours to go through them item by item; that will be done at the Committee stage. If the Attorney General were genuine, he would have adopted the Law Society's proposed new section 41, which would have accurately and sensibly covered the situation attempted to be controlled by clause 61.

I turn now to clause 63 which will create a new set of circumstances. Clause 63 is completely unacceptable to me, to the Opposition, and to the Law Society council. I have been advised that the council is opposed to any provision requiring auditing of solicitors' accounts. The council has good reason for its opposition. The terms of the council's approval in October 1986 to the proposed scheme of legislative reform dealing with trust accounts was communicated to the Attorney General. An essential aspect of that scheme was that auditing would not be required by reason of the other measures for regulation and independent scrutiny of solicitors' accounts proposed by the society.

Those measures included a more detailed and effective report of an accountant to be submitted by solicitors on the renewal of their practising certificates; substantially increased requirements for the recording of clients' funds, including controlled money; wide powers for trust account inspectors, and a specific body of regulations dealing with investment of clients' funds in mortgages of real property. The latter regulations substantially adopted the recommendations of the Law Reform Commission and required that a solicitor obtain clear written instructions from clients prior to the investment of any money on mortgage. Where a solicitor has a continuing role in the collection of repayments or the management of mortgages by a nominee, strict accounting procedures are required to be followed.

The society's perception and my perception of the practical difficulties that would militate against the effectiveness of any audit system have been advised to the Attorney General by the society on many previous occasions. Clause 63 purports to require an audit of a solicitor's records in relation to all mortgages "in respect of which the solicitor acted for a party" if the mortgages total the number stipulated or their value exceeds $500,000. An audit is required whether the party or parties for whom the solicitor has acted are borrowers or lenders and regardless of the terms of the solicitor's retainer in relation to that party. Thus a solicitor who acted only for a number of

homebuyers in relation to borrowings from banks or building societies which, I might add, would have complete control of the funds lent until their disbursement on the completion of the borrowers' purchases, would be the subject of audit if the amounts borrowed or the number of mortgages exceeded the prescribed figures.

In the example given the solicitor would have had no control or custody of the funds, unless he acted also for the lending institution, and would have exercised no influence upon the lender in regard to the terms of the loan. There would be no good purpose served in subjecting the solicitor's records on those transactions to an audit merely on the basis of their being mortgage transactions. Because most institutional lenders will determine their own lending terms and arrangements, and very carefully supervise the application of their funds, it would be wasteful and unnecessary to subject to audit requirement the solicitors acting for such lenders. I do not know whether the Attorney General is aware of the cost of audits. They are enormously expensive. Clause 63 will impose upon solicitors—who are already finding a rapid diminution of their sources of income because of a number of activities or proposed activities of the Government and because of the downturn in the economy—enormous and unwarranted costs. Why? The reason is that no proper thought has been given to these sections. No thought has been given to the proper drafting of the provisions. Proper thought has not been given because the Attorney General and the draftsman have never really practised in a way that would enable them to understand the practical difficulties of such audit provisions.

Clause 64 exempts the Crown Solicitors Trust Account from the provisions of the clause. Why? The Crown Solicitor should be controlled in the same way as other solicitors are to be controlled. Why should not any solicitor or lawyer, whether he works for the Government, the Crown Solicitor or in private practice, be subject to the same sorts of controls? After all, the legal profession itself is seeking to control the activities of all solicitors. It is unfair that the Crown Solicitors Trust Account is to be exempt.

Mr McIlwaine: It is audited by the Auditor-General.

Mr PEACOCKE: Of course it is audited by the Auditor-General. Most solicitors' accounts in general terms are audited also.

Mr McIlwaine: Not by the Auditor-General.

Mr PEACOCKE: So what? The honourable member for Ryde is like a breath of foul air in this place. He makes stupid comments on matters he knows nothing about.

Mr McIlwaine: Would the honourable member have private solicitors audited by the Auditor-General?

Mr PEACOCKE: Does the honourable member for Ryde say that the Auditor-General is a better auditor than Touche Ross or Coopers and Lybrand?

Mr McIlwaine: Yes.

Mr PEACOCKE: The honourable member for Ryde is a dreamer. I will waste no more time answering his interjections. I now turn to part 7 of the bill. This is a long and complex bill.

Mr Sheahan: I was told you were to speak for only thirty minutes.

Mr PEACOCKE: Who told you that?

Mr Sheahan: Your Whip.

Mr PEACOCKE: What rubbish.

Mr Phillips: I beg the Attorney General's pardon?

Mr Sheahan: Not the honourable member for Miranda; the National Party Whip.

Mr PEACOCKE: The Attorney General should keep quiet for a while and make his reply when he gets the call.

Mr Sheahan: I can hardly wait to do that.

Mr PEACOCKE: I bet you cannot. If the Attorney General keeps quiet for a while he might learn something that he ought to have known years ago. I allow for his inexperience. I turn to part 7 of the bill. Without going into its detail, that part requires substantial revision. That can be done only in close consultation with the Law Society, which has years of experience of the fidelity fund. I say no more than that. A number of changes ought to be made. I turn to clause 79, which is an important clause of the bill, as are most. Division 3 of part 7 of the bill relates to claims made on the fund. The definition of "failure to account" is critical for the determination of the rights of claimants and the liability of the fidelity fund.

The definition in the bill is not only imprecise by reason of its terms in relation to an associate of a solicitor, but also because it radically extends the potential liability of the fidelity fund without regard to the nature of obligations imposed on solicitors under clause 61. Under the existing provisions of the Legal Practitioners Act, though section 44 refers to the receipt of money by a solicitor "for and on behalf of any person", the definition in section 56 of "failure to account" reveals that it refers to the entrustment of money or other valuable property to a solicitor "in the course of his practice".

Clause 61 of the bill purports to deal with a solicitor's duty to account for money received "in the course of practising as a solicitor", but money in respect of which there may be a failure to account as defined in clause 79 (1) is not limited to money recieved by or entrusted to a solicitor "in the course of practising as a solicitor". I have mentioned already the uncertain operation of clause 61. According to the definition of "failure to account", it may occur not only where money is received by the solicitor or an associate "in the course of" the solicitor's practice but may also occur where money is "recieved by or entrusted to the solicitor" on his advice, or to an associate of the solicitor on the advice of the solicitor, and unrelated to the solicitor's practice. That could mean that a solicitor who happened to be chairman of a fund-raising campaign or the treasurer of a tennis club and received money in that capacity, quite unrelated to his practice as a solicitor, could be responsible for failure to account in terms of clause 79 (1).

In addition, an associate of a solicitor, perhaps an accountant, who might be a co-trustee with the solicitor, could cause a failure to account in respect of money paid to him on the advice of the solicitor if the accountant were to deal dishonestly with that money quite independently of the solicitor. I refer to my previous example of David Somervaille. The fidelity fund might thus sustain a liability for a claim caused by a person acting dishonestly, without the knowledge or connivance of the solicitor, in relation to money which had no connection with the practice of the solictor and for which the solicitor may have had no duty to maintain accounting records under part 6. Obviously such a result would be quite contrary to the purposes for which the fund was established and maintained.

I turn to clause 117 of the bill. The Opposition believes that the clause should be amended to prohibit the performance of the prescribed work under that clause by any indirect means. Should the decision of Mr Justice Kearney in *Law Society of New South Wales* v. *Ramalca Pty Ltd* in the New South Wales Supreme Court's Equity Division, on 7th March, 1987, which is unreported, be upheld on appeal, the provisions of clause 117 might not prevent an unqualified person employing a qualified person to carry out general legal work as defined in the clause, for a fee or benefit received by the unqualified person. That clause is of some importance to the public because it involves the quality of work done in matters such as conveyancing. I turn next to what is perhaps the most fundamental clause in this wicked piece of legislation, that is, the definition of professional misconduct as stated in clause 123. The bill defines professional misconduct as including:

> (a) conduct (whether consisting of an act or omission and whether occurring in connection with the practice of law or otherwise) . . .

I emphasize the words "or otherwise":

> . . . that falls short of the standard of conduct that a member of the public is entitled to expect of a legal practitioner; and
>
> (b) conduct that is declared to be professional misconduct by any provision of this Act.

That definition should be deleted. First, it is totally unnecessary. The common law principles that relate to the assessment of professional misconduct, and the notion of peer judgment which it contains, are well founded in logic and common sense. The profession of the law is fundamentally a profession of service to the community. The quality and standard of service rendered by solicitors to their clients is a most important element in the professional conduct of solicitors. A truly competent solicitor is one who appreciates the duty of service that he or she undertakes when acting for a client and who discharges that duty competently, fairly and honestly. Such a solicitor knows the level of service that should be rendered to a client, as will be determined by the client's instructions and the particular circumstances of that client in the appropriate social and legal context.

The expectations that a member of the public may have as to the standard of conduct that a solicitor should observe will never be capable of any reliable and objective determination by reference only to the criterion of a reasonable man or reasonable woman. The reasonable man or woman might, through ignorance of all the duties that a solicitor might assume upon the receipt of instructions from a client, be excessively harsh or excessively tolerant in his or her determination of that standard of conduct. On the other hand, peer judgment will be informed—I emphasize the word informed—judgment based on a proper understanding of the standards of conduct that a member of the

public might properly and reasonably be entitled to expect of a legal practitioner.

Second, the present definition includes conduct that is unrelated to a solicitor's practice, which the definition does not seek to relate even to any question of fitness affecting a solicitor's right to practice. The Supreme Court in its inherent disciplinary jurisdiction has dealt for many years, and continues to deal, with legal practitioners who have been guilty of some personal misconduct unrelated to their professional practice, which might, however, affect their fitness to remain in practice. That question is one peculiarly appropriate for determination by the court as the admitting authority and the authority giving continuing accreditation to a legal practitioner as a fit and proper person to maintain that privileged status. It is wholly inappropriate that the tribunal as constituted by the bill should deal with questions of personal misconduct that may or may not raise real issues as to fitness to practice and, on the basis of that conduct, be judged according to a standard of conduct that a member of the public is entitled to expect of a legal practitioner.

Third, the bill labels as professional misconduct all conduct that may be referred either to the Professional Standards Board or to the Disciplinary Tribunal. The bill contains no further definitions to distinguish minor professional misconduct from serious professional misconduct. However, it is apparent that minor professional misconduct may include conduct constituted by mere negligence, which would not, on any of the common law tests be properly regarded as professional misconduct. Of course negligence is always actionable by a client for the recovery of damages. Connotations of professional misconduct according to the general law involve conduct that is disgraceful and dishonourable in the estimation of one's peers; conduct that is a departure from the proper principles of honesty and fair dealing.

To impose on a legal practitioner a finding of professional misconduct is to impose on him a professional stigma of considerable substance. Indeed, such a finding disgraces the practitioner; it will mean the end of his working life in the practice of law. It is unnecessary for the operation of the disciplinary system that the term should be used in all circumstances and, if the definition were removed from clause 123, the bill could be quite simply amended to accommodate a description of unsatisfactory professional misconduct to describe that conduct which might be referable to the Professional Standards Board.

Fourth, it follows from my earlier observations that the definition in clause 123 will create unnecessary administrative problems. Having regard to the provisions of clause 130, and particularly subclauses (1), (2) and (3) thereof, the definition is calculated to arouse unfounded expectations on the part of a complainant as to the true nature of his or her complaint, and the procedures available for prosecution of that complaint. The terms of the definition may also unreasonably influence the determinations of the Professional Misconduct Review Panel when it deals with the review of council decisions in relation to complaints.

During the past century the courts that admit solicitors and barristers, which have had the day-to-day conduct of the interpretation of the law of the State and of the operation of the legal system, have developed definitions of what is and what is not professional misconduct. By reason of their knowledge of the law, those courts have been able to do that fairly and reasonably from the point of view of lawyers and of the public. To impose a standard now that relies on what a member of the public believes he is entitled to expect of a legal

practitioner is madness in the extreme. For thirty years I practised as a solicitor. That experience taught me that what the public expects and what it is entitled to expect are usually two distinctly different things. Clients may instruct a solicitor in the purchase of a house. They expect, and in fact desire, to move into that house as a quickly as they can. Sometimes I think they believe it is as simple as buying a pound of butter; that they sign a contract to buy a house, and they move in tomorrow. If they have not been involved previously with a conveyancing transaction that is their desire and their expectation. However, all lawyers, and most people who have had the experience of buying and selling a house, know that the solicitor must check the title of the house and undertake all the procedures necessary to protect his client.

Is it to be said that the expectation of someone with no legal knowledge, involved in his first conveyancing transaction, is to be the criterion for what is and what is not professional misconduct? Does the Government intend to open the gates for all those who become cranky because it takes a month or more to complete their purchase to make complaints against lawyers? Under the common law the courts have laid down principles that are fair to all parties concerned, and those principles should be retained. I shall not delay the House by continuing at greater length about that aspect of the bill, which is critical but grossly unfair.

Clause 123 relates to the investigation of complaints. This proposition is not objectionable except that in every other aspect of the law—whether one sues an individual or the Crown for negligence—limitations apply, and obviously for good reason. The Law Society has suggested a limit of ten years for the retention of records. Why should records have to be kept forever? The disciplinary clauses in the main bill are open to criticism, and have been included as a result of bad drafting and a lack of true understanding and knowledge of the practical operation of a solicitor's office. Clause 188 relates to the determination of a solicitor's remuneration. Over a long period many changes have affected remuneration determinations, including departure from the system in which the Supreme Court fixed solicitor remunerations upon the recommendation of the Law Society. Solicitors have come to terms with the changing methods of determination as provided by this bill and the recent amendments to the Legal Practitioners Act.

Clause 188 provides that either House of Parliament may pass a resolution disallowing a determination. What is the justification for that proposition? Does the Government suggest that when a union appears before the industrial courts for a determination of its members' wages, this House should override that court's determination? Of course it does not. Tribunals established by the Government determine these matters. The main bill reserves to the Parliament the power to disallow a determination made by a body it has created. This proposal is grossly unfair. This legislation could have been legislation of which all members of this Parliament were proud. It could have properly controlled the operations of solicitors and barristers. It could have provided equity for the profession and the public.

The legislation is, however, a hotch-potch of bad drafting and lack of understanding of the practicalities of the operation of the legal profession. It is disastrous and will lead ultimately to all solicitors and barristers in this State, including the Labor Lawyers, becoming implacably opposed to this Government, which has imposed this rubbish on an ancient and honourable profession. It does not succeed in achieving the objectives that it sets out to achieve. The continuing legal education concept is acceptable. I can think of no other profession that has to undertake continuing education to be able to

continue to operate. Plumbers, carpenters, doctors, and accountants do not have to undertake further education. Any solicitor that is worth his salt, who wishes to remain competitive, and does not want to be sued for negligence, keeps himself up to date with the practices of the profession.

The Law Society provides the facilities and materials to lawyers who wish to keep abreast of developments, particularly having regard to the uncertainties of our time and the mass of legislation being introduced in this Parliament. Ultimately, most solicitors will be controlled by the market-place. Lawyers do not want the draconian principles that are contained in this legislation. The legal profession will in the future, as it has in the past, keep its own house in order. The profession has had it share of crooks, thieves, and frauds. However, it has an illustrious record having regard to the huge sums of money it handles. It is an honourable and competent profession.

Mr KERR [3.36]: Mr Acting-Speaker—

Mr BECKROGE (Broken Hill), Deputy Government Whip [3.36]: I move:

> That the question be now put.

The House divided.

Ayes, 48

Mr Akister	Mr Gabb	Mr Petersen
Mr Amery	Mr Harrison	Mr Price
Mr Anderson	Mr Hills	Mr Quinn
Mr Aquilina	Mr Hunter	Dr Refshauge
Mr K. G. Booth	Mr Irwin	Mr Rogan
Mr Brereton	Mr Keane	Mr Sheahan
Mr Carr	Mr Knowles	Mr Shedden
Mr Cavalier	Mr Langton	Mr Unsworth
Mr Christie	Mr McGowan	Mr Walker
Mr R. J. Clough	Mr McIlwaine	Mr Walsh
Mr Cox	Mr McManus	Mr Whelan
Mr Crawford	Mr H. F. Moore	Mr Wilde
Mrs Crosio	Mr Moss	
Mr Davoren	Mr J. H. Murray	
Mr Debus	Mr Neilly	*Tellers,*
Mr Doyle	Mr Paciullo	Mr Beckroge
Mr Ferguson	Mr Page	Mr Wade

Noes, 33

Mr Arkell	Mr Greiner	Mr Pickard
Mr Armstrong	Mr Hatton	Mr Schipp
Dr Aston	Mr Hay	Mr Small
Mr Baird	Mr Jeffery	Mr Smiles
Mr Beck	Mr Kerr	Mr Webster
Mr J. D. Booth	Mr Longley	Mr Wotton
Mr Causley	Miss Machin	Mr Yabsley
Mr Collins	Mr Mack	
Mr Cruickshank	Mr T. J. Moore	
Mr Duncan	Mr Owen	*Tellers,*
Mr Fahey	Mr Park	Mr Phillips
Mr Fisher	Mr Peacocke	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd

Resolved in the affirmative.

Question—That these bills be now read a second time—proposed.

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [3.45], in reply: It is extraordinary that the old tradition of allowing two members on the Opposition benches to lead on a bill should result in a one-hour speech by the member leading for the Liberal Party and a speech of one hour and twenty minutes by the member who led for the National Party. In 1967 I became an articled clerk, which is the lowest form of life in the legal profession of New South Wales. I was most fortunate to get a job in a very politically-minded firm, which did a lot of trade union work. The senior partner of that firm was Roy Turner, who later became a member of the Legislative Council. The other partner was Lyn Jones, who is now at the bar. During the course of my years with that firm I became more interested in Labor Party politics of the trade union movement and the politics of the Labor Party have got nothing on the politics of the legal profession. Never have I seen that more graphically illustrated than during the course of this extraordinary debate.

Many things were said in the debate about deliberations that have taken place on this legislation. Many comments were not true. But the important thing is that beneath all the huffing and puffing there is a basic acceptance that the Government has done a responsible job in bringing about the first re-write of the legal profession statutes in almost 100 years. There was much obfuscation about how much consultation took place, and much nonsense was talked about how consumers should have no rights to be protected. In effect, it was said that lawyers should have a closed shop—and indeed lawyers should have drafted their own legislation. Under legislation the legal profession has the opportunity to implement the provisions of the bills, but they want the right also, and according to the Opposition they should have the right, to have legislation affecting them drafted by themselves and not by the Parliamentary Counsel; and that they should not be subjected to the usual process of examination by this Parliament. I completely reject that suggestion.

Before I come to deal with some of the matters of substance—and there were not many—raised by the honourable member for Camden and the honourable member for Dubbo, I want to say something about the consultation phase. The honourable member for Camden used the expression "consultation in the true meaning of the word". Eleven years ago this Government gave a reference to the Law Reform Commission and the commission produced documents, conducted seminars, had meetings, and had consultations and discussions over a period of ten years. The final reports were then presented. The honourable member for Dubbo acknowledged that in 1984 historic agreement was reached between the then Attorney General, the late Paul Landa, and the centenary President of the Law Society, Rod McGeoch. It is true that that agreement was reached and that nothing much happened between April 1984 and July 1986. The reason for that was that the Bar Association remained intransigent and would not negotiate on any aspect of reform until such time as the Government deleted the proposal that there should be a system of common admission through the court.

The Law Society supported common admission; the Law Reform Commission supported common admission; the overwhelming majority of my colleagues supported common admission. I suggest that the overwhelming

majority of members of both Houses and of all parties would fail to see what could turn on such a controversy. During that period there was absolute intransigence on the part of the Bar Association. Mr McGeoch handed over the reins of the Law Society to Mr Fred Herron who was president of the society when I became Attorney General on the death of the late Paul Landa. It was Fred Herron who lectured me at functions about how the Government had been too slow in introducing the legal profession legislation; how in 1979 the society had told the Government what should be done about trust accounts; how McGeoch had committed the society to a reform package in 1984 but throughout his presidency and until towards the end of 1985 nothing had been done.

Since that time the public and private stance of the Law Society has been that the legislation should be delayed further; that insufficient consultation has taken place; that I gave some undertaking, which I never gave, that this House would allow the legislation to lie on the table until the September Budget session. I gave such an undertaking, it related to September 1986, not September 1987. When I attended the Law Society Council meeting on 29th January—the date quoted by the honourable member for Dubbo, and I have no reason to doubt him—I suggested that the legislation would be introduced on the last sitting day before Easter, and be debated during the sittings after Easter. That would have taken us into the early part of May. When sittings of Parliament were extended to enable proper debate on this and other matters, I extended the consultation phase.

Letters that passed recently between me and the president of the Law Society were quoted during the debate. One of the former most distinguished presidents of the Law Society is in the gallery. I extend to him my condolences on not defeating the honourable member for Eastwood in the recent preselection ballot, particularly on running third in the ballot. However, throughout his year as president, and throughout Dufty's year as president and what was left of Herron's period of president while I have been Attorney General, detailed consultation took place on all aspects of this matter at the specific direction of the former Premier, Mr Wran. When I discovered that the bar was intransigent during 1985—I forget the date—I said the the former Premier, "I have an historic agreement with the past president of the Law Society and the former Attorney, representing the views of the solicitors of this State, but I have no agreement with the bar". Mr Wran said, "You will probably never get an agreement with the bar while you have common admission. You should go back and negotiate with both professional organizations".

It is nonsense to suggest any extraordinary haste in introducing this legislation. In the letter dated 11th May referred to by the honourable member for Dubbo, the threat was made that the correspondence would be open. It has been open to the honourable member for Dubbo, and quoted by him. I could not care less. So far as I am concerned, what you see is what you get. I have had negotiations with the president. I shall tell the honourable member something about the long letter from which he quoted. On Monday evening, before I had seen that letter, I sat next to the president of the Law Society at a function at the Parramatta Law Society with the Real Estate Institute. From my discussion with the president—and we collaborated on answering questions from members of the profession and the institute—the only matter, other than minor details governed by the regulations on trust accounts, that remained a serious issue between the Government and the Law Society, was the definition of professional misconduct.

I acknowledged that disagreement and put my view squarely to the president in correspondence and, more especially and more importantly, during my second reading speech. So, it is appalling to sit here for two and a half hours and be accused of ratting on some deal with the Law Society on how long the legislation would be considered, and of not having proper consultation. The honourable member for Dubbo said that in Armidale I am described as crafty, uncommunicative, nasty and truculent. Coming from the solicitors of Armidale, I take that as a compliment.

From 1984 to early 1986 I visited all twenty-six of the regional law societies in this State. The honourable member for Camden, when I attended a meeting of his local Law Society in the Camden Community Centre, and the Hon. Sir Adrian Solomons when I attended the North and North West Law Society meeting at Tamworth, contradicted what had apparently been said at Armidale in my absence. Again I say to the solicitors at Armidale that frankly I could not care less. In the course of the Northern Tablelands by-election a major appeal for funds is being made among local solicitors to raise about $5,000, to be matched by the Law Society, to argue with the Government on this legislation. I cannot accept that any solicitor in the State would contribute to such a fighting fund on the basis of what is contained in this legislation.

Those members of the legal profession who are dependent for the major part of their income on the present third party or workers' compensation laws have a legitimate and vested interest in resisting the Government's proposals, which will concentrate the money more on the injured person and less on the lawyers. I can understand why people who may miss out on a quid would wish to donate to a fighting fund. But none of the overwhelming majority of what I call the rank and file solicitors in New South Wales could possibly have any objection in principle to the bulk of this legislation. The honourable member for Dubbo says that there should not be mandatory continuing legal education. He said that no other profession has it; the plumbers and accountants do not have it. The Law Society itself asked that the fiduciary requirements and the misconduct provisions of the legislation be deferred, yet pleaded that the mandatory continuing legal education scheme and the professional indemnity assurance amendments be implemented forthwith.

The honourable member for Dubbo talked about undertakings I have made. I gave an undertaking in the presence of Mr Garling that if my bill was not ready to be debated in Parliament in time for those schemes to be in place before the practising certificate renewal period arose, I would introduce a separate bill. That is what I have done. The proposal is that when the Legal Profession Bill comes into force later this year, it will subsume those amendments to the Legal Practitioners Act that cover mandatory continuing legal education. It is absurd that for eighty minutes this Parliament has had to listen to one of the most experienced solicitors in this State say that the legal profession does not want this legislation, when the elected organization of the profession has said that it wants it and wants it now. The Law Society has said it does not want the legislation deferred.

I have had enough of this nonsense of double standards. I have given the honourable member for Camden a list of some relatively minor amendments resulting from an analysis of the document attached to the letter quoted by the honourable member for Dubbo and, subject to an analysis of the remarks of the honourable member for Camden in leading for the Opposition in this debate, nine small amendments will be moved in Committee. Following those amendments, the legislation will be as close to perfection as one can obtain at this instant. I resent the implication that we should retain a situation where the

profession has the right and the responsibility to self-regulate, yet has the right to draft its own legislation. The profession will not be given that right; it should not be given that right, and no one would basically disagree with that.

In how many cases does the honourable member for Camden suggest draft legislation should be made available for general perusal before being presented to Parliament? The honourable member for Camden complained that the bills were with the Law Society for too short a time. The honourable member said that the bills should have been circulated widely throughout the legal profession, so that everyone could see how awful they are. Bills are the prerogative of the Government or a sponsoring private member of Parliament to lay on the table of the House and have them properly debated and subject to representations and consultation.

I took the unprecedented step of providing various drafts of this legislation. One would think after my experience with the judicial officers legislation that I would have learned my lesson on trying to consult people about my bills. However, I made them available to the Law Society, only to have the President of the Law Society now publicly criticize me for embargoing their circulation. These are bills that have been approved by the Cabinet, approved by my parliamentary colleagues on the Labor side, to be introduced into the Parliament. The Law Society was given an advance copy of the bills. Despite that, I am now attacked by the society's representatives in this House for saying that there should be a very restricted circulation of the bills. If the sentiments expressed by the honourable member for Dubbo and the solicitors of Armidale are to be taken as the official position of the Law Society of New South Wales, so be it. But these bills will proceed through this House.

Inevitably, because of our allowing similar consultative process to take place on the regulations in regard to trust accounts, built into the legislative program is a five-month or six-month delay before the proper implementation of the legislative package. But bearing in mind that in five years some unsavoury elements of the profession can take from their clients $16.5 million—which has to be made good through the scheme administered by the society—I will not delay these bills or the further restructuring and reorganization of the disciplinary and misconduct arrangements that apply to the legal profession. That is a short history of these measures.

Much more could be said about all the allegations made by members of the Opposition. It is easy when in Opposition to make such allegations. I was on the Opposition side once and it was a considerable incentive not to want to go back. When I was part of the Opposition I got copies of these letters. People would ring up and say: "I have just written a letter to the Attorney General. Have a look at it". That is quite all right; it is part of the democratic process. But both the honourable member for Camden and the honourable member for Dubbo are senior and respected members of the legal profession; they should know how the system works and they should know exactly where I have stood throughout my term as Attorney General on those matters. In one instance there has been a shifting of ground because, although the letter of the president of the Law Society from which the honourable member for Dubbo quoted states that I gave an undertaking, in a conversation between the president and myself it was said that one of my most senior officers gave the undertaking. I said: "He gave no such undertaking to my knowledge. He knew that was not my position", and I then stated my position. That was some weeks ago.

I do not know who was supposed to have given the undertaking. If this had happened a year ago, I would have been willing to allow the bills to lie on the table of the House from the autumn session to the budget session. We have

already lost two years, because on becoming Attorney General my target was 1st July, 1985. It was not 1st January, 1988, which will be the effective date of the proper commencement of these provisions and necessary regulations on misconduct arrangements. Those measures will be taken as soon as possible, and the bills will be passed as soon as possible. Appropriate action can then be taken. In the meantime, the society has everything it wanted. It wanted mandatory, continuing legal education; it wanted professional indemnity. Those are among the amendments to the Legal Practitioners Act. Those amendments will be assented to as soon as the obfuscation from the Opposition in this House, and presumably in the other House, is stopped. Enough of the double standards and nonsense we have heard about these matters today. There has been seven years of consultation, irrespective of the consultation that took place with the Law Reform Commission, its officers and advisers. That is more than enough.

Having given the recent history of these members I shall not go through the detail of the trust account story—a very sorry story indeed so far as the solicitors are concerned, faced as they are with the knowledge of the defalcations that have occurred, with a genuine concern about professional indemnity insurance and fidelity guarantee arrangements. The history of the Law Society's consulting with me and my administration on the trust account regulations is a damned disgrace; and they know it. I spoke at length on that consultation in debate on the judicial officers legislation. I was attacked roundly and at some length about that. Yet six or eight months later the Government has still to force the pace. That is not good enough. The public expects better.

The public is entitled to know that honourable members who speak for the Liberal Party and National Party in this debate do not want the public to have a proper window into the legal profession and do not want the public to have proper participation. That is a serious position to adopt. I was told in answer to an interjection, "Well, we want some, but you have got too much". Apparently four people are too many. I disagree. The people outside require protection of their funds. If the integrity of the legal profession is under some question, the Government has a responsibility to the community and a responsibility as a Parliament. On behalf of the Government I have a sincere responsibility to ensure that there is in place a proper system in which the public at large can have confidence.

Anyone who has been on the council of the Law Society knows that I get from the community an enormous volume of correspondence about the profession, as indeed have my predecessors and presumably my counterparts in other States. We have always said it is a matter for the Law Society to take disciplinary action, and so on. In my view, that has made us appear wanting so far as the community is concerned. We have been found wanting in the way in which these matters are dealt with. We are loath to set up some other form of government-sponsored tribunal or organization to investigate these matters, but we have a right to insist on genuine community representations and involvement in the matter.

On the question of the definition of professional misconduct I can add nothing to what appears in the bills and in my second reading speech. The only change that is to take place in the existing common law definition involves the application of a community standard in determining what constitutes professional misconduct. The House has been told that that definition is a bit vague. The public would say that it is better to have that sort of vague improvement than to have the present system under which, although it may not be the case, it can be seen to be the case that lawyers protect themselves

and protect their own. That is unsatisfactory. It has to stop. It may not stop, in the public perception, as a result of my legislation. It may not stop at all. All the good will in the world of all those marvellous men and women who have served over the years and given generously of their time and resources to work for the Law Society of New South Wales either as elected or paid officials, will not remove the nagging doubt of the community. That perception needs to be resolved. It may never be resolved by a system under which there is not a more substantial involvement of non-lawyers in the disciplinary process.

The whole scheme of the bills is designed to ensure greater accountability by the profession to those to whom they provide a service and, generally speaking, a monopoly service. That being so, there is even more need for accountability and integrity standards to apply. We are told that the proposal on lay involvement is the thin edge of the wedge. The honourable member for Dubbo said that socialism was on the way to New South Wales, and the commos would take over the legal profession. That is the type of paranoia to which we have become accustomed in this place. So far as the thin end of the wedge is concerned, I wonder whether the honourable member for Dubbo really recalled to mind that the Law Society has a lay review tribunal appointed by the society.

Mr Peacocke: I did.

Mr SHEAHAN: How many from outside the practising profession are involved in that tribunal? The answer is, one. The crucial point is: the whole tribunal is only one person. So, when the Government proposes to put four on a body through these bills, supposedly that is the thin edge of the wedge; but when the Law Society has one out of one from outside the profession, that is not the thin edge of the wedge. As a serving member of the profession in bygone days, the honourable member for Dubbo would have voiced his opposition to that.

I shall not pursue the argument as to whether people should have the right to use a conveyancing company and whether a conveyancing company should have the right to employ a qualified legal practitioner. Many people who are qualified in the legal profession choose to follow their discipline in other ways. I welcome that. Some of those people work in my department. Some work in the community. Some work in commerce. There is nothing wrong with that. If people who are qualified to practise law wish to work for an organization that competes in some way with the traditional areas of service provided by the legal profession, so be it. Why should the Government say that is not an appropriate alternative for those people?

Obviously the Government is concerned to ensure that the community receives good service and proper protection and has the necessary advice as to rights and obligations, particularly with contractual or family matters. However, I am concerned that honourable members opposite will do nothing about sharks who advertise in the press various investment schemes about which I have spoken previously in the House in other contexts. We cannot stop people from putting their hands in machines or their money into false schemes. Neither can we stop people seeking to keep the legal profession reasonably moderate and adjusted to the public's conscience about competition in traditional areas.

I do not understand the comments of the honourable member for Camden about solicitor's remuneration. His function is not that of a shop steward for the legal profession, seeking to obtain higher fees for it. The Government took the view that it should not set fees for the legal profession. It took the view also that the legal profession should not set the fees that it

charges. Instead, it established the Legal Fees and Cost Board for that purpose. The establishment of that board was by no means free of controversy. However, it was introduced in an effort to achieve an independent assessment of the costs to be charged by solicitors. The members of that board have a fair bit of expertise. They consist of a judicial member of the Industrial Commission, indeed the President of the commission; a practising solicitor, and two members having expertise in matters of wage fixation, economics and associated matters. The board's members are eminent citizens of this State. I do not believe the community or the profession should have any difficulty about that membership.

Since the board's inception it has pegged legal costs broadly in line with rises in the consumer price index. Surely there can be no criticism for its not increasing fees in line with inflation. More important, the board has realized and acknowledged that there are fundamental difficulties with the current structure of regulations and cost scales applicable to the legal profession. Those scales have existed for a long time, and changes in management practices and the law in general have resulted in them now having little relevance to modern conditions. The board called upon the Law Society to make a detailed submission on this matter, and said that it will consider the matter fully when that submission is received. I am glad that the community, members of the Parliament and of the legal profession have not been holding their collective breath. The board has been waiting for two years to receive that submission. Each time I have attended a high level meeting of the Law Society that submission has been mentioned, has been said to be in hand, and will be available next week. However, it has yet to be received.

I have not heard much from the Bar Association about this legislation. When I deleted the provision for common admission, the bar was quite constructive in its attitude to this legislation. The Law Society cannot have it both ways. It cannot call for changes in the way that its fees are calculated, but not provide a suitable submission for serious consideration by an independent body, chaired by a senior judge. It is time that the legal profession realized that it is not owed a living by the public; and that it must have regard to the right of the community to have access to competent legal advice and assistance at reasonable cost.

I have referred in general terms to the trust account provisions, and shall not canvass them in detail. I addressed that aspect in my second reading speech and it is dealt with in general terms in the bills. There will be detailed implementation of those provisions, as provided by regulations that will be formulated after consultation. In the light of the defalcations to which I have referred, no one could possibly suggest that such regulations as we propose—or indeed as the Law Society has suggested over the years—will be onerous. I repeat that between July 1979 and June 1984, $16.5 million was paid out of the solicitors' fidelity fund to cover defalcations from solicitors' trust accounts. If one asked the public what they thought of that, I am sure they would regard it as a most serious problem, a most serious instance of the misapplication of trust moneys, calling for strong action, not to be contemplated and delayed but to be taken, for signals to be given, and for discussion to take place on matters of detail.

Honest solicitors—that is, the overwhelming majority of solicitors, said by the honourable member for Dubbo to number 10 000—have absolutely nothing to fear from this legislation and certainly have nothing to fear from the trust account provisions. However, solicitors who are less than honest will be subject to much greater scrutiny in future following the passage of this legislation. The honourable member for Camden has given notice of six

amendments he intends to move in Committee. All those amendments are unsatisfactory to the Government and will not be accepted. Essentially they water down the definition of professional misconduct and the opportunity for community involvement in the regulation of profession. Therefore they fly in the face of the Government's policy and the thrust of this legislation. The nine amendments that I have foreshadowed I shall move in Committee are to clauses 3, 10, 17, 55, 133, 137, 140 and 172, grouped effectively into five separate categories. I am informed that they are acceptable to the Opposition. I commend the bills as amended by the Government's amendments.

Motion agreed to.

Bills read a second time.

In Committee

The CHAIRMAN: Order! The Committee will deal with the Legal Profession Bill.

Clause 3

[Interpretation]

Amendment by **Mr Sheahan** agreed to:

That at page 3, line 22, after the word "condition" there be inserted the words "other than a condition requiring the holder of a certificate to undertake and complete a course of further legal education".

Clause as amended agreed to.

Clause 10

[Solicitors of 5 years' standing]

Amendment by **Mr Sheahan** agreed to:

That at page 6, lines 2 and 3, the words "of 5 years' standing from the date of admission in New South Wales" be omitted and there be inserted in lieu thereof the words "who at all times during the last 5 years has been a barrister or solicitor".

Clause as amended agreed to.

Clause 17

[Barristers of 5 years' standing]

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [4.19]: I move:

That at page 8, lines 10 and 11, the words "of 5 years' standing from the date of admission in New South Wales" be omitted and there be inserted in lieu thereof the words "who at all times during the last 5 years has been a solicitor or barrister".

This amendment is a corollary of an amendment that the Committee has adopted already. It clarifies the point that a barrister or solicitor who has changed roles previously may automatically revert to the former role of practitioner if he has practised as a barrister or solicitor in the past five years.

Amendment agreed to.

Clause as amended agreed to.

Clause 50

[Lay representation on committees]

Mr PEACOCKE (Dubbo) [4.21]: I move:

That at page 22, lines 21 and 22, the words "The Attorney General may, after consultation with the Bar Council, direct, by written order," be omitted and there be inserted in lieu thereof the words "The Bar Council may, upon the affirmative vote of not less than half its members direct".

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [4.21]: The Government rejects this amendment and the further amendment foreshadowed by the Opposition that is a corollary of it. If adopted by the Committee, both amendments would take away the right of the Attorney to direct that lay members be included on appropriate committees of the Bar Association and the Law Society. Clause 50 and clause 53 reflect the reforms agreed to by the Law Society and the Bar Association; neither body opposed the inclusion of those clauses. However, if it is appropriate for me to reserve my right as a Minister to take a different view from the Bar Association and the Law Society, I respect the right of the Opposition to disagree.

The thrust of the Opposition's arguments throughout the debate at the second reading stage was that the Government's proposals did not reflect adequately the views of the profession. It should be clearly recorded in *Hansard* that neither professional organization opposed the inclusion of clause 50 or clause 53, which are the subject of the Opposition's amendments. The attitude of the Opposition is reflected in this and further amendments that are foreshadowed, and shows an unwillingness to allow community participation in the regulation of the profession. I am pleased to say that that principle has long since been rejected by the professional organizations. I commend the clause in the form in which it appears.

Question—That the words stand—put.

The Committee divided.

Ayes, 53

Mr Akister	Mr Face	Mr J. H. Murray
Mr Amery	Mr Ferguson	Mr Neilly
Mr Anderson	Mr Gabb	Mr Paciullo
Mr Aquilina	Mr Harrison	Mr Page
Mr Arkell	Mr Hatton	Mr Petersen
Mr K. G. Booth	Mr Hills	Mr Price
Mr Brereton	Mr Hunter	Dr Refshauge
Mr Carr	Mr Irwin	Mr Rogan
Mr Cavalier	Mr Keane	Mr Sheahan
Mr Christie	Mr Knowles	Mr Shedden
Mr R. J. Clough	Mr Langton	Mr Unsworth
Mr Cox	Mr McGowan	Mr Walker
Mr Crawford	Mr McIlwaine	Mr Walsh
Mrs Crosio	Mr McManus	Mr Whelan
Mr Davoren	Mr Mack	Mr Wilde
Mr Debus	Mr Mair	*Tellers,*
Mr Doyle	Mr H. F. Moore	Mr Beckroge
Mr Duncan	Mr Moss	Mr Wade

Noes, 28

Mr Armstrong	Mr Hay	Mr Schipp
Dr Aston	Mr Jeffery	Mr Small
Mr Baird	Mr Kerr	Mr Smiles
Mr Beck	Mr Longley	Mr Webster
Mr J. D. Booth	Miss Machin	Mr Wotton
Mr Causley	Mr T. J. Moore	Mr Yabsley
Mr Collins	Mr Owen	
Mr Cruickshank	Mr Park	*Tellers,*
Mr Fahey	Mr Peacocke	Mr Phillips
Mr Fisher	Mr Pickard	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd

Question so resolved in the affirmative.

Amendment negatived.

Clause agreed to.

Clause 53

[Lay representation on committees]

Mr PEACOCKE (Dubbo) [4.31]: I move:

That at page 24, lines 2 and 3, the words "The Attorney General may, after consultation with the Law Society Council, direct, by written order," be omitted and there be inserted in lieu thereof the words "The Law Society may, upon the affirmative vote of not less than half its members, direct".

Question—That the words stand—put.

The Committee divided.

Ayes, 52

Mr Akister	Mr Ferguson	Mr Neilly
Mr Amery	Mr Gabb	Mr Paciullo
Mr Anderson	Mr Harrison	Mr Page
Mr Aquilina	Mr Hatton	Mr Petersen
Mr Arkell	Mr Hills	Mr Price
Mr K. G. Booth	Mr Hunter	Dr Refshauge
Mr Brereton	Mr Irwin	Mr Rogan
Mr Carr	Mr Keane	Mr Sheahan
Mr Cavalier	Mr Knowles	Mr Shedden
Mr Christie	Mr Langton	Mr Unsworth
Mr R. J. Clough	Mr McGowan	Mr Walker
Mr Cox	Mr McIlwaine	Mr Walsh
Mr Crawford	Mr McManus	Mr Whelan
Mrs Crosio	Mr Mack	Mr Wilde
Mr Davoren	Mr Mair	
Mr Debus	Mr H. F. Moore	*Tellers,*
Mr Doyle	Mr Moss	Mr Beckroge
Mr Duncan	Mr J. H. Murray	Mr Wade

Noes, 28

Mr Armstrong	Mr Hay	Mr Schipp
Dr Aston	Mr Jeffery	Mr Small
Mr Baird	Mr Kerr	Mr Smiles
Mr Beck	Mr Longley	Mr Webster
Mr J. D. Booth	Miss Machin	Mr Wotton
Mr Causley	Mr T. J. Moore	Mr Yabsley
Mr Collins	Mr Owen	
Mr Cruickshank	Mr Park	*Tellers,*
Mr Fahey	Mr Peacocke	Mr Phillips
Mr Fisher	Mr Pickard	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd

Question so resolved in the affirmative.

Amendment negatived.

Clause agreed to.

Clause 55

[Investigation of affairs of solicitor]

Amendment by **Mr Sheahan** agreed to:

That at page 24, line 33, after the word "affairs" there be inserted the words ", or specified affairs,".

Clause as amended agreed to.

Clause 123

[Interpretation]

Mr FAHEY (Camden) [4.39]: I move:

That at page 69, all words on lines 16 to 22 be omitted.

The definition of professional misconduct has been stated in the second reading debate as being completely unacceptable to the Opposition. It is a radical departure from the common law concept which has served this State for a long time. The Attorney in his reply did not in any way allay the fears of the Opposition on how the common law, and the Supreme Court in its inherent disciplinary jurisdiction, has not succeeded in adequately covering this point. For these reasons the Opposition seeks to have the definition removed from the bill.

Mr KERR (Cronulla) [4.40]: It is necessary to look at the terms of subclause (a) which provides:

> . . . conduct (whether consisting of an act or omission and whether occurring in connection with the practice of law or otherwise) that falls short of the standard of conduct that a member of the public is entitled to expect of a legal practitioner.

As the Minister for Housing said, when he is in private practice after the next election he may act in a legal capacity for a member of the public and apply for a *nolle porsequi* which may be refused. His client may think: "What a brilliant solicitor I have. He will certainly get that no bill application. He is a Queen's Counsel". However, the Attorney General may refuse the application.

The Minister for Housing would then be guilty of conduct falling short of the standard that a member of the public is entitled to expect of a legal practitioner, because he has disappointed his client. A solicitor or barrister may have a client who is found guilty of a particular charge, though the client has given instructions that he is not guilty. The solicitor or barrister would then be in contravention of this clause. That is a ridiculous situation in which to place members of the profession. As the honourable member for Camden said, the common law adequately regulates the conduct of both branches of the profession. There is no justification for the unwarranted definition contained in clause 123. Members of the legal profession will be placed in jeopardy in relation to a problem that does not exist.

Mr Sheahan: Only the ones who are really crook.

Mr KERR: The Attorney says, only the ones who are really crook. Does he seriously suggest that a member of the public, who finds fault with a legal practitioner, would in every case be talking about a crook? Is that the Attorney's serious submission to the Committee? That interjection underlines the dangers posed by this clause to the legal profession and members of the public. Many proceedings will be commenced under this proposed section, and much public money will be wasted. No more eloquent defence of the matters raised by the honourable member for Camden and me could be given than the interjection of the Attorney General. A subjective standard has been placed on an unnamed member of the general public. That has been substituted for the judgment of the legal profession. Therein lies the danger. The Committee should reject this clause.

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [4.43]: This matter was dealt with at the second reading stage. Unfortunately, the honourable member for Cronulla did not have an opportunity to speak in that debate but he has now added little to it. The Government believes that members of the public at large, not just lawyers setting standards for themselves, have a right and an obligation to determine the standard they expect of people acting for them. The Government rejects the amendment.

Question—That the words stand—put.

The Committee divided.

Ayes, 51

Mr Akister	Mr Ferguson	Mr Neilly
Mr Amery	Mr Gabb	Mr Paciullo
Mr Anderson	Mr Harrison	Mr Page
Mr Aquilina	Mr Hatton	Mr Petersen
Mr Arkell	Mr Hills	Mr Price
Mr K. G. Booth	Mr Hunter	Dr Refshauge
Mr Brereton	Mr Irwin	Mr Rogan
Mr Carr	Mr Keane	Mr Sheahan
Mr Cavalier	Mr Knowles	Mr Shedden
Mr Christie	Mr Langton	Mr Walker
Mr R. J. Clough	Mr McGowan	Mr Walsh
Mr Cox	Mr McIlwaine	Mr Whelan
Mr Crawford	Mr McManus	Mr Wilde
Mrs Crosio	Mr Mack	
Mr Davoren	Mr Mair	
Mr Debus	Mr H. F. Moore	*Tellers,*
Mr Doyle	Mr Moss	Mr Beckroge
Mr Duncan	Mr J. H. Murray	Mr Wade

Noes, 27

Mr Armstrong	Mr Jeffery	Mr Small
Dr Aston	Mr Kerr	Mr Smiles
Mr Baird	Mr Longley	Mr Webster
Mr Beck	Miss Machin	Mr Wotton
Mr Causley	Mr T. J. Moore	Mr Yabsley
Mr Collins	Mr Owen	
Mr Cruickshank	Mr Park	
Mr Fahey	Mr Peacocke	*Tellers,*
Mr Fisher	Mr Pickard	Mr Phillips
Mr Hay	Mr Schipp	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd
Mr Unsworth	Mr Greiner

Question so resolved in the affirmative.

Amendment negatived.

Clause agreed to.

Clause 126

[Professional Conduct Review Panel]

Mr FAHEY (Camden) [4.50]: I move:

That at page 70, line 17, the words "1 barrister" be omitted and there be inserted in lieu thereof the words "2 barristers".

The amendment sought by the Opposition seeks to ensure that the profession should have a majority on a body that would determine what is reasonable conduct. The majority should not be lay persons. It is obviously the intention of the Government to feed its paranoia on consumerism by replacing lawyers with lay people who have little or no knowledge of what represents reasonable behaviour or professional misconduct. For those reasons the Opposition seeks to extend the role of barristers on the panel.

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [4.51]: As stated at the second reading stage the amendment is not only unacceptable to the Government but also is contrary to the agreement reached between the two legal professions and the Government.

Question—That the words stand—put.

The Committee divided.

Ayes, 51

Mr Akister	Mr Ferguson	Mr Neilly
Mr Amery	Mr Gabb	Mr Paciullo
Mr Anderson	Mr Harrison	Mr Page
Mr Aquilina	Mr Hatton	Mr Petersen
Mr Arkell	Mr Hills	Mr Price
Mr K. G. Booth	Mr Hunter	Dr Refshauge
Mr Brereton	Mr Irwin	Mr Rogan
Mr Carr	Mr Keane	Mr Sheahan
Mr Cavalier	Mr Knowles	Mr Shedden
Mr Christie	Mr Langton	Mr Walker
Mr R. J. Clough	Mr McGowan	Mr Walsh
Mr Cox	Mr McIlwaine	Mr Whelan
Mr Crawford	Mr McManus	Mr Wilde
Mrs Crosio	Mr Mack	
Mr Davoren	Mr Mair	
Mr Debus	Mr H. F. Moore	*Tellers,*
Mr Doyle	Mr Moss	Mr Beckroge
Mr Duncan	Mr J. H. Murray	Mr Wade

Noes, 27

Mr Armstrong	Mr Jeffery	Mr Small
Dr Aston	Mr Kerr	Mr Smiles
Mr Baird	Mr Longley	Mr Webster
Mr Beck	Miss Machin	Mr Wotton
Mr Causley	Mr T. J. Moore	Mr Yabsley
Mr Collins	Mr Owen	
Mr Cruickshank	Mr Park	
Mr Fahey	Mr Peacocke	*Tellers,*
Mr Fisher	Mr Pickard	Mr Phillips
Mr Hay	Mr Schipp	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd
Mr Unsworth	Mr Greiner

Question so resolved in the affirmative.

Amendment negatived.

Mr FAHEY (Camden) [4.56]: I move:

That at page 70, line 19, the words "1 solicitor" be omitted and there be inserted in lieu thereof the words "2 solicitors".

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [4.56]: This amendment also is contrary to the agreement reached between the Government and the two professional organizations.

Amendment negatived.

Mr FAHEY (Camden) [4.57]: I move:

That at page 70, line 21, the figure "4" be omitted and there be inserted in lieu thereof the figure "2".

Amendment negatived.

Clause agreed to.

Clause 133

[Investigation of complaints]

Amendment by **Mr Sheahan** agreed to:

That at page 73, line 19, after the words "section 132" there be inserted the words ", and into each complaint the subject of a notice given to it under section 140 (2)".

Clause as amended agreed to.

Clause 137

[Applications for reviews]

Amendment by **Mr Sheahan** agreed to:

That at page 74, line 25, after the word "complaint" there be inserted the words ", other than a decision to dismiss a complaint the subject of a notice given to the Council under section 140 (2)".

Clause as amended agreed to.

Clause 140

[Recommendations of the Panel]

Amendment by **Mr Sheahan** agreed to:

That at page 75, after line 30, there be inserted:

(2) Before the Panel makes a recommendation referred to in subsection (1) (b) or (c), it shall cause notice of its intention to do so to be given to the appropriate Council.

Clause as amended agreed to.

Clause 172

[Liability]

Amendment by **Mr Sheahan** agreed to:

That at page 90, line 24, the word "No" be omitted and there be inserted in lieu thereof the words "Subject to subsection (2), no".

Amendment by **Mr Sheahan** agreed to:

That at page 90, after line 29, there be inserted the words

(2) A judicial member of the Tribunal shall, in the exercise of his or her functions under this Part, have the same protection and immunity as a Judge of the Supreme Court.

Clause as amended agreed to.

Report Received

Legal Profession Bill reported with amendments, and Legal Practitioners (Amendment) Bill and the Miscellaneous Acts (Legal Profession) Amendment Bill reported without amendment.

Adoption of Report

Mr SHEAHAN (Burrinjuck), Attorney General and Minister Assisting the Premier [5.4]: I move:

That the report be now adopted.

Question put.

The House divided.

Ayes, 51

Mr Akister	Mr Gabb	Mr Paciullo
Mr Amery	Mr Harrison	Mr Page
Mr Anderson	Mr Hatton	Mr Petersen
Mr Aquilina	Mr Hills	Mr Price
Mr Arkell	Mr Hunter	Mr Quinn
Mr K. G. Booth	Mr Irwin	Dr Refshauge
Mr Brereton	Mr Keane	Mr Rogan
Mr Carr	Mr Knowles	Mr Sheahan
Mr Cavalier	Mr Langton	Mr Shedden
Mr Christie	Mr McGowan	Mr Walker
Mr R. J. Clough	Mr McIlwaine	Mr Walsh
Mr Cox	Mr McManus	Mr Whelan
Mr Crawford	Mr Mack	Mr Wilde
Mrs Crosio	Mr Mair	
Mr Davoren	Mr H. F. Moore	
Mr Debus	Mr Moss	*Tellers,*
Mr Doyle	Mr J. H. Murray	Mr Beckroge
Mr Ferguson	Mr Neilly	Mr Wade

Noes, 27

Mr Armstrong	Mr Jeffery	Mr Small
Dr Aston	Mr Kerr	Mr Smiles
Mr Baird	Mr Longley	Mr Webster
Mr Beck	Miss Machin	Mr Wotton
Mr Causley	Mr T. J. Moore	Mr Yabsley
Mr Collins	Mr Owen	
Mr Cruickshank	Mr Park	
Mr Fahey	Mr Peacocke	*Tellers,*
Mr Fisher	Mr Pickard	Mr Phillips
Mr Hay	Mr Schipp	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd
Mr Unsworth	Mr Greiner

Question so resolved in the affirmative.

Motion agreed to.

Report adopted.

MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL
TRANSPORT (STAYSAFE) AMENDMENT BILL

Second Reading

Debate resumed from 12th May.

Mr LANGTON (Kogarah) [5.10]: I shall not dwell on the main topic of this legislation, the photographs on licences, which was covered in the second reading speech of the Minister and also in the contribution last evening by the honourable member for Tuggerah. However, I should speak briefly to some of the most significant aspects of the photographs on licences system. Extra proof will be required for identification. I had some initial misgivings about the concept of photographs on licences, for I considered that the system would only be as good as the proof that was available originally to procure a licence. Having read the Minister's second reading speech and perused the legislation, it is obvious that the primary and secondary proof required to identify the applicant for a licence is as tough as, if not tougher than, that required to gain a passport. That has allayed my fears. Last night, the honourable member for Northcott found nothing to complain about in the proposal for photographs on licences, apart from his carping that it should have been done years ago. This is a traditional Opposition attitude to road safety matters. Over the years Government supporters have tried to explain to them the improvements that have been made in road safety measures, but obviously they either have not listened or cannot understand.

The Government has not always been the first to introduce legislation to improve road safety, whether it be random breath testing, red light cameras and so on, but this Government has taken the time to get the system and the legislation right so that when it is completed it is guaranteed to work properly. This is another instance when the time has been taken to ensure that the legislation is right before it is announced; but still we hear this carping criticism from the Opposition that action should have been taken years ago.

In 1983–84 the second report of the Staysafe committee was presented to Parliament. Recommendation 24 of that report was that the Department of Motor Transport review the present points system to include maximum demerit points for safety-related offences, for example, failure to wear a seatbelt. The Staysafe committee believes that the demerit points system should be safety-related and designed to give erratic and dangerous drivers a negative incentive to modify their erratic and dangerous behaviour. The Minister, by announcing that the system is to be reviewed, is obviously addressing those proposals put forward by the Staysafe committee. Honourable members may not be aware that in this State the offence of driving at a speed in excess of thirty kilometres an hour over the limit leads to the loss of six points, that is, half the two-year allowable number of points; whereas in Victoria the offence of speed in excess of thirty kilometres an hour over the limit means automatic loss of licence. Though I do not necessarily at this stage advocate that approach I congratulate the Minister and the Department of Motor Transport for reviewing the demerit points system which is to be introduced.

A disqualified driver will be required to make a formal application for restoration of his licence. The applicant will have to undergo a test on knowledge of road rules—another initiative recommended in "Staysafe 2". The honourable member for Northcott last night talked about discrimination against young drivers who have to get a yearly licence. He complained that a driver whose licence was cancelled had to come back to a silver licence for five years

before he could go to the gold, I disagree with those comments. For many years one of the basic problems with road safety, not just in New South Wales but in Australia, has been the attitude that as of right one should get a driver's licence, on one's seventeenth birthday. We must change that mentality. A driver's licence is a privilege, not a right. One should have to fight hard to get that licence, and to keep it by driving properly, obeying the road rules and generally driving in a manner that is socially acceptable.

In Japan, for example, a licence costs thousands of dollars to procure, and several thousands of dollars a year to renew. It is not necessary to go to that extent in New South Wales, but people should get away from the idea that it is their right in life to have a licence. We should be looking particularly at the younger drivers, those starting to drive, as they will be now, at the age of sixteen. Efforts must be made to instil in them the thought that a licence is a privilege and not a right. There should be an incentive for a young driver starting off, whether it be with a provisional licence or a silver licence, to make sure not to lose that licence, so that he can get a gold licence as soon as possible. Young drivers should be encouraged to drive more safely during that six-year period and to modify their behaviour so that their method of driving is socially acceptable.

In 1982, which was the year studied in the second report of the Staysafe committee, it was shown that 12.4 per cent of all motor cycle rider fatalities were learners, whereas only 0.6 per cent of fatalities of motor car drivers were learners. Learner drivers of motor cars are the safest on the road, partly because they are supervised, and partly because they have a vested interest in driving safely and learning how to drive properly so they can gain their provisional licence as quickly as possible. Other figures in that report show that at age 16 the crash rate for learner drivers were 6 per 10 000; at age 17 it increased to 31 per 10 000 and 81 per 10 000 at age 23. For females, the figure was 8 per 10 000 at the age of 16, 16 per 10 000 at the age of 17, rising to 41 per 10 000 at the age of 23. The 16-year-olds are the safest learner drivers; the 17-year-olds are not as safe and the 23-year-olds appear to be the most unsafe of learners.

Older drivers applying for their licences for the first time tend to get their learner's permit and then within days or perhaps weeks apply for their provisional licence. Possibly they have driven a car from time to time but have never gone to the stage of getting a learner's permit. They have not had sufficient time on the road with a licensed driver to get that experience. The minimum period which will be set under this legislation is twelve months for a 16-year-old. Reducing the learner's permit age down to 16 from 16 years and 9 months, and permit period to three months for age 20 and over will be a good thing. The idea must be instilled in these people that they have to work hard to get a driver's licence. They must keep the learner's permit for a minimum period of three months and drive with a licensed driver for three months. Again, there will be an incentive to ensure that they are able to keep their provisional licences and then move on from there to the silver licences, and eventually gold licences, as quickly as possible.

Reference has been made to the colour-coded photo licence system. Several constituents have raised with me concerns about persons who would normally be entitled to a gold licence but who for one reason or another are compelled to reapply each year for a licence. Diabetics, for instance, fall into this category. Obviously such people will still be entitled to a gold licence, but each year they will be required to undergo a medical examination and obtain a certificate before being issued with a driver's licence. They will be entitled

also to the licences at reduced rates. I understand that there will be no change to the requirement of mandatory re-testing each year when a driver attains 80 years of age. When a driver reaches 78 years of age he will be issued with a licence for one year. Upon reaching 80 years of age, he will be required to submit to a driving test each year before a licence is issued. There will be little change to the current procedure in that regard. As chairman of the Staysafe committee I am delighted that the Minister and the Department of Motor Transport have introduced legislation that contains so many of the committee's recommendations. This legislation has been accepted by the huge and overwhelming majority of the driving population of this State. More important, I believe it will positively contribute to greater safety on the roads.

Dr ASTON (Vaucluse) [5.22]: I thank the House for the opportunity to contribute to this debate. Unlike his predecessor, who made the use of the guillotine commonplace, the Premier has permitted debate to continue. However, it seems once again that the practice of fair and more open debate is to be spoiled by the end of term rush of bills that was announced this morning. Earlier, Opposition members informed the House that the bills will not be opposed. In essence they provide what the Opposition has been advocating since at least 1978. The honourable member for Kogarah said that all the opposition is able to do is carp about delays. In the short time that I have been a member of this House, and I am one to learn reasonably quickly I should hope, all I have heard from the Government is what the present Opposition, when in government, did not do prior to 1976. It is good that finally, eventually, at last, and in the fullness of time—or anything else that stretches the imagination—something concrete has been introduced.

Last night the honourable member for Northcott mentioned briefly some of the history of the photo licence saga. I intend to elaborate on that history. In April 1978 an interdepartmental report suggested to the then Minister for Transport that licences with photos were feasible and desirable. Unfortunately, the honourable member for Auburn thought that an initial outlay of $3 million at that time, with an ongoing cost of $1 million each year, was too expensive. The proposal was dropped. Later, when the honourable member for South Coast brought before the House allegations of widespread bribery and corruption within the Department of Motor Transport, the honourable member for Auburn again rejected the proposal. He said that despite the use that photo licences would be put to in combatting fraud, the cost of their introduction would be too high.

In 1979 the president of the New South Wales Hire Association called for the introduction of photo licences to stop the activities of rip-off merchants who were costing the industry hundreds of thousands of dollars. Again the idea was rejected. The Minister at that time said he could see the benefits of the concept but there were problems associated with the cost of implementing it. He said there was no cost benefit. In 1981 the Opposition urged the Government to rethink its attitude, citing the millions of dollars lost to fraud and forgeries, and the lack of confidence surrounding the use of licences for identification purposes. At that time, despite a Morgan Gallup poll that revealed that 85 per cent of all Australians were in favour of photo licences, again the Minister refused to budge.

In 1983, following a report of the Department of Motor Transport that suggested there were in the order of 50 000 unlicensed drivers on New South Wales roads, calls were again made for the introduction of photo licences. Again nothing was done despite recommendations from the New South Wales Police Association and the Staysafe committee. In 1984 we first saw press releases that

related to the special colour-coded licence concept that is incorporated in this legislation. The current Premier was then Minister for Transport. He said that although the public were supportive of the idea of photographs on licences, it would be some time before the Government made any decision. Later in that same year the former Premier announced that because of delays in drafting the legislation, photo licences would be introduced by the end of 1985. However, 1985 came and went; nothing happened. In September of that year the Premier announced plans for a new licence system that would be put before Cabinet within two months.

On the second last day of 1985 a spokesman for the Minister for Transport informed the media—and I am sure that honourable members have guessed what the announcement was—that the introduction of photo licences was again to be delayed, until 1987, because a submission was not ready for production to Cabinet. On 15th December, 1986, a Danish company issued a press release about photo licences. Almost immediately the Government acted. First, the Minister for Transport made a statement, followed by a statement from the Premier. They both informed us that the introduction of photographs on licences was imminent. Now, in the middle of May 1987, finally, photo licences are being introduced. Little has changed since the publication of the second report of the Staysafe committee. All five recommendations of the Committee have been included in this legislation. However, unfortunately for the consciences of such members as the honourable member for Auburn, who prevented the introduction of the proposal because he thought the original cost was too prohibitive, the present proposals will cost $30 million over the initial three-year period. It will be interesting to see whether the honourable member votes with his conscience and rejects this vastly expensive proposition.

Photo licences will almost entirely eliminate the possibility of people using false licences to establish new identities. It is a shame that the input of the honourable member for South Coast, who has made consistent references to this concept for almost nine years, was largely ignored by the Minister in his second reading speech. Over the years forged licences have continually and consistently appeared at the centre of rackets that involve fraud and deception. Not long ago prisoners in New South Wales prisons were printing their own licences on cash register stamps. It is not all that long ago that an acting police commissioner claimed it was easier to obtain a driver's licence than it was to register a child to play junior rugby league.

In my electorate the introduction of these new licences will have an immediate effect. Hoteliers and nightclub owners will be able to crack down on the plethora of under-age drinking that occurs. The old borrow-a-licence trick, which has been prevalent for so long, will at last be no more, one hopes. I wish now to refer to the implementation of the new licences, which deserves criticism. No mention has been made of the security of photographs. All that has been said is that the Department of Motor Transport will not maintain a central register. I applaud that assertion but I seek an assurance that negatives of photographs will be destroyed. The division of licences into various colours seems innocuous, but I seek an assurance that police will not treat—

Mr SPEAKER: Order! It being 5.30 p.m., pursuant to the sessional orders debate is interrupted.

PRIVATE MEMBERS' STATEMENTS

FARM LOANS INTEREST

Mr SMALL (Murray) [5.30]: I wish to bring to the attention of this House, the Minister for Agriculture, and the Treasurer the continuing tragedy that faces so many of my farming constituents, particularly grain growers, and those farmers in the more highly intensified areas of primary production, irrigation areas, and areas with smaller holdings. It concerns me greatly that these genuine hard working families are being subjected to so much pressure and little, if any, return for their efforts in trying to "hang on" or survive. These people are not responsible for the ills that they are facing. They are being subjected to government regulations, high taxes, and no help from either federal or State governments to reduce the most crippling interest rates that our country has ever had to confront. Even the most efficient operators could not sustain the present high costs of interest, including bank charges, which are doing so much to destroy farmers and business people. In fact, newspaper reports have identified the sad facts that more Australians are going bankrupt, and that in New South Wales bankruptcies have increased by 33 per cent, particularly since high interest rates have taken effect over the past two to three years.

I want to make it quite clear that it is not just the inefficient farmers who have been caught in this present financial explosion. The majority of people in so many cases are most efficient, hard working and progressive. These farmers in a better period for farm and business incomes have developed and improved their operation. Farmers achieved these improvements by farming irrigation land, as recommended by the Minister for Agriculture and his department, better water management and reticulation, drainage to help overcome water logging. Farmers have undertaken these measures because of the suggestion to "get bigger or get out".

Many parents have tried to assist their sons by purchasing another property, believing they were doing the right thing. Now, tragically, many of these farmers are facing total write-off of the assets they have worked so hard for during their lives. Farmers are not big profit makers even in good times. When they are able to do so, it is natural for them to put any profit margins back into the farm itself to better manage and improve when necessary their fencing, shearing and machinery sheds, and stock yards and machinery. Farmers have also done this to provide security of water for stock and to develop their pastures.

In these circumstances very few farmers and business people are able to hold cash reserves. If they do, their personal income tax is extremely high. Farmers have already paid high taxes on almost everything they purchase, like fuel, oils, vehicles, even parts for equipment, and so on. Farmers also pay high registration fees. The one thing a property-owner looks forward to when he or she sells out or retires is generally the capital gain of their asset. I feel they deserve this because of their work and dedication. Of course their property values help them keep pace with inflation. It is a tragedy that property values in these highly intensified areas of irrigation or grain growing have slipped over the past three years. If a property can be sold, it is worth approximately half of what it was previously. This, in turn, means that many farmers' properties are only worth what the debt load or borrowing has accumulated through high

interest rates and poor commodity prices. The farmer's equity has gone. My genuine concern is about the propaganda placed before the public about these honest farmers and rural people in need. The facts are quite the contrary. The guidelines laid down for rural reconstruction or rural financing appear to be totally inadequate because either the farmer's debt is too high, or he or she is not in sufficient debt to attract a low interest loan through government assistance. I call on the Treasurer, the Minister for Agriculture and the Government to assist these genuine people who have helped to make our country. These people need assistance now.

BATHURST FLOODING

Mr R. J. CLOUGH (Bathurst) [5.35]: I wish to refer to flooding that occurred in Bathurst on 6th August, 1986, and some Government initiatives to help alleviate the suffering of people in Bathurst at that time. I particularly wish to refer to the performance of the Water Resources Commission, now the Department of Water Resources, in its failure to reply to representations made to it. After the floods the Government moved quickly to provide assistance to people in the lower areas near the Macquarie River who were affected by the flood. The Government provided more then $300,000 to assist these people to purchase new carpets, new electrical applicances, repair old appliances, and for other purposes. Most of the people in the residential areas were affected by the flood when the Macquarie, Fish, and Campbell rivers burst their banks and reached record levels. In the nearer river flat farming areas farmers were affected in different ways. Two farms on the Fish River had 80 000 tonnes of sand dumped on them.

I have taken these farmers to see the Director of the Department of Water Resources at North Sydney. We had discussions with the director about relief for the farmers. Most of the 30 000 tonnes dumped on one property has been removed. The bad luck of the other farmer only started with the flood, because shortly after that his house burned down. Both farmers have not been able to farm the affected lands since 6th August, 1986. They are faced with the cost of removing the sand. Also their source of income has been cut off and they cannot trade themselves back into a profitable situation.

I approached the Minister on these farmers' behalf. I have been informed that a letter will be sent to me stating that it is outside the purview of the Department of Water Resources to provide funding assistance to the farmers. When I receive that letter I shall refer it to the Premier for his attention. The village of Sofala was badly affected by the same flood. I am pleased to say that the local government body, the Evans shire council, with assistance from the Department of Water Resources, has largely remedied the situation.

Another matter I wish to draw to the attention of the Minister for Corrective Services to refer to his colleague the Minister for Water Resources is a matter that affects Mr R. A. Sellar of Clear Creek Cottage, Peel. Yesterday he forwarded me copies of two letters that he had written to the Water Resources Commission Scientific Officer, River Management, dated as far back as 3rd February, 1987. Mr Sellar has not been given the courtesy of a reply to his letter. It is inexcusable that a departmental officer has not replied to the letter. Mr Sellar has contacted me to see whether the very serious situation at Clear Creek can be remedied. If it is not, and there is a repetition of the flooding that occurred in 1986, Mr Sellar will experience his house going into the creek.

As I have said, Mr Sellar wrote to the Water Resources Commission on 3rd February and followed that up with a letter stating:

> On the 3.2.87 I wrote to your department along with a sketch setting out the position on Clear Creek, Peel showing the S-bend left after the August floods . . .

Mr Sellar asked whether something could be done to remove the S-bend and alleviate his position. I know the area and have seen the precarious position that Mr Sellar's home is still in. Unless officers of the former Water Resources Commission get off their backsides and do something Mr Sellar's home will literally go down the creek when there is heavy rain or minor flooding in the district. I ask the Minister to refer this matter to his colleague.

ORGANIZED CRIME

Mr COLLINS (Willoughby), Deputy Leader of the Opposition [5.40]: In 1986 the Government through the Police Department arranged for a report to be prepared on organized crime practices in this State. The report was forwarded to the Commissioner of Police, Mr Avery, under the hand of Detective Chief Inspector J. T. Anderson on 12th August, 1986. The report covered aspects of organized crime in this State, its history, its structure, and ways of combating it. It was received by the Commissioner of Police on or about 12th August 1986, and was the subject of a press report earlier this year. I refer specifically to item 3.7 of the report which deals with vice and prostitution. The item reads:

> Vice has always been a target for organised crime. In recent times, however, the profit margin has not been comparable with that arising from drug trafficking. Sydney has seen a number of "vice" wars, with different organisations exerting pressure in order to gain control of the market. The brothels in East Sydney were a good example.
>
> The proprietor of several such establishments was a victim of a car bomb attack in the late 1960's, and the Government sought to defuse the issue.
>
> The report continued: Several such establishments were closed but this did not eliminate prostitution as the people involved found refuge in the bars, coffee shops and on the streets of Kings Cross. Soliciting from cars also increased as prostitutes believed that there was less likelihood of arrest.

Item 3.8 of the report said:

> The removal of brothels and the resulting spread of prostitutes posed a temporary problem for police who then had to trace their new haunts and associates. It transpired that massage parlours became the haunt of organisers in the vice trade. That situation remains, allowing organised crime to continue its profit-making from this activity. Organised crime remains active in the vice scene but the profits have been static compared with those available through the avenues of illegal gambling and drug trafficking.

Though this was reported in the *Sydney Morning Herald* on 31st March, a press release issued on that day by the Minister for Police and Emergency Services said:

> The Minister stated that while he had not seen the report . . .

That is in March, though the Commissioner of Police received the report in August 1986. The press release continued:

> . . . he had asked the Commissioner of Police to submit proposals where he believes police powers are inadequate.

I am raising this matter today because the report from the Organized Crime Task Force is in complete contrast with a statement under the hand of the Commissioner of Police made to the Select Committee Upon Prostitution which reported to Parliament in April 1986. Quoting briefly from a letter received at

the eleventh hour of that committee, as the ink was barely dry on what was virtually the epilogue of its report, the Commissioner of Police reported on whether there were any general links that might exist between crime and prostitution. He said:

> Up to date knowledge, information and observations indicate that there is very little incidence of crime control permeating the prostitution scene.
>
> Crime association with brothels may be manifest in the prostitutes' indulgence of heroin, but in the brothel scene, this is discouraged by the principals, essentially from a business angle.
>
> In summary, very little credence is given to links of the criminal element with the prostitution industry.

That statement by the Commissioner of Police stands as one of the greatest official contradictions by the Police Department in this State on what is a serious criminal issue deserving far greater effort from this Government. We have here a total inconsistency. I raise the matter in the light of the recent "Four Corners" report on prostitution in Queensland. The vested interests outlined in that program may well be in existence in this State and protected in much the same way as in Queensland. It has been business as usual for the prostitution industry. This is a glaring inconsistency; it deserves an explanation by the Minister for Police and Emergency Services. I hope that may come by way of ministerial statement. In the meantime it should stand as part of the public record. It is an unforgivable, blatant, glaring inconsistency about which the public of New South Wales can only fear the worst.

COMMUNITY CENTRES

Mr AMERY (Riverstone) [5.44]: I raise the issue of a number of development applications now before the Blacktown city council. The first is an application by the Department of Housing for a group home to be located at Crawley Avenue and Pringle Road, Hebersham. The second is from two organizations, Murrawina at Mount Druitt and the Dharruk Aboriginal Community Controlled Medical Service Co-operative Society, which are competing for an Aboriginal medical centre in Bindaree Street, Hebersham. In addition, there is a worthwhile proposal by the Drugs and Young People Out West organization, otherwise known as DYPOW, to establish on a site in Crawley Avenue a twenty-four hour drop-in referral centre for people with drug problems. The residents of Hebersham are most concerned that four organizations are seeking to establish three different centres within a few hundred metres of each other.

The establishment of any centre in a residential area always attracts interest, and in most cases opposition, from residents in the near vicinity. Often it is said that the community must accept that community-based services are needed, and residents must tolerate some burden of responsibility in accepting such projects. It is too much to ask of the residents of Hebersham that they accept three centres located in two streets so close to each other. In objecting to the proposal for the Aboriginal medical centre, one resident commented that two medical surgeries exist within 300 metres on each side of his house in Welwyn Road, Hebersham, just around the corner. He is now being asked to tolerate three additional centres.

Hebersham is a quiet residential area. When services are provided in such areas, the result is increased traffic, parking in quiet streets, and a disruption of the residential environment. Three new centres in this area would only aggravate the problems. I have always had reservations about using residential centres to provide community services. However, rather than simply

being critical, alternatives should be sought. I have no doubt that a need exists for a medical centre for the Aboriginal community in the area. However, it would be better placed, for example, in the grounds of the Mount Druitt Hospital where it would be close to back-up services and the polyclinic, at the same time providing a separate dwelling for the Aboriginal community, which is the basis of the application.

Residents have objected strongly to the proposal for the establishment of a group home around the corner from the proposed medical centre. The Blacktown city council has received the application. However, as it comes from the Department of Housing, the council has properly referred residents' objections to the Minister, and has requested that I take a deputation of residents to the Minister. I call on the Minister for Housing to review this situation. Surely some planning and thought should go into these schemes before they reach the development application stage. I do not question the validity of any of these projects, but it is imperative that the concerns of residents should be canvassed by the department or the relevant organization before they proceed too far.

The case for a drop-in centre for the Drugs and Young People Out West organization is a strong one and deserves support. I understand the Department of Housing is looking for an alternative site. I hope there is no delay so the proposal is not prejudiced. I support the residents in their objection to an application for the establishment of a group home. A previous group home in Cumbernauld Crescent, Dharruk, was a disaster. An alternative use for that house should be found. I am sure that would meet with the approval of residents. Let us not allow the same mistake to be made in Hebersham. These centres might be a good idea if sensibly located, but they are unsuitable for established residential areas. If the Government or its departments want to obtain community support for the concept of placing centres in residential areas, they should get their act together and be more sensible in suitable areas. There is no mileage in having good ideas if they are ruined by stupid decisions about the location of centres. I ask that the objections of the residents be brought to the attention of the Minister.

WARRAWONG HIGH SCHOOL

Mr ARKELL (Wollongong) [5.49]: I seek the help of the Minister for Education in righting the serious injustice faced by one group of high school students in the electorate of Wollongong. The Warrawong High School and its library were built in 1972. Even then the library facilities of the school were more appropriate to the bygone days of the 1950's. The school has never been modern or appropriate to the needs of today's youth. It was described in a document produced by the University of New England as follows:

> The building itself is far from attractive. Concrete walkways, iron gates that, when closed, give the building the appearance of a fortress, the different levels, the dungeon-like atmosphere of the dark corridors at the ground level—all of these factors do not help to make the school a pleasant place in which to work.

That quotation comes from a report by Professor Jack Walton and Doctor Barry Hill called "The Secondary School Dilemma". The general condition of the school is reflected in the cramped and inadequate library facilities. Warrawong High School has just in excess of 245 square metres of general reading space, made up of 18.5 metres for the main reading room, 60.5 metres for the senior reading annexe, 54.3 metres taken up by the entry area, 27.4 metres for the librarian's work area, 34 square metres for the stack area, 27.4 metres for the

careers lecture annexe, and 27.4 metres for two withdrawal rooms. That 245 square metres of general reading space serves a population of almost a thousand students. To give the House an idea of scale, a backbencher in this House is allotted almost 40 square metres of office space for perhaps two people.

On average, 160 students attend the Warrawong High School library at any normal lunchtime. About 70 per cent of the space is in use at any time, which gives just 2.5 square metres per student on average. I repeat, that is in a school library in modern New South Wales. The library is simply a general classroom, not a purpose-built library. There is no space for extra books. About $8,000 is spent each year to buy new books, a vital part of the work of any school library. However, book purchase will shortly have to cease if something is not done to provide a better school and library.

Warrawong High School appears to have been singled out for neglect. Other schools in the area, built before Warrawong High School and originally furnished with small library blocks, have since had new free-standing libraries erected or had major library extensions. I refer to not just a few surrounding schools, but many. They include Corrimal High School, Smith's Hill High School, Port Kembla High School, Wollongong High School, Woonona High School, Warilla High School, Bulli High School and Dapto High School. The list goes on. Warrawong High School has waited its turn. Now its turn must come.

School numbers in Warrawong are rising. That is caused by children staying at school longer. It is imperative that extra library facilities are built for the Warrawong school, for 78 per cent of students are born overseas. Unemployment in Wollongong is high. Therefore the best opportunities must be given to students while at school so that when they leave school they are well educated and capable of performing whatever jobs are available. In summary, the school does not have accommodation for individual groups. It has no area in which quiet work can be done without disturbing other groups or students. Extreme crowding takes place during recess and lunch periods. There is an acute lack of space for senior students, being just 60 square metres for the 172 senior students. A proper library would solve the problem of having no centralized location or audio-visual equipment and no centralized work area for staff associated with that equipment. That decreases the efficiency of that staff. I conclude by stating that the Warrawong High School desperately needs improved library facilities.

Mr Beckroge: It should get a new member.

Mr ARKELL: They have a new member, and I am working on getting them a new library. Warrawong is a disadvantaged school with special needs to meet a 78 per cent enrolment of students with non-English speaking backgrounds; it has twenty four language groups. I bring this matter to the notice of the Minister as one of the many problems of the electorate, which I am adjusting. I hope the Minister for Education will include it in a future budget program.

Private members' statements noted.

[*Mr Speaker left the chair at 5.54 p.m. The House resumed at 7.30 p.m.*]

MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL
TRANSPORT (STAYSAFE) AMENDMENT BILL

Second reading

Debate resumed from an earlier hour.

Dr ASTON: I was referring to the provision of gold, silver and black licences. I expressed the hope that police will not treat differently motorists who have different licences; and particularly that drivers who have a gold licence will not be given special treatment. If that were to occur, it would defeat the notion that all should be equal before the law and that the law should treat all equally. Not to do so would be to perpetuate inequity and injustice. I have no doubt that the police will be diligent and careful not to allow that to happen. However, that is an important consideration, which should not be swept under the carpet.

One disappointment about this bill is that so much is left unsaid. The Minister for Transport seems to have followed in the steps of the Minister for Education—as evidenced with the introduction of the Public Instruction and Education Bill—by allowing so much to be determined without resource to Parliament. That constitutes government by regulation, and is not to be recommended. Indeed, it should be roundly condemned. It usurps the position of Parliament. How could honourable members in all honesty vote with their conscience—or with their party, as the honourable member for Auburn is more likely to do—when they have no idea of what effect a bill might have or what it will do? By item (2) in schedule 1, Parliament will abrogate any legislative power it might have in this matter by providing that the Minister may gazette virtually anything he believes to be necessary. The term back to basics, which we hear so often about the Government's ventures, should encompass more, not less, parliamentary involvement in the legislative process.

I am concerned also that the bill will be a means by which to slug motorists. The cost of a licence will rise by $4. That is nothing less than taxation by stealth, and makes a nonsense of the term, back to basics. It is indicative of a government that is little better than its predecessor under the premiership of Neville Wran, a government that frequently promotes publicity rather than the public's welfare. As the honourable member for Northcott said last evening, the true cost to introduce photo licences will be $72 million over three years, rather than the $30 million that the Minister estimated.

However, this bill may yet represent a landmark of this Labor Government. After three years of hollow promises the Government finally has introduced legislation to implement photo licences. That suggests that things might be beginning to change. Perhaps, following the back to basics theme, government Ministers might even convert the rhetoric of the past eleven years into some degree of reality. The by-election for the seat of Northern Tablelands might result in publicity gimmicks producing actual results. As unbelievable as it might seem, the Minister for Tourism might even introduce the much vaunted, though what I consider nonsensical, tourist rebate scheme. I am sure all honourable members will recall that scheme. Perhaps the Premier will internationalize Sydney by renaming whole sections of it. The possibilities are endless. Sydney could feature small sections of Amsterdam, Paris and Monaco, renamed after Labor Party parliamentarians.

Mr Cruickshank: And Libya.

Dr ASTON: And after Libya and perhaps even Mr Michael Mansell. On a serious note, this bill might prove to be a landmark, for another important reason. It might mark the beginning of a new era in New South Wales politics. At last the Government might listen to the voice of reason and enact measures—of which this is one—that were mooted first by the Opposition during the past seven years. Perhaps the Minister for Corrective Services—the

next shadow Minister for Transport—will praise the Opposition's call for a prison for informers. Perhaps there is an apparent change in the government's attitude. If that change is real and if the Government is serious in its wish to return to basics, the first step will be for the Government to enact the Leader of the Opposition's extremely sensible industrial arbitration and freedom of association legislation. Such a move by the Premier would achieve a return to basics and ensure that compulsory unionism will be not real but fictional, as it is at present. If photo licences prove to be successful in reducing fraud and deceit in the State, if under-age drinking is curtailed, we will all be delighted. However, the delay in the presentation of this bill makes us wary of its implementation—particularly as the detail of its regulations is still to be announced.

Mr CRUICKSHANK (Murrumbidgee) [7.36]: I join with my colleagues in their support for these bills. However, I believe that they have made sufficient comments about the bills for the Minister to have second thoughts about them. Any system that asks people to obey the law, and rewards them for doing so, must be good. A gold card driving licence for $50 for five years is a wonderful idea. However, I believe it is totally out of character for any politician to support such a scheme—particularly politicians from the Labor Party.

With all the social engineering projects that the Labor Party excels in, plus all the associated severe penalties that the Fabians love, the gold card driving licence comes as a breath of fresh air. May I suggest it is a serious oversight that the Labor Party has not introduced a platinum card for Labor politicians—for free, or perhaps indexed down as the cost of living goes up. It is certain that the colour coded licence cards will become a *de facto* identification card. I do not believe for one minute that central registry—which will be necessary—will not be used for all kinds of other purposes. I would like the Minister and others to exercise their imaginations about that. One can bet his bottom dollar that as there is secrecy surrounding the maintenance of that registry, it will be used for myriads of questionable purposes such as cross referencing between departments, building up—or more likely down—character references, and many purposes that will be an infringement on privacy. If the people of New South Wales think that they can trust any government, they should think again.

To say there will not be a central record of photographs is a nonsense. What good will it be simply to have photographs on licences. That is only half the story. A registry will be used to check on forgeries. We should not believe for one moment that some people will not try to beat the system. We should not think that police investigating criminal activity will allow such a marvellous library of dossiers to slip through their hands. The same will apply to the Federal police and Interpol. Each of those agencies would dearly love to get their hands on such a registry, and governments will feel it is their duty to allow them to do so—all in the interests of control.

I said it would be too much to expect that the Government would embark on a binge of benevolence. Of course, that becomes obvious when one sees how the Government intends to soak additional revenue from the young in a totally new concept that is being introduced into our system of justice, a totally new system of excoriating or flaying offenders. In the first year one will have to pay $40 for a learner's permit; $25 for the next four years, and then in the sixth year one can buy a gold licence for $50 for five years. Obviously most people will seek to obtain a gold licence.

However, if one loses points because of offences of speeding or not wearing a seat belt or a random breath test conviction, and has one's licence cancelled, that is not the heinous crime these days that it was a few years ago, and one does one of two things. First, one does not drive, which is fine in the city, because there one can use public transport, walk or ride a push bike. It is a bleak prospect for anybody living in the country where very few regional centres have public transport. There is not much possibility of country people being able to avoid having to go for a black licence, so they will have to return to having a black licence, having had to appear in court. For most people it is a traumatic experience to appear at court, be fined, and lose driving points. This results in not being able to drive. Then one has to have $100 for a black driver's licence.

This black licence will become the yellow star of the car driving community, or, as one of my friends in Griffith called it, a *carta stigmata,* just like the convicts of yore who were forced to walk around bound to and carrying their stocks for everyone to see. Having paid for one's crime, one now must carry a card to signify that one has been in trouble for whatever reason with one's vehicle. I thought one was innocent until proven guilty. This is called double jeopardy. Nobody will disagree that the driver's licence with photograph will become a *de facto* identity card. How will the police and judges treat that card? Let me give honourable members an example. Most young men have done things they would prefer to forget about, but paternity replaces some of the wild impulses of youth; we tend to learn how to behave.

Such is the case with Mr Bruno Sergi, one young man from Griffith. Today, Bruno is some 33 years of age, with wife and family. Unfortunately he was not always well behaved. He had been commited of a number of offences such as dangerous driving, drive under the influence and resist arrest. Then he settled down, for nine years he behaved himself, he forgot about the youthful pranks he had been involved in as the job of living, of making a living, setting up his family and so forth took over. But then he was random breath tested registering a reading of 0.1. He lost his licence for three years and was fined $1,000.

Two weeks ago a friend of mine was arraigned for registering a blood alcohol reading of 0.075. He had not had any previous convictions and was let go with a warning. Is not nine years worthy of taking into consideration as a benefit, as evidence of good behaviour. Prejudice was an underlying influence in the sentence imposed on Bruno Sergi, three years loss of licence and $1,000 fine. That is a stiff sentence, in my opinion. Prejudice will become even more the norm with the black licence. Our whole English language utilizes black as the colour to depict evil. That is one of the reasons why we have been unable to resist so much of the racial intolerance that exists in our community. This Government would have us believe that if there is one party that is tolerant, it is the Labor Party. I suggest that with one freudian slip the Minister for Corrective Services has unfortunately revealed a lot more than he intended. The lowest category of licence on the driving scale ought to be treated warily and with suspicion, as indeed it will be with black licence. It will not be the civil libertarians who will think of the black licence as being discriminatory, but everybody who lives in areas where there is no public transport. This is the sort of regional discrimination and financial persecution that will prevail when we have little black licences.

Will these licences enhance the taxing capabilities of the New South Wales Government? The answer to that question is a resounding, yes. It has been said that plastic licences will help in the fight against under-age drinking.

That problem has nothing to do with the licence. It will not stop under-age people from drinking, whether they are in hotels, clubs, licensed restaurants, buying alcohol from the Woolworths supermarket or at a temporary venue. It is nonsense to say that a plastic licence will help solve the problem of under-age drinking. If anybody thinks the plastic licences will reduce fatal accidents, they should think again.

Mr AKISTER (Minister for Corrective Services and Assistant Minister for Transport) [7.46], in reply: I thank all honourable members who participated in the debate. First, I should tell honourable members that I have a layman's version of the legislation that I am sure will be of help in explaining these measures to their constituents. I undertake to send a copy of this explanatory document to every member of Parliament, so they may inform not only themselves but their constituents about the system that will come into operation when this matter is dealt with.

The honourable member for Northcott complained that the Government was slow to implement this scheme. That is the sort of statement one has come to expect of members of the Opposition. When they were in government they never had any brilliant ideas. In the ten years the Opposition parties were in government they seemed bereft of any ideas to improve the world of equality and justice. This Government has a record of achievement. We can say in our term of office we did take action using the ideas that members opposite think are good when they are in opposition but did not think of when in government. It rather begs the question for the honourable member for Northcott to say that the Opposition had this wonderful idea the day after they lost office, and the Government has been slow in implementing these measures.

The honourable member said also that this photo licence will become a backdoor identity card. That might be so, but it is not intended that that should happen. However, if a provider of services, of funds or of goods, wishes to ask a person for identification and that person voluntarily presents his driving licence and says, "Will this do to identify who I am", that will be a private arrangement between the offerer of services and those seeking the services. The Government does not object to that action occurring. A provider of services or credit cannot compulsorily demand that a person be obliged to offer his driver's licence as identification. It cannot be used against the wishes of the holder of the licence as an identity document, but it can be used if both parties are agreeable. That seems to be a proper and reasonable arrangement in all the circumstances. The honourable member asked what proportion of drivers will be issued with the gold licence. Our best estimate of that is that more than eighty per cent of drivers who are holders of drivers licences will be eligible for the gold licence initially.

The honourable member for Northcott inquired also whether drivers with medical conditions would be denied gold licences. The answer to that, of course, is no. If drivers with medical conditions qualify for a gold licence, they will be issued with a gold licence irrespective of whether their submitting to a medical examination is a prerequisite for keeping their licence. They will have to submit to an examination each year, three years, five years—or whatsoever period is prescribed—but they will not be denied a gold licence simply because they have reached an age, or suffer a medical disability, that requires their submitting to a medical examination to justify the continued holding of a licence.

Mention was made also about probationary licences discriminating against some drivers. The thrust of this concept is to create incentive for drivers to become more responsible on the roads and to attain the gold licence level.

The incentive will be to take care of themselves, their vehicles, and other road users, and, as a result, move up from the lower licence levels to the silver and gold licence levels. The majority of media reporters strongly support this sytem, which will improve driver responsibility, the lack of which contributes to a great many deaths and injury to persons and property on our roads.

The honourable member of Murray asked how often photographs on licences would be renewed. The Department of Motor Transport will not maintain a central bank of photographs. Copies of photographs that appear on licences will not be kept, so that whenever a licence is lost or a different licence is issued, a licence expires or is destroyed, a new photograph will be taken. The honourable member wanted to know whether gold licences would be taken from drivers after the commission of a single offence. The simple answer is, no; not in every case. A gold or silver licence will be cancelled only if twelve or more points are accumulated in any two year period; that will warrant the cancellation of the licence. In most cases that involves the commission of two offences; in others, the commission of three offences. Gold and silver licences will not be cancelled after the commission of one offence only.

Mr Cruickshank: A driver will have to lose twelve points within a given period?

Mr AKISTER: Yes, within a two year period. The honourable member for Murray sought information as to whether it would be possible for two or more licences to be issued to one driver. He adverted to an instance in which he thought it would be appropriate for a driver to hold two licences of the same class. He suggested that in the country a primary producer working on his property, ploughing, may have to jump into a utility and hurry to town to buy spare parts for farm machinery that has broken down. The honourable member said that farmers do not carry their wallets while they are working in the paddocks, but it would be possible for the farmer to carry a spare licence with him to be used on these unexpected trips into town. I fail to see that the safeguarding of a second licence would be different from or more difficult than safeguarding the original licence, in which case there is no need to issue a second licence. The real problem is: if it were possible for two licences to be issued, although the majority of people would behave in a proper manner, some drivers would apply for two licences, sell one and keep the other, so that the system is destroyed by its being flooded with many licences. The possibility is that a second licence could be used for an illegal purpose. The Government cannot support that proposition.

The honourable member asked whether a driver's good driving record accumulated on a particular class of licence would be taken into account when that driver obtained a different class of licence at a higher level. The colour-coded licences are an indication of a driver's responsibility and progress through the different levels of licence to the ultimate level of colour gold. The class of licence that one obtains depends upon the vehicle that one drives. A driver's good driving record would not be negated if he sought to change the class of licence. For instance, if a driver qualified for a gold licence to drive a motor vehicle and he wished to change his class of licence to permit him to drive a truck, the licence issued for that purpose would be gold also. Therefore, a change in class does not mean a change in colour.

The honourable member suggested that because of recent action taken to close police motor registries to move towards a system controlled by the Department of Motor Transport people's inconvenience may be compounded. In recent times the Government has adopted a number of initiatives since

moving away from the police motor registry system, and I see no problem with the introduction of this new scheme of issuing licences in country areas. The Local Government and Shires Association has assured the Government that it is more than happy with the new arrangements and is not aware of any problems over and above those that arose in the past.

The honourable member for Vaucluse complained that the implementation of regulations under this legislation was a sinister move by the Government. The honourable member has been a member of this House for a short time only. Had he been a member of the Parliament for a longer period, he would have realized that no Act of Parliament that has ever been introduced in this House since 1853 has not had, as a consequence of its enactment, attached to it a stream of regulations to permit better implementation of legislation. Indeed, Acts of Parliament rarely provide for the implementation of the purposes of the Act. They provide Ministers with powers to introduce regulations. All regulations must be tabled and if objection is taken they are debated in the House. It is not as though schemes are introduced in any nefarious manner. The honourable member for Murrumbidgee claims that the central registry of the new licensing scheme will be used by other organizations for improper and nefarious purposes. I am constantly amazed by the temerity of members who, having been here but a few weeks and having no real understanding of the system, profess to understand an Act in isolation from other legislation that has been introduced in the Parliament previously.

The honourable member for Murrumbidgee knows as well as anyone else that there is a privacy committee of this Parliament and that this Parliament has introduced legislation giving the Ombudsman certain powers in relation to matters he has raised. Government information lists are subject to privacy protection provisions. The use of such a list for improper purposes would be detected instantly. Any departmental officer who made such a list available for any other purpose than that for which it was intended would be in serious trouble. It is difficult to imagine that any such officer would be employed in the public service. If in the past 10 years the honourable member for Murrumbidgee had been in this House or had been awake or had taken some notice of government matters, he would be aware that this Parliament has had debate on government lists that contain people's names and addresses. As a consequence of that debate the privacy committee was established. As I say, such lists are protected by the privacy provisions from being used improperly.

Also the honourable member for Murrumbidgee said that the Government will have a secret list of licence holders that could be used to control under-age drinking. He then gave the advice that despite this, under-age drinking would not be brought under control. That is the sort of strawman who is often put up by the Opposition. Members say that the Government intends to do something when it does not. They then claim a victory over the Government when they believe they have found a hole in legislation.

A licence was never intended to be used as a proof of identity or of age. However, if a licence holder goes to a hotel, the hotel owner or manager may tell the person that he or she does not look eighteen years of age and should not be in the hotel. The manager then asks for proof of age. A person may say that he or she has a driver's licence and asks whether that is acceptable as proof of age. If the manager says that it is, that is private agreement between two people. A person may offer a driver's licence as proof of identity or age, just the same as a person could offer a letter for enrolment on the electoral roll or a birth certificate as proof of identity or age. Many personal documents could

be used to prove a person's age. To me a licence to prove age is not an improper use of the licence. That matter is not provided for in the legislation.

As I said earlier, the owner of an establishment cannot oblige a person to produce a driver's licence or make the production of a driver's licence a condition of entry to his establishment. There may be a private agreement between the parties, and that is all well and good. I refer to a matter that the honourable member for Northcott raised. It will give me the opportunity to scotch once and for all a matter related to a lady from Goulburn who wrote to me about a concession.

Mr Baird: We look forward to that.

Mr AKISTER: I am happy to do it. The lady pensioner from Goulburn wrote to me as a result of a press release I issued stating that eligible pensioners were entitled to an additional concession to travel on the State rail system. I used the words "eligible pensioner" three times in the press release and twice in the letter to the lady. In the three letters she wrote to me she was most careful never to mention what sort of pensioner she was; she just said that she was a pensioner. The lady kept writing to me saying she was a pensioner and asking if she was eligible. I think I used the words "eligible pensioner" three times in three separate paragraphs of the letter I wrote to her.

The lady went to a railway station and claimed the concession although she was not an eligible pensioner. She was a war widow. It was amazing that this lady could not explain to me in three letters that she was not an eligible pensioner. But the day after I sent her the letter saying she was entitled to the concession if she was an eligible pensioner, she was able to describe herself in full detail to the honourable member for Goulburn and then to the honourable member for Northcott, and state that she was a war widow.

The honourable member for Northcott, using tricks he learned before becoming a member of Parliament, quoted out of context, misrepresented and fabricated, and made insinuations in his statements to the media that somehow I had misled this pensioner about her entitlement. He had copies not only of my press release and my letters but also of a letter from the pensioner. The honourable member for Northcott deliberately in quoting out of context never mentioned that in all my correspondence I had quoted "eligible pensioner" four or five times. That woman knew on the very day that she wrote to the honourable member for Goulburn that she was not an eligible pensioner. We know where the honourable member for Northcott learned those sorts of tricks—the same place that he got the document that he was handed in church recently. I am pleased to have been able to give an explanation of that matter. I commend the bills.

Motion agreed to.

Bills read a second time and passed through remaining stages.

ASSENT TO BILLS

Royal assent to the following bills reported:

Residential Tenancies Bill

Landlord and Tenant (Amendment) Bill

BUSINESS FRANCHISE LICENCES (TOBACCO) BILL
BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS) BILL

Second Reading

Debate resumed from 6th May.

Mr BAIRD (Northcott) [8.6]: I am glad to say that confession is good for the soul and the Assistant Minister for Transport has just confessed to the House—

Mr ACTING-SPEAKER (Mr Quinn): Order! The honourable member will address his remarks to the bills before the chair.

Mr BAIRD: The Government has previously introduced two pieces of legislation related to tobacco tax. At the end of November last year it introduced legislation to increase tobacco tax from 15 per cent to 25 per cent. The last budget increased the tax by as much as 30 per cent. The price of cigarettes increased markedly to the disadvantage of those people, like the Minister, who are addicted to smoking. In this State a decision was made to take the high ground. It was decided that this State would be a high taxing State compared with other States. In this State petroleum tax receipts for this financial year are expected to be $218 million; and tobacco tax receipts for this financial year $148 million.

This legislation is a public admission that the Minister has failed in his attempt to stem the flow of the illegal tobacco and petroleum trade across the border. He makes desperate attempts to stop this illegal trade by introducing new legislation—but the machinery cranks on. With all these grandiose schemes and amendments to the legislation honourable members have not yet heard whether people have been prosecuted for breaches of this legislation. We know that the Minister has a strong desire for publicity and if any offenders had been caught for petroleum and tobacco offences tax avoidance I am sure we would have heard about it. By introducing this legislation the Minister again admits that the existing legislation has failed. A high taxing State continually seeks to obtain revenue. In Victoria there is a 25 per cent tax on tobacco; none in Queensland; and 30 per cent cent in New South Wales. This will result in an increase of 15 cents on a packet of cigarettes. If a person buys the cigarettes at Tweed Heads he will pay 50 per cent more than if they were purchased in Coolangatta. As the honourable member for Murray told me, the licensed tobacco dealers in his electorate complain to him that they are losing trade because people in his electorate are buying cigarettes from across the border.

So, there is a further disincentive, showing the result in terms of lost revenue by the purchaser going over the border, and the loss of revenue to the State and to business. Not only is business in this State complaining about that, it complains also about the number of licences needed to operate a licensed tobacco shop. Tax evasion has become a multimillion dollar business. One semi-trailer loaded with illegal cigarettes brought across the State border is worth about $175,000. An entire incentive industry has been attracted to this activity, looking at ways of bringing tobacco and petroleum over the border. It is a major concern. Evidence is available of all sorts of characters involved in the illegal trade. The Minister for Finance has a responsibility to protect the integrity of taxation revenue.

The blackmarket trade in petroleum and cigarettes is one of the few thriving parts of the New South Wales economy. Everyone knows why; it is what is called a taxation drawn economy. The Minister has been unsuccessful

in stamping out tax avoidance in the tobacco and petroleum areas. In his second reading speech the Minister waxed eloquent about the injustice of section 92 of the Constitution, despite the fact that it has worked well for a long time. The legislation has a number of machinery provisions which will remove discretionary powers from the chief commissioner. At present the chief commissioner must decide whether particulars are needed in applying for a licence. The legislation provides for the removal of that discretion. The chief commissioner's discretionary power to grant a licence on the basis that an individual has paid an amount under the Act, and to revoke a licence, will be removed. The Opposition does not oppose these provisions.

I turn now to the powers of inspectors to take possession of goods recovered from illegal trading. It is common knowledge that inspectors have faced certain problems in this area. Drivers of semitrailers loaded with cigarettes coming across the border would reply, when apprehended: "This is legal trade. I purchased my cigarettes. I do not have a licence yet". A driver would complete an application for a licence and could not be prosecuted. Under the provisions in this legislation the illegal cigarettes or petroleum will be taken into custody for six months. Records will be called for and the authenticity of the transaction will need to be verified. The Opposition considers the provision to burn the impounded tobacco as rather curious. It would be a more commercially sensible decision to sell it and increase the flagging economic resources of the Treasury.

I turn now to the question of bringing tobacco licences in line with petroleum licences. Petroleum licences will be automatically renewed each month when supplies are purchased from a licenced wholesaler. This provision seems appropriate to reduce administrative requirements. The Opposition does not oppose that provision. The provision of power of inspectors to overcome the difficulties of gaining access to bank records when making their super sleuth investigations into illegal trading also seems necessary. Together with the provision to enable the chief commissioner to collect outstanding fees from any person who owes the licensee money, these are machinery provisions which do not require a comment from the Opposition.

The imposition of fees on final wholesaling is another machinery provision. It does not matter in what way the Government wishes to implement this. Penalties of up to 200 per cent of the fees avoided appear rather low. The question of whether a higher rate of penalty would be more appropriate needs to be examined. At the conclusion of the Minister's second reading speech he said that bootlegging cigarettes will become an expensive exercise and this legislation will stem the flow of tax evasion which strikes at every honest licensee. The Minister's speech contained considerable flair. I am sure he has a good speech writer. However, despite the rhetoric, one doubts whether the Minister will be any more successful with this new legislation than he has been in the past.

The Government has decided to continue its high taxing profile and to recoup large amounts by way of business franchise taxes. As a result, more and more requirements are necessary, and this legislation is a further illustration of that. Three separate measures have been introduced in a short time. The Government will not oppose the legislation as it is fairly routine. I simply remind the House of the penalties that will be faced by those who smoke cigarettes, such as the Minister for Finance, in this State as opposed to Queensland. For nine of the eleven years that the Government has been in power, New South Wales has been the highest taxed State in the Commonwealth. The Government has become accustomed to inflicting high taxes because of its grandiose schemes, such as the Darling Harbour

redevelopment project. The Government's huge appetite for expenditure must be met by an extremely high level of taxation.

Mr DEBUS (Blue Mountains), Minister for Finance, Minister for Co-operative Societies and Assistant Minister for Education [8.17], in reply: I wish to respond briefly to a number of points made by the honourable member for Northcott. The honourable member has made those points before, in his fashion, and it is appropriate that I give the lie to some of the things he said. The honourable member for Northcott has made a constant refrain about prosecutions under the Acts dealing with business franchise fees on tobacco and petroleum. The honourable member ignores the fact that a prosecution is not the major mechanism by which avoided or evaded tax is collected. The major mechanism used is the issue of an assessment. If the assessment process is successful, there is no need for a prosecution. A prosecution may be brought when a taxpayer fails to respond to an assessment or has breached a section of the Act.

Revenue from petroleum and petrol licence fees has been steadily increasing because of successful compliance programs by the Department of Finance. The programs are successful because they make effective use of the assessment process. The honourable member for Northcott spoke of the failure of earlier legislation. Apart from revoking an Act that existed for many years, the legislation before the House responds to the new circumstance created by the passage of the Business Franchise Licences (Tobacco) (Application and Enforcement) Amendment Bill in December 1986. That bill applied these taxes without discrimination between interstate and intrastate tobacco sellers, making it necessary to introduce a series of procedural changes which are reflected in these measures.

The honourable member for Northcott appears not to understand the significance of removing various discretionary powers that had formerly existed for the chief commissioner. The honourable member appears not to understand that those changes have occurred precisely because of the nature of the Act brought in in December and traversing new constitutional ground. It is rational that the Government should have introduced the changes that have followed. It is competent to have introduced the renovated Act to follow up the historically significant changes that were made last December. The honourable member for Northcott went through his usual refrain with respect to Queensland. I suppose I am obliged to respond at least briefly to his comment.

All the world except the honourable member for Northcott and the economist Laffer appear to know that the total taxation expenditure of the Queensland Government is almost exactly the same as the total expenditure of taxation revenue of the Government of New South Wales. The proportions are different. Because Queensland has a much larger *per capita* payment under the Commonwealth revenue sharing arrangements, that State is able to spend proportionately more federal money than is the Government of New South Wales. The Commonwealth Bureau of Statistics will confirm for the honourable member for Northcott, if he cares to contact the bureau, that the taxation revenue actually spent on government services by the Queensland Government is almost exactly the same per head as the amount spent in New South Wales. The only difference is that New South Wales actually provides a higher quality of public service. It is for the very reason of the disproportion of Commonwealth payments to the larger States of Victoria and New South Wales on the one hand, as against the smaller States on the other hand, the State governments apart from that in Queensland apply these particular taxes.

The honourable member for Northcott said that section 92 had worked well. I thought I gave sufficient information in my second reading speech to enlighten the honourable member that not even members of the High Court are willing to say any more that section 92 works well. Honourable members opposite should read the judgment in a court case that has had considerable significance for the legislation the Government passed in December last year, that is, *TCN 9* v. *Miller.* The High Court judges are a long way short of agreeing at the present time that section 92 is doing what it ought to do. The point is that in more recent years its interpretation has effectively turned its original purpose on its head.

The honourable member for Northcott mentioned penalties. I respond only by saying that the 200 per cent rate is the same rate as applies in other State and Commonwealth taxing Acts. It is the standard rate accepted by governments across the country, whatever their political persuasion, as being an appropriate level of penalty. The other matter of considerable significance is that in the early months of this year the Department of Finance has been conducting a detailed investigation into the activities of those who are bringing cigarettes across the State border. It has conducted a detailed and thorough investigation of the trade in tobacco products across the border from Queensland. The passage of the relevant bill will trigger a campaign of enforcement that I am confident will ensure a higher degree of compliance with New South Wales taxation laws. I am confident that it will lead to the imposition of strong penalties on evaders. I am confident it will lead to stock seizures, as is allowed under existing legislation.

I should be quite happy to demonstrate for the honourable member for Northcott in the coming months that the rate of compliance with New South Wales taxation laws, with the benefit of the bills before the House, will improve significantly, and improve even more on the already improved level of compliance achieved as a consequence of legislation passed last year. I point out that as a consequence of legislation passed in December last year, the most notorious enterprise engaged in the sale of Queensland cigarettes, the Mick Simmons shop in George Street, closed down immediately. With the passage of the relevant bill we can expect much more activity, activity for which my department has been preparing itself for some considerable time.

Motion agreed to.

Bills read a second time.

In Committee

The TEMPORARY CHAIRMAN: Order! The Committee will now deal with the Business Franchise Licences (Tobacco) Bill.

Clause 69

[Disclosure of information]

Mr DEBUS (Blue Mountains), Minister for Finance, Minister for Co-operative Societies and Assistant Minister for Education [8.28]: I move:

> That at page 35, line 25, the words "the person" be omitted and there be inserted in lieu thereof the words "that or another person".

This amendment, and others I shall move subsequently, will bring the bill into line with provisions in the Revenue Laws (Reciprocal Powers) Bill 1987 and the package of cognate bills that I introduced recently into this House. The effect of the amendments will be to more clearly define the circumstances in which

the chief commissioner may disclose information obtained in administering the legislation, to other New South Wales government bodies.

As at present drafted, subclause (2) of clause 69 would enable information to be passed on to almost any State or local government body if it were in the public interest to do so. The amendment replaces the public interest test with a requirement that information may only be passed on to a specified body if the chief commissioner is of the opinion that it is necessary for the purpose of enforcing a law that creates an offence or that provides for the imposition of a penalty, or is necessary for the purpose of protecting the public revenue. This will be easier to interpret than the public interest test and will therefore provide greater certainty as to the circumstances in which information may be passed on.

The person and authorities within New South Wales to which information may be provided will be restricted to Crown law officers, the police and local councils. In the past my department has obtained information in the course of investigations which would have been useful to these authorities, but the information could not be passed on because of the secrecy provisions in the old legislation. By limiting the authorities which may be provided with information to those where a need has been identified, greater protection will be provided against the possibility of undue invasion of a person's privacy. I commend the amendment.

Amendment agreed to.

Amendment by **Mr Debus** agreed to:

That at page 36, all words on lines 6 to 16 be omitted and there be inserted in lieu thereof the words.

(2) The Chief Commissioner may, if of the opinion that it is necessary to do so for the purpose of enforcing a law that creates an offence or provides for the imposition of a penalty, or for the purpose of protecting the public revenue, disclose information, or publish a record, referred to in subsection (1) to—

(a) the Solicitor General;

(b) the Secretary of the Attorney General's Department;

(c) the Director of Public Prosecutions;

(d) the Crown Advocate;

(e) a Crown Prosecutor;

(f) a member of the Police Force of or above the rank of Inspector;

(g) the council of a city, municipality or shire; or

(h) a member, officer or employee of such a council; or

so as to enable that person (including any such council) to exercise a function conferred or imposed on the person by law.

Amendment by **Mr Debus** agreed to:

That at page 36, all words on lines 21 to 23 be omitted and there be inserted in lieu thereof the words.

(a) so as to enable a person to exercise for a purpose referred to in that subsection a function conferred or imposed on the person by law.

Clause as amended agreed to.

The TEMPORARY CHAIRMAN (Mr Quinn): I shall now deal with the Business Franchise Licences (Petroleum Products) Bill.

Clause 62

[Disclosure of information]

Mr DEBUS (Blue Mountains), Minister for Finance, Minister for Co-operative Societies and Assistant Minister for Education [8.32]: I move:

That at page 33, line 3, the words "the person" be omitted and there be inserted in lieu thereof the words "that or another person".

The reason for this amendment and those that follow are precisely the same as I outlined with the amendments to the Business Franchise Licences (Tobacco) Bill.

Amendment agreed to.

Amendment by **Mr Debus** agreed to:

That at page 33, all words on lines 16 to 26 be omitted and there be inserted in lieu thereof the words.

(2) The Chief Commissioner may—

(a) if of the opinion that it is necessary to do so for the purpose of enforcing a law that creates an offence or provides for the imposition of a penalty, or for the purpose of protecting the public revenue, disclose information, or publish a record, referred to in subsection (1) to—

(i) the Solicitor General;

(ii) the Secretary of the Attorney General's Department;

(iii) the Director of Public Prosecutions;

(iv) the Crown Advocate;

(v) a Crown Prosecutor; or

(vi) a member of the Police Force of or above the rank of Inspector; or

(b) if of the opinion that it is necessary to do so for the purpose of ensuring that measures specified in section 11 (a) of the State Pollution Control Commission Act 1970 are taken, disclose such information, or publish such a record, to—

(i) the State Pollution Control Commission; or

(ii) an authorised officer within the meaning of that Act,

so as to enable that person (including that Commission) to exercise a function conferred or imposed on the person by law.

Amendment by **Mr Debus** agreed to:

That at page 33, all words on lines 31 to 33 be omitted and there be inserted in lieu thereof the words.

(b) so as to enable a person to exercise for a purpose referred to in that subsection a function conferred or imposed on the person by law.

Clause as amended agreed to.

Adoption of Report.

Bills reported with amendments and report adopted.

BUILDING SERVICES CORPORATION BILL

BUILDERS LICENSING (AMENDMENT) BILL

PLUMBERS' GASFITTERS AND DRAINERS (AMENDMENT) BILL

Second Reading

Debate resumed from 5th May.

Mr SCHIPP (Wagga Wagga) [8.35]: Despite the potential importance of this legislation I am sure that the Minister for Planning and Environment and other honourable members will be pleased to hear that I shall curtail my remarks. I do so mainly because this legislation has been introduced as stage one of the reforms emanating from the twenty-ninth report of the Public Accounts Committee, concerning its inquiry into the New South Wales Builders Licensing Board. I believe full comment should await the formation of the corporation to be established by the bill. Then we can see what the Government intends to do—if indeed the Government is still then in office. By that time I hope to have taken over ministerial responsibility for this matter.

I know that some people will be disappointed that we have moved in what they would consider to be a slow manner with this legislation. However, in relative terms I believe the bill has been introduced fairly quickly. The report of the committee was released on 8th December, 1986. The Government is now introducing the first stage of proposals to bring about reform, basically of the Builders Licensing Board, but also incorporating the Plumbers, Gasfitters and Drainers Board and establishing a corporation to formulate policy and manage the activities of both the Builders Licensing Board and the Plumbers, Gasfitters and Drainers Board. The Opposition will accept what is happening—until we hear what the Government intends to do later. I believe that a slowing down process is the best way to proceed with this matter.

Though I shall not canvass all the matters raised in the Public Accounts Committee's report, obviously the report did contain some knee jerk reactions. I refer particularly to the survey that was conducted. I have not looked at the figures recently. From memory, more than 50 per cent of people who had had dealings with the Builders Licensing Board and were sent a questionnaire did not respond. That percentage was discarded and the survey analyzed only the 50 per cent that responded. Consequently the survey suggested a dramatic extent of dissatisfaction with the operations of the board. I would have treated the responses differently. I would have assumed that the 50 per cent of people who did not respond were happy with or had no criticism of the board.

My personal dealings with the board, particularly with chairman Brian Cahill, were always satisfactory. I always had ready access to Mr Cahill and received a good response from the board. I was not one who criticized Mr Cahill, nor the board's local staff at Wagga Wagga. They have always been responsive and helpful, if possible, in matters of considerable sensitivity, as is generally the case when one deals with the big ticket items involved in building. The board basically served a purpose in a difficult area.

One of the board's problems was what I might term the second and third bites at an issue following people making a complaint. The board would have to reconsider matters that were reactivated by local members inquiring on behalf of a constituent. As well, the board had to deal with ministerial involvement in those matters. That was part of the slowing down process that was highlighted in the committee's report, and was one of the main criticisms of the board. I do not suggest that everything about the board was perfect. Nor do I suggest that everything will ever be perfect in a consumer complaints area. Consumerism is a relatively imperfect science and will always be so. It involves differences of attitudes and of perceptions as to what is right and wrong. This is particularly so when things outside the control of a builder go wrong.

I shall not take a stance on behalf of either builders or consumers. However, we must be careful to maintain a balanced approach to complaints such as will be dealt with by this legislation on a continuing basis. I remind

honourable members that the activities of the Plumbers, Gasfitters and Drainers Board and the Builders Licensing Board will continue during the interim period, at the conclusion of which the Building Services Corporation will have a chance to recommend further amendments to the Minister.

To instance the problems of dealing with complaints, some years ago in my electorate a homeowner had withheld more than $33,000 from a builder. It was a large home. I went about my business of trying to solve the problem by getting the builders back on site. I was told that they could not get access to the property because the owner was locking them out, though they were able to do the repairs requested and were willing to do so because they were anxious to get their $33,000. On looking into that matter, I found out that when the site for the house was being chosen—a country property—the builders had recommended a certain site, whereas the homebuilder, who prided himself as an owner-builder *par excellence*, determined his own site, which was on a filled area. He was warned that it was an area unsuitable for building. Nevertheless, the owner had his way; the house was built on the site he chose, and all sorts of problems occurred.

One cannot fairly say that the building company was remiss, because it had warned what would happen. It soon became apparent that it was not a matter of solving the problem, but that the owner was really trying to avoid having to pay. That is the sort of thing that can go wrong in this industry.

A sensible feet on the ground approach is needed to these problems. This is important legislation dealing with a large segment of activity in the State of New South Wales. The homebuilding industry employs 7 per cent of the total work force. That figure excludes the plumbers and gasfitters and other trades associated with the housing industry. A cautious and proper structure is needed to monitor what happens in that industry. I hope that the objects and functions that have been designed for the corporation will enable it to take an attitude that is not consumer oriented, but also has regard to an industry that has served the State well and will continue to do so.

There will always be problem areas. Nevertheless, the industry at the moment is producing a product at a price that has not increased as much as other items such as motor cars. I do not use the land content for the purpose of that analysis, because the cost of land has increased beyond proportion. The building industry is a proud industry in which many experienced and responsible people are involved. They should not be blacklisted or their reputation tarnished because of the actions of a few. Let us get rid of the few builders in the industry who might be called shonkie, but let us not paint with too broad a brush and establish a new corporate structure that is unbalanced and therefore creates a further problem.

The consumer should be educated about the problems of homebuilding. Certainly all the things that are stated as objects of this measure, such as advising consumers how to protect their own interests right from the beginning, not halfway through the contract, should be implemented. Recently I was told of a person on the North Coast who employed a builder, though no questions had been asked about whether the builder had experience in the area where the building was to take place or the reputation of the builder. Subsequently there were all sorts of problems. There was no background. No checking; nothing. Consumers and homebuilders should realize they can get information about the performance and standards of those in the building industry very easily. They can have a look at some of the jobs that have been done to see whether they have been done satisfactorily. It is important to use the opportunities that will be generated under the corporation to promote—

Mr J. H. Murray: For public education.

Mr SCHIPP: —public education and also promotion. The main provisions of this legislation are to constitute the Building Services Corporation and define its objects. The bills will confer on the corporation the functions exercised by the Builders Licensing Board and the Plumbers, Gasfitters and Drainers Board, both of which will have those functions deleted from the respective Acts. The merger of these boards was not within the terms of reference for the investigation by the Public Accounts Committee, though the proposition was discussed in an informal way. The legislation is not directly a result of the recommendations of the committee but nevertheless has the blessing of members of the committee, and was one of the options available to the Government. The Opposition does not object to that proposal. It is proper that the two organizations work together. As was explained by the Minister in his second reading speech, there are benefits in having a structure under the Builders Licensing Board which will allow plumbers, gasfitters and drainers to conduct their activities through those existing shopfronts.

The objects of the corporation are defined as the promotion and protection of consumer interests, the granting of licensing and trade certificates, the establishment of standards of competence, disputes settlement, and to help the promotion of building and trades standards. Emphasis should be given to the first objective of promotion and protection of consumer interests. The building trade and its standards should be promoted also. The new corporation will be given additional functions. The membership of the corporation is also established by the measure. The success of the new corporation will depend very much on the quality and calibre of the nine members of the board, particularly the general manager who will be the chief executive officer and will have the administrative responsibility for the day-to-day running of the corporation and its activities. The general manager is to be a full-time appointment and there will be eight part-time members, who will have duties related to both the building industry and the plumbing and gasfitting industry.

These provisions are a significant departure from those incorporated in the previous Acts. Each of the boards had nine members—a total of eighteen—which will be reduced to nine. The Royal Institute of Architects and the building industry specialist contractors who lose out so far as the Builders Licensing Board is concerned and those who will no longer be members of the Plumbers, Gasfitters and Drainers Board might not be too impressed. They might wonder why they missed out at this stage.

There is provision for appointment of associate members with special expertise. Those persons will not have voting rights. As the recommendations are adopted there may be some refinement of those appointments. I hope it will be possible to rely heavily on those other areas of expertise that are necessary to the proper management of a corporation of this type, and to proper policy setting. The Swimming Pool and Spa Association was keen for its representative to get a guernsey on the Builders Licensing Board. That is a large industry with sales of about $100 million a year, plus $50 million in support services. The industry produces about 8 000 pools a year at an average cost of $12,000 and employs between 10 000 and 15 000 people.

I hope that a representative of the Swimming Pool and Spa Association becomes an associate member of the corporation. I am hopeful also that a representative of the engineering side of the industry will be accepted. The board does not incorporate any of the relevant departments or authorities. Contractors, who are important to the housing industry, ought to be represented

on the board or form part of the associate membership. Marketing, homebuilding, water resources, and educational research areas, should be represented to ensure that the board functions satisfactorily. A co-operative attitude must be adopted to ensure that all available expertise is used by the board.

These reforms are said to be the first stage of the proposals. The corporation has been asked by the Minister to report back on four vital aspects, the first of which refers to a revision of the insurance scheme. A firm has been commissioned to draft proposals for the development of a more efficient, effective, and comprehensive insurance scheme following the merging of the general insurance and the special insurance funds. I trust that when this aspect is examined the potential for the private sector to provide insurance rather than government-owned insurers will not be discarded. Schemes operating already in Western Australia, South Australia, and the Australian Capital Territory, which are organized by the Housing Industry Association under what is termed the housing industry indemnity insurance scheme, should be used as a model for New South Wales. They should not be ignored; they may prove to be valuable to the industry in New South Wales. The Opposition is aware of the potential for the private sector to provide insurance schemes.

It is important that the corporation produces responsible, sensible, and constructive proposals to reduce the cost of insurance and improve responses to claims made against the scheme. The second aspect, which is the bane of the building industry, relates to the owner-builders. Whenever one meets with the hierarchy of builder organizations, problems associated with owner-builders are discussed. The Public Accounts Committee has received evidence to the effect that others will inherit problems associated with uninsured buildings not constructed by professional builders. I hope that the Government does not come down too heavily on the owner-builder. It is important that that right remain so that people can afford to build homes and construct additions to their homes. A balance must be maintained. Not every home built in New South Wales should be built by a professional building company. Insurance is important because problems arise when buildings are not covered by insurance. Although problems do exist, I believe they can be resolved. We ought to be applying our minds to this insurance aspect and its importance to the provision of housing in this State.

A further aspect relates to the simplification and integration of the licensing system. The system should not be so tight as to prevent builders who did not apply under the grandfather clause of the original builders licensing legislation from going out on their own. It should be relaxed to some extent so that builders do not have to have the formal qualifications that older hands and other responsible builders cannot obtain because they have been too long away from continuing education in the industry. The same applies with subcontractors. We should ensure that subcontractors do not become objects of the past. In Australia four inquiries have been conducted into the subcontracting industry: two in New South Wales; one in Victoria; and one in South Australia. Subcontracting has stood this nation in good stead. It has responded to the booms and busts of the building industry. The Burns inquiry and the Commonwealth Scientific and Industrial Research Organization inquiry highlighted the fact that homebuilders in Australia had an economic advantage over builders in other countries because subcontractors provide many of the building services. We should ensure that subcontractors continue to operate.

The fourth aspect relates to other amendments to the existing legislative provisions, which are umbrella-type provisions. The corporation will report on these four aspects, at which time we may witness which reforms the Government will seek to implement. I do not suggest that the reforms will be implemented prior to the next election. After the elections we will know which party is able to implement the initiatives. The appeal process should be examined so that the double and triple jeopardy provisions no longer apply. At the moment people have access to the Consumer Claims Tribunal, the Minister, and their local member. There is a mish-mash of people involved and issues are never resolved. The system has to be streamlined so that a one-stop shop for claims is provided to settle disputes as quickly as possible. The problems highlighted in the report of the Public Accounts Committee will then be overcome.

The apprenticeship aspects also require examination. The Builders Licensing Board supported substantially the Master Builders Association's group apprenticeship scheme. The scheme, up until the commencement of the inquiry, had trained 1 550 apprentices, many of whom have entered the industry as top skilled builders. Although that scheme was basically metropolitan-based, under the Building Services Corporation the scheme should be broadened to take in the training of apprentices under group apprenticeship schemes in country areas. Much of the income for the corporation will be generated in country areas and a proportion of those funds should be returned to the country. Recently a company in Wagga Wagga wanted to conduct entrepreneurial commercial work and applied under one of the loan schemes for funds. It was informed that the threshold was for $5 million, which did not apply to it, as the project was in the order of $2 million only. It is unrealistic to apply metropolitan criteria to country situations.

Inspections are another important matter. There should not be duplication of inspections. According to the Public Accounts Committee report, about 2.5 sites were the subject of inspection each week. Some inspectors had a high productivity rate and others a low rate. It is essential that inspections be carried out. The question arises whether local government inspectors can do the work or whether it would be more efficient and less costly to have a private inspection service. The question must be resolved how long after a job is completed can a claim be made. The Master Builders Association suggests that there be a six years' limitation period, which is usual in most of these types of matters. Others have said that the time limitation should be seven years. I do not consider it appropriate that there be an open ended period for complaints to be lodged.

The corporation should be set up quickly. Its personnel must be top people. Appointments should not be political because some person is a good, faithful and loyal party member. Members of the corporation must be selected for their specific and expert input. No doubt the appropriate member will be found from a panel of three persons nominated by the Master Builders Association. One member is to be selected from a panel of three from the Housing Industry Association and the federal executive of the Plumbers and Gasfitters Employees Union of Australia. I am sure those bodies will nominate appropriate people. Other appointments are to be made from a panel of three nominated by the Master Plumbers and Mechanical Contractors Association and the Labor Council of New South Wales. I hope that those bodies do the right thing and nominate an appropriate person. Of the other three positions,

one appointee will be nominated by the Minister for Consumer Affairs after consultation with the Minister for Local Government. Two members are to be nominated by the Minister to represent the interests of homeowners and home purchasers. I hope the people nominated will have their feet on the ground and will do justice to their appointment for the sake of the New South Wales economy.

I repeat that the Opposition gives qualified support to the legislation. It is a step towards reform, but it is not the perfect reform. The coalition parties look forward, if not in this Government's period in office certainly in our period in government, to doing something further to improve matters. I acknowledge that many problems highlighted by the Public Accounts Committee have been overcome by measures taken in regard to the Builders Licensing Board. That does not mean that all problems have been resolved. It is almost an impossibility to have a perfect operation in the consumer complaints area.

I cast no aspersion on Brian Cahill, who managed the Builders Licensing Board. He gave me access to his office, to himself and to his staff. The matters I took to him were responsibly handled. Where possible they were favourably resolved. I have no hestitation in saying that he tried very hard to bring about a balanced and not lopsided operation. I hope that attitude will prevail. There is a need for administrative efficiency. The Opposition does not want the industry to be hit as was the residential tenancy market when this Government recently introduced legislation affecting that industry. I repeat that to date the Opposition supports the measures.

Mr J. H. MURRAY (Drummoyne) [9.4]: I welcome the Opposition's support for this legislation. The honourable member for Wagga Wagga was apprehensive about a survey undertaken by the parliamentary Public Accounts Committee when it surveyed a number of clients. More important, he was apprehensive about the response rate to complaints. I inform him that the survey included a personal telephone survey. All people who responded to the survey had had developments before the Builders Licensing Board. The honourable member for Wagga Wagga questioned the Government's attitude to appointments to the corporation. I assure him that the quality of membership will be beyond reproach. Only people of integrity and efficiency will be appointed by the Government. The Government can point to its record of appointments to boards in similar matters.

I welcome the introduction of the Building Services Corporation legislation, which will give effect to the major thrust of the recently tabled report of the Public Accounts Committee on the Builders Licensing Board. Members will recall that last year that committee received a reference from the Minister for Planning and Environment and Minister for Heritage to examine and report on the Builders Licensing Board in regard to the operations of the insurance fund; and also to investigate whether the needs of clients were being met satisfactorily; and to look generally at the overall performance of the board. The honourable member for Wagga Wagga said that he had always found its performance to be up to standard.

Mr Schipp: I did not say that.

Mr J. H. MURRAY: I inferred from some of his comments that he had always found the board to be responsive to his representations and that he obtained results. Unfortunately, that was not the experience of all people who had dealings with the board. The committee in its report found a number of deficiencies within the board's operations. In particular the board's management had permitted delays of up to twelve weeks before providing on-site inspection

services to members of the public. The board came in for adverse comment from the community.

Mr Jeffery: They were politically meddling, that is why.

Mr J. H. MURRAY: No, it is not politically meddling. The honourable member for Wagga Wagga said that he had made representations to the chairman of the board at the time. That is a member's prerogative and it is not politically meddling. The committee also criticized the operations of the board's special insurance fund, which at the time of the committee's inquiry had $8.7 million in reserve yet had only had three claims paid from it during this time, totalling a mere $2,700. There was a difficulty with the general management of the board and also in regard to one of the insurance funds. The committee was unanimous that the management of the board should be reorganized and that there was a need for a review of the board's whole approach to management so that the board would be much more receptive and responsive to the needs of the public and the client. This legislation will amalgamate the Builders Licensing Board and the Plumbers, Gasfitters and Drainers Board to form a cost efficient and tight operation combining the two organization's resources. This combined body will promote and protect the interests of home buyers and purchasers, as well as the building industry generally.

Mr Jeffery: I have heard all this before.

Mr J. H. MURRAY: I do not know where the honourable member has heard it.

Mr Jeffery: In the Minister's second reading speech.

Mr J. H. MURRAY: The honourable member has not heard it from the Minister's speech. During the committee's inquiry it received more than one hundred written complaints from members of the public. Most were centred on delays by the board in meeting its responsibilities to provide a service to the public. One can well understand the public's concern having regard to the inconvenience to a homeowner having to leave a building site virtually untouched—and in some cases from three to six months—until the board got an inspection under way. Members of this House will be aware that similar bodies in other States provide an on-site inspection within two weeks of the lodging of a complaint. The committee looked at the Victorian system. The average time in Victoria to carry out an inspection was only five days, whereas it was twelve weeks in New South Wales; the maximum time taken to inspect a site in Victoria was two weeks. Obviously there was need for reorganization within the management structure of the board. I believe that few areas of government could be considered more important to the average citizen of New South Wales than an organization that has the task of protecting the public from being unfairly disadvantaged or exploited in the biggest single purchase most people are ever likely to make—their home, or alternatively an improvement to their existing dwelling.

Community expectations have undergone considerable change in the years since the Builders Licensing Board was established. Today consumers are much more aware of their rights. That has been achieved by legislation introduced since 1976. Consumers realize they have rights and can bring matters before various tribunals for decision. As a consequence, people are now demanding of the Government that instrumentalities such as the Builders Licensing Board are responsive to their needs and provide effective services. Though community expectations have altered, the Public Accounts Committee found that the operations of the BLB had not changed with the times.

Turning to the specific provisions of the legislation, I commend the Minister for Consumer Affairs for addressing detailed recommendations from the Public Accounts Committee on the restructuring of the board, the strengthening of the board's role in policy development and planning, the appointment of a chief executive officer responsible for the day-to-day operation of the board, improved response to consumer needs, and the strengthening of formal communication mechanisms within local government. The committee had before it a number of people from local government who expressed some displeasure at the apparent lack of communications existing at that time between local government, which was often left holding the baby, and the board.

I applaud the Minister's initiative in curtailing the present appeals provisions now exercised through the District Court. With the mechanism at present in place, delays of up to eighteen months often occur in obtaining a hearing of an appeal. The Public Accounts Committee recommendation that appeals be heard by the recently established Commercial Tribunal of New South Wales is provided for in the legislation. This will do much to expedite the handling of disputes within the building industry, and result in a lessening of costs for those who take their disputes before the tribunal.

The provision which acts as a sunset clause—that is, the requirement that the corporation reports within six months—will be of assistance in allowing the newly-formed body to shake out any bugs in its operation. As the honourable member for Wagga Wagga said, the corporation will then report to the Minister on matters needing reappraisal. The insurance scheme requires closer analysis. An improvement in the homeowner—builder system is needed; many rorts occur in that area, but one must have a system allowing the genuine home owner-builder to proceed in the industry. These matters should be looked at in greater detail. The present licensing system, which is extremely complex, should be updated. The Public Accounts Committee looked at licensing systems in Victoria, South Australia and Tasmania. The Committee found that the same sorts of complexities existed in those States.

I congratulate the Opposition on its enlightened approach to this legislation. A bipartisan approach to legislation such as this is another example of the benefits that accrue to Parliament from the operation of the Public Accounts Committee. I wish to pay tribute to the staff of the Committee, in particular Sue Chapple, the chief research officer, and the other members of the committee—the honourable member for Upper Hunter, who is in the Chamber tonight, the honourable member for Marrickville, the honourable member for Maitland, and the honourable member for Mosman who may be organizing other things at the moment. I appreciate the approach they took to the inquiry, and the diligence and dedication with which they performed their duty. I support the bills.

Mr FISHER (Upper Hunter) [9.14]: I am pleased to be able to join in the debate on the Building Services Corporation Bill and cognate bills, and join with my colleagues, the honourable member for Wagga Wagga and the honourable member for Drummoyne in commenting on the legislation. When I read a newspaper headline some time ago to the effect that the Minister for Consumer Affairs had agreed to abolish the Builders Licensing Board, I was pleased that the Minister had taken to heart the findings of the Public Accounts Committee, and had even gone further than the committee was prepared to go after a thorough examination of the board's activities. The honourable member for Drummoyne, the chairman of the Public Accounts Committee, said that a number of important findings of the committee have given the impetus for the

introduction of this legislation. However, when I read the bills, I was sadly disappointed because they do not go far enough.

The legislation is essentially cosmetic in nature. It provides for the abolition of the Builders Licensing Board but replaces it with another quango, and takes under its umbrella the Plumbers, Gasfitters and Drainers Board. The main bill goes little further than establishing another corporation to take on the role and function of the Builders Licensing Board. After a detailed examination of the operations of similar organizations in Victoria, South Australia and Tasmania, the Public Accounts Committee found considerable differences in the structures of organizations designed to provide the services originally anticipated on the formation of the Builders Licensing Board in New South Wales. But the board has failed to play its proper role.

Those honourable members who have taken the time to look at the report of the Public Accounts Committee will have noticed many deficiencies in the operations of the Builders Licensing Board. The honourable member for Drummoyne mentioned several of these functions. It is important to realize that the committee was very critical of the response time taken by inspectors to provide a reasonable service to people lodging a complaint with the Builders Licensing Board. The average time taken was about twelve weeks. The similar organization in Victoria operates effectively with a total staff of forty-five, with only four inspectorate staff covering the whole of the State. The Builders Licensing Board in this State has a total staff of 196 .

The Victorian board, although of a different name, operates with 45 officers compared with 196 in New South Wales. The bills in no way provide for a reduction in the functions of the board. Those 196 persons will be transferred to the Building Services Corporation. These measures do not address the problems identified by the parliamentary Public Accounts Committee. For instance, New South Wales has a large number of inspectors who travel throughout the State, some of them decentralized. Despite their number, the inspectors are unable to provide a service equal to that provided by the four Victorian inspectors.

Surely something is wrong when those inspectors are provided with motor vehicles that are used only three days a week because the inspectors spend two days a week in their offices writing reports. Victorian inspectors provide their own vehicles and have facilities to dictate their reports at home at night or while travelling in their vehicles. Thus they provide an extremely effective and efficient service to those who require it. That matter is not addressed by the bills. As the honourable member for Wagga Wagga said, these measures are a first step, but they do not address the problems of the New South Wales Builders Licensing Board identified by the Public Accounts Committee. Instead, they provide that the new corporation must within six months examine some of those problems that have been examined in detail by the parliamentary committee.

The insurance scheme was mentioned by the honourable member for Drummoyne. That needs immediate attention. The fund has reserves of $8.7 million. Only three claims amounting to a little more than $2,000 have been made against the fund. The Builders Licensing Board has done nothing to address that matter, nor will this legislation. A matter mentioned by the chairman of the parliamentary Public Accounts Committee was that some 30 per cent of work on domestic dwellings is undertaken under owner-builder permits. Those permits afford little protection for the board or insurance schemes against faulty workmanship. That rort is not addressed by the

legislation other than to state that this issue must be examined in six months time and that the new corporation should then report on the matter. How long will the Government allow such a rort and take no effective action. Good as it may be in its initial measures, the bills do little to address the existing problems.

In summary, the Opposition welcomes this as a first step. I am pleased that the Minister was chairman of the Public Accounts Committee when it initiated an inquiry into the Builders Licensing Board. The committee's report to Parliament followed thorough examination of the matter on non-party political lines. Though the examination revealed many faults, nothing in the bills will result in a reduction of Builders Licensing Board staff. The problems with the insurance scheme also are not addressed. These measures will not reduce the time it takes—on average, now twelve months—for board officers to conduct inspections. Those are disappointments in the legislation.

The new corporation will bring under its umbrella the Builders Licensing Board and the Plumbers, Gasfitters and Drainers Board. However, it will not address existing problems; it will merely review them in three months' time. I am disappointed that the Government and the Minister have done nothing more than provide a cosmetic change of name for the Builders Licensing Board. This is a sleight of hand. The Government is merely asserting it is doing something to address the problems by creating a new corporation while not tackling the problems facing homeowners and builders. Though I welcome these measures and acknowledge they are a first step, I am disappointed that they are mostly cosmetic. The Government has had the opportunity to address the problems identified for it in a comprehensive report. In Victoria a private organization called the Housing Guarantee Fund Limited, set up by the building industry itself, has established practical and workable arrangements.

In Victoria, until a builder establishes his bona fides, he is licensed only to build three houses. If those three houses are assessed as being competently built, he is then licensed to build additional houses. However, in New South Wales once a builder receives a licence, irrespective of the number of complaints made about his workmanship, there is no effective mechanism by which his licence can be cancelled. That contrasts with the Victorian system by which a builder must establish his bona fides. In addition, Victorian builders must lodge a bond. The Government has a considerable way to go before it resolves this problem. The bills are a primitive first step, which should have gone much further. I regret that, rather than tackle the problem, the bills defer consideration for another six months. There is no guarantee that action will be taken at the end of that period. My main disappointment with this legislation is that it is cosmetic and reflects the failure of the Government to come to grips with this major problem in the New South Wales building industry.

Mr JEFFERY (Oxley) [9.32]: This legislation is virtually an acknowledgement that the Builders Licensing Board has been a failure. That is not a reflection on the board's officers, particularly Warwick Thompson and others at the board's office in my electorate of Oxley. Most weeks I have had occasion to contact that office, and the staff there have done their best under the extreme difficulties occasioned by this Government which does not seem to know how to administer its affairs. I hope that the new corporation will not be an even bigger failure than the present board.

I accept, as the honourable member for Wagga Wagga said, that these bills are only a first step on the path to reform. However, I hope this will be more than mere window-dressing by the Government. The intent of the original Builders Licensing Board legislation was to protect the public from shoddy

workmanship and cost-cutting practices; and not to hamstring builders with red tape. I hope that this legislation will reduce that red tape and the number of regulations that accompany it. I wonder whether the amalgamation of the Builders Licensing Board and the Plumbers Gasfitters and Drainers Board, by the establishment of the new corporation will be the answer to both consumers and builders. I trust that this legislation will not result in a one-sided attack on tradesmen. The first Master Builders Association submission to Parliament about the requirements of the Builders Licensing Act was not accepted in its original form. When that submission was incorporated in legislation it took the form of a consumer protection Act, and did not provide any protection to builders.

I have many builders in my electorate. However, as a result of the crisis in the building industry many builders are now unemployed. That is the result of the actions of this State Government and the federal Government. The Minister has said that the abolition of the Builders Licensing Board and its incorporation in the Building Services Corporation will give home buyers additional protection from shoddy workmanship. However, what will be done to provide protection for builders? The legislation should act both ways.

The question of owner-builder licences—which was referred to by the honourable member for Upper Hunter—will be reconsidered during the next six months. Obviously that matter does require further consideration, particularly as to the terms under which those licences should be granted. Honourable members should acknowledge that it is even more difficult to build a house or a block of flats than it is to carry out plumbing or electrical work. So, if one must be licensed to do plumbing or electrical work, why should not one be licensed to perform building work? Builders who have completed the relevant technical training courses and obtained a licence ultimately become highly qualified. That was the intention of the original Master Builders Association submission to Parliament.

Though compulsory insurance should be maintained for builders, there should be negotiations between the industry and private housing finance markets to establish a private builders' insurance scheme such as that which operates in Victoria. Last year the Public Accounts Committee, under the chairmanship of the honourble member for Drummoyne, was highly critical that the Builders Licensing Board had $9 million of virtually untouched funds. Did those funds accumulate because the premiums collected from builders were too high? In the fifteen months that the board's insurance scheme operated, I believe that only $2,700 was paid out as compensation for shoddy work by contractors. However, last year $4 million was paid from the board's main insurance fund to compensate people for substandard building work. I repeat that the board had accumulated $9 million from trade contractors. The contractors must, of course, increase the charges to their customers in order to pay the premiums for a fund of which there was virtually no need. Again I ask whether the premiums for that fund were too high. All honourable members should consider that question.

Long service leave has been partly introduced in the building industry. It is now the responsibility of the Long Service Payments Corporation and not the Builders Licensing Board. However, the minimum period for the payment of long service leave should be shortened to twelve months. Accrued moneys should be paid as part of a worker's severance pay. If an employee works less than twelve months, his contributions should be returned to the employer for refunding to the employee. The building industry was once a thriving industry and a major provider of employment, particularly in my electorate of Oxley. However, the industry is now in the doldrums because many houses and blocks

of home units are being built by owner-builders. It is in the doldrums because of the actions of the unions and the interference and charges imposed by the State and federal governments. I shall not waste the time of the House by outlining all those reasons. By abolishing the Builders Licensing Board, the Government has admitted that the consumers and the builders have received very little in return for their premiums.

The Builders Licensing Board has been a failure. I hope that this new superbody will not be a bigger failure. The people who worked for the Builders Licensing Board did their best in the face of extreme difficulties under this Government. They were given a very difficult task, and received no government support. Constructive use must be made of the millions of dollars—

[*Interruption*]

Mr JEFFERY: The millions of dollars that are now in this fund should be used to advantage. In this special insurance fund—

[*Interruption*]

Mr JEFFERY: If the honourable member who attempted to interject is worried about the consumer and the builder he will listen and take note. Minimum interference is needed with competent tradesmen who go about their daily business. These bills will establish a new direction regarding the second stage of reform which should occur in six months' time. I support that. Important legislation should not be rushed into the House. Let us see if this legislation works. I am the first to applaud good legislation. I will be the first to knock bad legislation. I have always said that. I am willing to see if it works and give it a chance, particularly after the management team building within the corporation has taken place.

We need a revised insurance scheme. We need changes to the owner-builder scheme and a simple, integrated licence system. That will mean further amendments to the existing legislation. The Opposition has been calling for these reforms for some time. It is pleasing that the Government is willing to implement half of the recommendations initiated by the Opposition. I welcome the response by the Government in trying a new approach to consumer protection in the building industry, not only for the benefit of the consumer but also to assist the building tradesmen, the plumbers, the gasfitters or the drainers. It is time we had one-stop shopping for the whole of the building industry in this State. I am pleased that the Minister for Public Works and Ports and Minister for Roads supports me tonight because the coalition parties will streamline the whole industry and, therefore, give qualified support for these bills.

Motion agreed to.

Bills read a second time and passed through remaining stages.

MEDICAL PRACTITIONERS (AMENDMENT) BILL

DEFAMATION (MEDICAL PRACTITIONERS) AMENDMENT BILL

Second Reading

Debate resumed from 6th May.

Mr COLLINS (Willoughby), Deputy Leader of the Opposition [9.43]: There is absolutely no doubt that the Medical Practitioners Act needs substantial revision. There are a number of major defects in the current legislation. So far as the New South Wales Medical Board is concerned, legal loopholes permit doctors to continue practising even when the board believes they are a menace to the public. The other major problem has been that

substantial delays have occurred which have effectively denied justice to either complainants or accused doctors. The 1983 amendments to the Medical Practitioners Act by the Minister for Health at the time, Mr Laurie Brereton, who I notice in the Chamber this evening, had an extremely damaging effect on the morale of the medical profession in New South Wales. The medical board constituted under this Minister consisted almost entirely of the Minister's nominees. Though the board's power remained about the same, the Minister's stacking of its numbers was strongly resented by the medical profession. When this ministerial stacking was linked with a very substantial increase in the annual roll fee of medical practitioners, the justifiable reaction of the profession was one of mass indignation and resentment based on the profession's belief that it was being taxed but denied effective representation.

As if to add fuel to the flames, in January 1986 the New South Wales Health Department released a discussion paper on proposed amendments to the Medical Practitioners Act which added to the atmosphere of mistrust between the medical profession and the State Government that came about in the wake of the doctors' dispute a couple of years earlier. Not noted for its experience or conquests in fighting political battles, the medical profession, through a variety of interest groups, mobilized to counter the latest onslaught by the State Labor Government through its 1986 discussion paper. In retrospect the Health Department's discussion paper must be seen not only as provocative, but also damaging to what was left of the relationship between the State Government and the medical profession in New South Wales.

It is arguable that no responsible government interested in the reconstruction and maintenance of a proper working relationship with a major professional group, such as doctors, would have chosen to aggravate an already strained relationship. Part of the explanation for the continued harassment of the medical profession in this State lies with the high turnover of Ministers for Health during the past few years. So far, during the 1980's, we have seen Kevin Stewart, Laurie Brereton, Ron Mulock, Barrie Unsworth and Peter Anderson try their hand at the job. Lack of continuity has proved to be a major problem for those attempting to deal with the Government on the health issue since the departure of Kevin Stewart as Minister for Health. Nor has there been consistency between this series of Ministers. There is no doubt whatever that the emasculation of health services in New South Wales by the Minister for Public Works and Ports and Minister for Roads stands out as perhaps the State's most serious and cynical hatchet job of all time and indeed one which has left a legacy of powerlessness, hopelessness and broken morale in what had been arguably the most equitable and efficient health system in the world.

Though one might have thought that after the 1983 amendment to the Medical Practitioners Act anything would be an improvement, this proved not to be the case. Working out just how the 1986 discussion paper came into being is a little bit like piecing together the wreck of an aircraft that has crashed. Not all the pieces are available, responsibility is difficult to attribute, conditions were bad and there seems to be a significant element of pilot error, in this case by a rapid succession of Ministers. It is fair to say that the current Minister was not responsible for that particular document but that the primary responsibility for its formulation rests now with the Deputy Premier, the Hon. R. J. Mulock. To whatever extent it can be said that the Minister for Health has defused this political time bomb that has been ticking away embedded in the medical profession since January 1986, I give him due credit. But for the public record I shall identify areas of major conncern for the medical profession arising out of the Health Department discussion paper and how those concerns have been met. The principal areas of concern for the medical profession have been, first,

the substantiation of complaints; second, the notion of unprofessional conduct; third, the board's powers of entry, search and seizure; fourth, the fairness of disciplinary proceedings; fifth, delays causing prolonged suspension from practice; sixth, publicity of hearings; seventh, powers of the board, and eighth, appeals. I shall deal with each of these in turn, beginning with the substantiation of complaints. The discussion paper provided:

> Complaints in writing are sufficient in South Australia, Queensland and Victoria. Staff of the Medical Board and of the Complaints Unit of the Health Department will help complainants to write their complaints. The requirement that complainants lodge a statutory declaration be removed.

The opportunity under this provision for frivolous and vexatious complaints to be made against medical practitioners was simply too great an inducement for vexatious litigants to use with real impunity. Most fortunately the Government has, in the legislation now before the Parliament, agreed that a statutory declaration will be necessary for any official complaint against a medical practitioner. This should not be interpreted in any way as undue emphasis on formality and legalism, but rather as a test of sincerity and real determination on the part of any complainant. After all, if a complainant's argument is upheld, there will be repercussions on the professional career of the medical practitioner involved. Such action should not be taken or commenced lightly and the requirement for a statutory declaration is, in the Opposition's view, an absolute necessity. The second issue I propose to deal with is that of unprofessional conduct. The discussion paper provided:

> This term to include all aspects of 'misconduct in a professional respect' as currently specified, as well as:
>
> improper and unethical conduct in relation to the practice of medicine;
> negligence in relation to the practice of medicine;
> practising in a branch of medicine without having or exercising adequate knowledge, experience, skill and judgment;
> use of unhygienic premises or equipment which may be detrimental to the health of a patient;
> contravention of or failure to comply with the Act in any way;
> contravention of any relevant Act or Regulation.

The Government has agreed to retain the offence of professional misconduct defined in proposed section 27 (1) of schedule 2 to include:

(a) any conduct that demonstrates a lack of adequate knowledge, experience, skill, judgement or care;

(b) contravention of this Act or its regulations;

(c) practising contrary to a requirement of the Board concerning registration;

(e) permitting an assistant (not being a medical student, nurse, etc.) to perform an operation requiring professional discretion or skill.

(f) enabling an unregistered person (not being a medical student, nurse, etc.) to perform an operation requiring professional discretion or skill or to issue a certificate, etc., as if that person were registered;

(g) using a degree, etc., not registered with the Board;

(h) failing, without reasonable cause, to attend in an emergency or to cause another doctor to attend.

It is worth contrasting this very specific definition of professional misconduct with its equivalent in the legal practitioners amending legislation. On the question of what constitutes professional misconduct for any single act of lack of adequate judgment, whatever that may mean, any doctor in New South Wales is potentially facing the possibility of deregistration. Obviously what is required is that the bill draws a clear distinction between relatively minor matters of

inadequate professional conduct on one hand, with appropriately graded consequences and professional misconduct as traditionally understood on the other. This second kind of serious misconduct should be separately defined as well as separately adjudicated and differentially punished.

A third and highly contentious part of the discussion paper related to the board's powers of entry, search, and seizure. It is worth observing that the full potential of this particular piece of legislation was brought home vividly to doctors when they saw the effect of this sort of procedure not long ago in Queensland. The bill gives to departmental representatives the right, at any reasonable time, but with the consent of the owner or occupier of the premises, to enter premises where it is reasonably believed that medical records are kept and to make copies of or extracts from such records. In schedule 3, section 39AA, provision is made for an investigator to obtain a search warrant from an authorized justice where it is believed that entry to the premises is necessary to investigate a serious complaint—that is, one which could result in suspension or deregistration of a medical practitioner.

The 1986 discussion paper proposed that investigations into complaints of misconduct, et cetera, would be handled by staff appointed by the Medical Board to form a health and competence inquiry committee. It was proposed also that the committee have the power to suspend medical practitioners and to remove their names from the register. The Government has now agreed to a system where the board may appoint two of its members to conduct a preliminary inquiry into a complaint and, where necessary, to refer the complaint to either a professional standards committee or a medical tribunal for further action.

Mr Anderson: The Government did design it; it did not agree with it.

Mr COLLINS: I did not realize the Minister was listening. For some time he has had his back turned to me conducting a conversation with the honourable member for Kogarah, who I trust intends to contribute to the debate on this legislation.

Mr Anderson: He does not.

Mr COLLINS: Were the honourable member for Kogarah to resume his seat, he may learn a great deal about this legislation and the same courtesy might be extended to him on a subsequent occasion. Proposed section 32E in schedule 2 states that the professional standards committee will consist of two doctors appointed by the board, and a lay person, none of whom needs to be a member of the board. Provision is made also for the board to select, if appropriate, the two doctors from the same discipline as that of the accused doctor. However, this committee does not have the power to suspend or deregister and the accused doctor may have a legal adviser present. Should the board consider the matter to be serious enough to warrant possible suspension or deregistration, the matter will be referred to a medical tribunal, chaired by a judge of the District Court and consisting of two doctors and a lay person appointed by the board. Again, members of the Medical Tribunal do not necessarily have to be members of the board and legal representation is permitted.

The Medical Tribunal is, under proposed section 32R of schedule 2, able to suspend the accused doctor from practising medicine or may direct that the doctor be deregistered. Investigations into complaints will, according to this bill, be carried out by the Department of Health at the request of the Medical Board or, following consultation with the president of the board, at the instigation of

the secretary of the department. A matter of further concern to the medical profession of this State was contained in the discussion paper, which reads:

> The Board to have powers to suspend a doctor pending an inquiry, if it is deemed necessary for the protection of life or physical or mental health of any person. The period of suspension to be up to 30 days and, where necessary, renewable every 30 days until the matter has been determined. The Board be required to instigate an inquiry within 30 days.

The amendments, while maintaining the power of the board to suspend a doctor in these circumstances, require the board to inform the chairman of the Medical Tribunal of this suspension. Although any doctor suspended in this manner may appeal to a full tribunal within seven days, the suspension may be continued for further thirty-day periods, following written approval from the judge. The board is now required to instigate inquiries as soon as possible. The sixth area of concern relates to publicizing hearings. In the discussion paper the following recommendation was made:

> As a matter of public accountability, decisions of Professional Standards Inquiries and the Disciplinary Tribunal relating to competence and unprofessional conduct will be disclosed, unless a specific order to the contrary is issued by the Chairperson of the Inquiry or Tribunal respectively.
>
> Professional Standards Inquiries and Disciplinary Tribunals will be open to the public.

The potential here for gratuitous damage to be caused to innocent medical reputations is strikingly obvious, especially when linked to some of the recommendations dealt with earlier in the discussion paper. Fortunately, the Minister has agreed that proceedings of the Professional Standards Committee will not be open to the public. However, proceedings of the Medical Tribunal at which medical practitioners are represented by either a barrister or solicitor may be open to the public at the discretion of the chairman of the tribunal. An additional power reserved for the chairman is that of directing that the names of any witness, complainant or accused doctor may not be published. A seventh area of concern relates to the powers of the board under this legislation. To begin with, the discussion paper made the following recommendation:

> A Health and Competence Inquiry will have the power to:
>
> order that further education be undertaken;
>
> require that a doctor take advice on the clinical or administrative management of his practice;
>
> require a doctor to report to his practice and to make the practice available for inspection;
>
> impose conditions on registration;
>
> suspend doctors from practice;
>
> remove a doctor's name from the register.
>
> A Professional Standards Inquiry will have the power to reprimand, order remedial sanctions, educative measures, impose conditions on registrations, limit practice, suspend from practice or remove from the register.

Under this bill the board itself may conduct a preliminary inquiry into a complaint. In the event that the complaint is taken seriously and considered to be a potential threat to public welfare the medical practitioner may be suspended by the board. However, he will have the right of appeal, to be exercised within a seven-day period, against suspension. The board's power will extend to suspend doctors guilty of—

[*Extension of sitting agreed to.*]

The board's power will extend to enable it to suspend doctors guilty of medi-fraud in what amounts to a vesting of federal jurisdiction. Warnings can be given by the board and any other advice deemed necessary to correct or alter the practices of medical practitioners. In the event that such advice is rejected, matters can be referred immediately to the Professional Standards Committee or even the Medical Tribunal if the matter is extremely serious. The powers of the committee will include: a caution or reprimand; an order to undergo medical treatment or psychiatric counselling; the imposition of limitations on the doctor's registration; an order to complete education courses; an order to report to his practice at specified times; an order to take advice on practice management; a fine of up to $5,000. The eighth and final matter that I wish to raise from the discussion paper is that of appeals. The discussion paper recommended as follows:

> Under the proposed disciplinary structures, where an order has been made to suspend or remove a practitioner from the Board, he has a right of appeal to the Supreme Court. Interested parties have the right to appear before the Supreme Court to object to a stay of order pending appeal.

A right of appeal for medical practitioners has been guaranteed at all stages of the hearing of any complaint. In summary, if an accused doctor disputes a penalty or finding of the Committee he may take his case before the judge heading the Medical Tribunal. A complete rehearing by the tribunal may be ordered. On points of law or the severity of penalty an accused doctor may take his case before the Supreme Court of New South Wales. In addition, the chairman of the tribunal and or full tribunal will have a right to hear an appeal against a suspension of any medical practitioner by the board within a seven-day period from the date of suspension. These details give a very clear indication of the way in which the Government has defused the explosive nature of the discussion paper to arrive at a piece of legislation which is generally acceptable to the medical profession in New South Wales.

I turn now to the Opposition's detailed criticism of the bill. The Opposition has very serious reservations about the quality of the justice that will be meted out by the disciplinary provisions of the bill. The medical profession is relying on the reconstituted medical board to supervise the administration of the Act so that fairness can be done to members of this profession. I hope that the confidence of the profession in the board is well placed—starting with the composition of the board itself. To understand the position of the Minister with respect to the board, it is first necessary to understand the Minister's political position, especially the fact that his colleagues have seen fit to saddle him with two minders to make sure he is not too enthusiastic in demolishing the monuments his predecessors have built to themselves.

First, the Minister has a departmental head especially chosen for the job by the Premier. Indeed, he served the Premier as Secretary of the Department of Health with great loyalty and gusto when the Premier was Minister for Health. Second the Minister is the first Minister for Health to my knowledge in the history of New South Wales to have an assistant. In fact, as far as I am aware, he is the first Minister to have an assistant of this general kind in any portfolio. Well may we ask—why is this? I submit, that the real reason that there is an Assistant Minister for Health at all is that someone was required to keep an eye on the agenda in the Department of Health set by the now Minister for Public Works when he was Minister for Health. That someone is the present Minister for Consumer Affairs and the sister of the Minister for Public Works.

The Medical Board is a body of paramount importance in the administration of the medical profession in New South Wales. It is of the utmost importance to all practising doctors; the health system; and the patients and consumers of medical services. The board as reconstituted by the present Minister for Public Works was a disaster. The alarm in the medical profession caused by the release of the discussion paper was a direct result of the desire of the former Minister to control the profession no matter what its members did or thought. No self-respecting profession could tolerate a situation where a Minister had unfettered power to nominate six of the eleven members of the board and four members of those six need not even be members of the profession they purport to control.

Mr Langton: You will never know what it is like to be a Minister.

Mr COLLINS: Nor will you. It is unfortunate that the reforms have not gone far enough in restoring the medical profession in the board. This can only be achieved by reducing the nominated membership of the board and replacing it with more elected members from the entire practising profession. The Minister has a look of puzzlement of his face tonight. He knows full well that that is one of the principal objections of medical practitioners throughout the State.

Mr Langton: You have taken forty-five minutes to get to that.

Mr COLLINS: I shall take another forty-five minutes. The honourable member for Kogarah may have missed the issues when he was having a discussion with the Minister. As the principal speaker for the Opposition, I make no apology for dealing with this important piece of legislation in great detail. The honourable member for Kogarah may not be aware that the comments made in this House in this debate form part of the public record. In court cases from now on those comments can be considered. I think it important for members to be aware of that. It is an important role for every member of this House to recognize. I hope even the honourable member for Kogarah, who seems to have little time to listen to the debate in this Chamber, will take that comment on board.

The nominated members of the board will comprise eight persons selected by the specialist colleges, one from the universities and two nominated by the Australian Medical Association. I am sure that the New South Wales Branch of the Australian Medical Association is very pleased that its nominees on the board have doubled from one to two. The fact is that a significant proportion of the profession belongs neither to the AMA nor to one of the eight Royal colleges. The proportion of doctors in that category is put by some observers at about 40 per cent of the profession. These doctors will be effectively disenfranchised by the bill. In the words of the Medical Services Committee—echoing words that provoked a revolution in another part of the globe—these doctors are subject to taxation without representation.

The Opposition believes that—as with just about every other professional registration board in New South Wales, for nurses, dentists, veterinarians, solicitors, et cetera—a significant component of the board's membership should comprise representatives elected from the profession at large. The Opposition sees no substance in the criticism that an election would be administratively difficult or a costly one. It is not in the too hard basket in any other profession. The bill will turn the board and the administration of the medical profession into a self-financing exercise. In fact, there would be little expense and difficulty in organizing an election to coincide with the annual re-registration to which every doctor in practice is subject. The Opposition believes

in the self-regulation of the medical profession in a way in which the Government apparently does not. In our view, the bill before the House is seriously deficient in a number of matters relating to the way disciplinary procedures are to be carried out by the board and its committees.

The Opposition does not accept the view that because a particular provision is part of the machinery of the existing Act or some similar legislation, that is sufficient justification for it to continue. The main bill is about reforming an Act and is a golden opportunity to rid the Medical Practitioners Act 1938 of all its defects and shortcomings. I realize a number of the amendments are a direct result of the lamentable Chelmsford hospital episode. I note with interest the attendance in the Chamber of the honourable member for East Hills who has been more vocal than almost any other member of this House on the Chelmsford hospital issue in past years. I pay due credit to the honourable member for East Hills for his crusade on behalf of Chelmsford victims.

The amendments are designed to make it easier for the department to proceed against doctors. The department has had its fingers burned very badly over the Chelmsford incident. It has never explained to the satisfaction of the victims of Chelmsford, nor to the public, why so many complaints were ignored for so long, or why so many years were allowed to elapse while the department was engaged in masterful inactivity. The Court of Appeal has been directly critical of the role of the department, and in particular the department's delay in proceeding with prosecutions in the Chelmsford hospital case. There has never been a satisfactory explanation why that has been so, or what is happening to the departmental officers responsible for the delay or the compensation the Government might now consider for Chelmsford victims who suffered from medical malpractice many years ago and departmental malpratice in bringing this matter to justice.

The disciplinary provisions of the main bill are, by and large, an indictment of the past lethargy of the department. Had the department done its job properly at the time, distress, suffering, and perhaps lives could have been saved. Aggrieved patients could have been compensated and many of the provisions of the legislation would not be thought necessary. In particular the Opposition wishes to draw the attention of the House to item 1 of schedule 4 to the main bill, providing that disciplinary committees and the medical tribunal are not bound by the rules of evidence, but may inform themselves in any manner they think fit.

The Opposition believes that a professional man or woman facing disciplinary proceedings on which their livelihood and professional reputation may depend, should have all the safeguards available that apply to a criminal trial. The importance of this is obvious when the whole scheme of disciplinary proceedings, when properly understood, is penal. A professional standards committee and the tribunal both have power to make findings adverse to the interests and practice of a doctor, including the power to fine and impose conditions on registration. In addition, the tribunal has power to deregister completely. These powers are similar to those of a criminal court. The body exercising those functions should be bound by the same rules of evidence and procedure.

The prospect of hearsay evidence, of similar fact evidence, and other evidence not admissible in a court, being used in proceedings to punish a doctor are unacceptable in the Opposition's view. The matter is compounded by the fact that before a professional standards committee, an accused doctor does not even have the right of legal representation. It is clear that social workers have

had a hand in drafting this legislation when one reads that, before such a committee, a doctor is entitled to be accompanied, but not represented, by a legal adviser. That provision is so idiotic as to be laughable. It is a pity that the Government believes that members of the criminal community are entitled to rights and privileges that are denied to doctors.

Perhaps one of the most serious criticisms the Opposition has of the legislation is a provision which rightly stirred the ire of the medical profession and, indeed, of the public when the discussion paper was launched last year. It is the iniquitous provision in proposed section 32B, allowing the suspension of a doctor from practice by what is, in effect, an administrative act. A suspension will operate for thirty days, and unlimited renewals of the thirty-day order can be obtained with the consent of a judicial member of the tribunal. Although the board has to be satisfied that the life or health of some person is in danger to invoke this section, the scope for mischief inherent in it is obvious. It is particularly of concern that no formal evidence need be available before such action is taken. Indeed, the measure makes it clear that not even a complaint need be made before the board can act.

The Opposition believes that there should be some such power but it should operate only under proper judicial direction on the basis of sworn evidence. Most important of all, there must be an opportunity for the doctor concerned to meet evidence against him. There is a grave danger that a provision such as this can be held over a doctor as a kind of institutionalized peer pressure, so that if a doctor does not conform, he or she will be suspended without warning. The final matter which the Opposition wishes to draw to the attention of the House is the strange agglomeration of legislative provisions in the licensing of medical deputizing services. The Opposition finds it strange that the Government wishes to give itself wide regulatory power over how medically qualified agents of doctors perform duties for those doctors when, if the doctor did them himself, there is to be no regulation.

The Government has not explained why it wants to control the management, hours of operation, and equipment of medical deputizing services acting as the agents of doctors but is not concerned to control those aspects of the principal doctor's practice. I hope the Minister will address these points in reply. In the Opposition's view, this further attempt to regulate private industry is undesirable and unnecessary. Rather, the Opposition would support the view that a doctor who retained an inadequate deputizing service to act for him may well be guilty himself of professional misconduct.

In conclusion, the Opposition supports, and supports with some enthusiasm, the proposal to make the New South Wales Medical Board independent and self-financing. The Opposition is of the view that all professional registration boards should be moving in this direction and commends this aspect of the legislation. To the extent that the Government has backed off its original inflammatory and destructive position outlined in the 1986 discussion paper, the Opposition is prepared to support this attempt to rectify some of the ills in the 1983 legislation. Subject to the reservations I have expressed, the Opposition supports the legislation.

Mr H. F. MOORE (Tuggerah) [10.17]: I support the bills and express similar feelings to those expressed in 1938 by the late James McGirr, the honourable member for Bankstown, when he said:

> This measure is of considerable importance to the community. Honourable members who have made a study of Roman law will in this connection recall the insignia

adopted by Justinian in his twelve tables— *salus populi est supreme lex* which means "the welfare of the people is the higher law".

That is what this legislation is all about. It is about the rights of people who have been subjected to the whims of doctors. As illustrations, I wish to quote a number of cases. One case involves a lady in my electorate who consulted an ear, nose, and throat specialist. She was told there was something wrong with one of her ears. She was admitted to North Belmont hospital and underwent surgery. The lady was delighted to think that at last her problem would be corrected. The morning after the operation, a nursing sister came to dress the wound. The sister said, "You have some blood on that ear". The lady asked, "What ear?" and the sister replied, "The left ear". The specialist had operated on the wrong ear.

Mr Yabsley: The operation must have been performed by Dr Refshauge.

Mr H. F. MOORE: I am not speaking to the honourable member for Bligh. He will have an opportunity later to contribute to the debate. The woman is now totally deaf in both ears. Her action for medical negligence has proceeded for two years without settlement. That specialist should not be allowed to operate on anyone. I go back to a case in February 1938. It involved a chap working in a forest at Bulahdelah.

Mr Kerr: 1938?

Mr H. F. MOORE: Yes, February, 1938.

Mr Knowles: The honourable member was not even born then.

Mr H. F. MOORE: I do not know why I do not ignore his interjections. The forest worker had a boil. The type of clothing he was wearing irritated the boil and blood poisoning set in. His workmates constructed a stretcher from saplings and bags and conveyed him through flooded areas to the township of Bulahdelah. That was no mean feat in those days. The workers arrived at the doctor's residence. The doctor's first words were: "I think he has blood poisoning. Who will pay the twelve shillings?" At about 9 o'clock that night his workmates returned to the doctor's residence to find out what had happened to their 19-year-old friend, named Mills. They found him on the verandah gasping for breath. They asked the doctor why he had not sent the ill man to Newcastle Hospital. The doctor said, "I think he has pneumonia". He had changed his diagnosis. He said, "Who will pay the sixpence to ring Newcastle Hospital to arrange for his conveyance there?" The total cost would have been twelve shillings and sixpence. The workmates said, "We will all put in to pay the cost if you make the arrangements".

[*Interruption*]

Mr H. F. MOORE: The case I am referring to relates to the changes effected by the bills. If members of the Opposition listen to what I say, they will know that. This young fellow Mills was taken to Newcastle Hospital later that evening, where he passed away the following day as a result of blood poisoning. He was not suffering from pneumonia at all. All these problems resulted from the doctor in the first place not being willing to pay the sixpence to telephone Newcastle Hospital and, in the second instance, refusing to treat the young man until be found out who would pay the twelve shillings fee. No one could prosecute that doctor because he was not a member of the British Medical Association. He was above the law.

[*Interruption*]

Mr H. F. MOORE: Why is the honourable member for Cronulla smiling?

Mr Kerr: I was coughing.

Miss Machin: Perhaps he needs a doctor.

Mr H. F. MOORE: I am sorry he has problems. He may have heard about the doctor from Central India who last week operated on a politician's son and amputated his good leg. He did not treat the injured leg. Because members of the medical profession are held in the highest esteem by the public, they have been allowed to get away with murder. That is what it amounts to. They should be held responsible for their actions or lack of action in the carrying out of their occupations. They should be made accountable to those who suffer at the hands of the practitioner. I know some marvellous doctors. Professor Nix was a pioneer of open heart surgery at Royal Prince Alfred Hospital. He is one of the most unassuming men I have met in my life. Another was a doctor from St Vincent's Hospital who recently died of cancer. One of his protégés is highly renowned for his work in open heart surgery. I refer to Dr Chang, who once operated on a member of my family to correct a problem that had been created by another doctor. I thanked Dr Chang in this place for what he did for that member of my family, probably saving his life.

I could mention numerous other good doctors. Among them was Dr Kortum, who lived in Auburn. He operated on me when I was two-and-a-half years old. At that time I had peritonitis, which could have ended my life. It is thanks to Dr Kortum that I am here today. In those days some people, though poverty-stricken, did not go to a doctor except as a last resort because they would not accept charity. Half the children at the school I attended ate nasturtium leaves during the depression because their parents could not afford to feed them. A next door neighbour, each week or each fortnight at the latest, would put commodities on his verandah for those in need. He was known as the big fellow, a former Premier of this Parliament, Jack Lang. When a little older I had a job as a milk vendor, starting work at 2 a.m. I would go to St Joseph's Hospital, where I heard many glowing reports about Dr Kortum. When the doctor died he had a foot-thick ledger of patients who owed him money. He never harassed them. He was one of the dedicated practitioners common in the old days. I recall a doctor at The Entrance who, when he retired, was assisted to get a pension by Harry Jensen. That was Dr King, who used to drive all round the area treating the disadvantaged and anyone else who was ill.

It is interesting to look at some statistics at the time of the constitution of the Medical Board in 1938. That board was to consist of not fewer than seven members and not more than nine members. One member was nominated by the Senate of the University of Sydney and one by the British Medical Association. The Medical Board was distinct from the Board of Health, which had been constituted under a different Act. The Board of Health had ten members, five medical members and five lay members. Two of those were Sir Norman Nock, a former lord mayor of Sydney, and Mrs Maincke, President of the Chamber of Commerce. The bills deal with appointing lay members to a committee. I feel that the provision to increase the board to eighteen members must be to the benefit of all those who seek access to the board.

In 1938 there were 3 332 medical practitioners in New South Wales to treat a population of 2 657 839 residents. As at September 1986 there were 18 133 medical practitioners in this State to treat a population of 5 558 700. What has happened to the profession? Why cannot people get the services they are entitled to. I do not know. When one seeks medical attention the doctor is

otherwise engaged or unavailable, and one is advised to ring an after-hours service. That is another important aspect of the bill. I have been involved on the Central Coast with the Health 2000 program introduced by a former Minister for Health, the present Premier of this State. In the northern region of the Central Coast about 16 per cent of the population are elderly. The region closest to that figure has about 6 per cent of its population who are elderly.

One doctor tried to set up after-hours locum services, but has been unable to engage medical practitioners. When I inquired why, I was informed that the Health Department has a register of unemployed doctors. Believe that or not. The practitioner was trying to provide a 24-hour, 7-day-a-week service. He was trying to serve a very large region. Honourable members would have had the 1986 health report delivered to their rooms this evening. It discloses that doctors are being imported from England and New Zealand on six-month work visas. They are prepared to work long hours and charge only the schedule fee. No excess fee is being charged.

I was astounded to see in the bill and in the Minister's second reading speech that when many doctors make home visits they do not carry implements with which to examine their patients. Obviously they are taking money under false pretences. Everyone is aware of the fraud that has been perpetrated for some time in the medical profession. On one occasion my wife and I provided accommodation for an elderly man. Both my wife and I were working at the time. Knowing that a doctor was to visit this man every day, we would leave his pension card on the table. This man was losing his eyesight. On my return of an evening I would ask him what did the doctor do? He would reply that the doctor said Hello, asked how he was, whether he was feeling better, requested that he sign a slip, and away he would go. That is one example of medical fraud. Of course, all doctors do not act that way.

I was interested to read a recent newspaper article that quoted Dr Shepherd as saying that if the Government introduced compensation legislation he would withdraw the two hundred orthopaedic surgeons from the service because the risk to them would be too great; it would increase by 30 per cent. The same situation occurred in 1938 when insurance premiums for doctors increased from 3 per cent to 13 per cent as a result of unscrupulous doctors robbing the insurance system. They are not my words. They were said by an eminent member of the medical profession in a speech in Victoria at that time.

I congratulate the Minister on the comprehensive content of the bill, which augurs well for the future. I spoke of the number of doctors in the system. It is interesting that the number of patients treated last year in public hospitals was 784 585; and the number treated in private hospitals was 287 085—a total of 1 071 670 patients. Outpatient registrations in public hospitals during 1985–86 totalled 11 145 955. I relate those figures because it is interesting to compare them with when there were only 3 120 doctors in the service. The number of patients treated per medical practitioner at that time was well above the average today. Though there are now 18 000 medical practitioners, I do not know of any on the dole. Some of these doctors must have so much money that they choose not to see patients. However, they are not doing what doctors did in 1938. I invite anyone who wants to check those figures to do so.

I suggest to many people that they use the aloe vera plant to treat various ailments. I find that plant to be more effective than some medical practitioners, though they are crooked on me for saying so. I have known people who have had ulcers that doctors were unable to cure. They have grown the aloe vera plant, and used it to treat themselves. The plant is also very effective in the

treatment of sunburn. one need only break off a piece of the plant and rub it on the affected area. I support the bills.

Miss MACHIN (Gloucester) [10.34]: I lead for the National Party. I listened with some interest to the honourable member for Tuggerah, who treated the House more to a history lesson than a medical lesson. I was reminded of the Premier's statement that we should return to the 1950's. I had hoped that the honourable member would stop there, but, instead, we were told about the 1930's.

Mr H. F. Moore: The bill was introduced in 1938.

Miss MACHIN: That must have been a good year. The Minister for Health must have a fairly zealous historian in his department, judging by the preface to the Minister's remarks. The Opposition will not oppose the bill. We concede that it contains major improvements, as opposed to the draft that was circulated some eighteen months or two years ago. I should imagine that the bill has been received with a certain degree of relief by the medical profession, by comparison with the earlier draft. I am pleased that the Minister's approach represents a backdown from the rather hysterical approach and exercise in doctor bashing that occurred when the Hon. L. J. Brereton was the Minister for Health. Having thought we had left that exercise behind, I was disappointed to hear the honourable member for Tuggerah focus so much on doctor bashing, with only occasional reference to one or two doctors being all right.

Doctors' threats of mass resignation in the face of the 1986 legislation, and other serious governmental threats, were not surprising. Why should they have risked practising under the draconian provisions included in the horrendous discussion paper issued last year? At that time Mr Brereton said that the amendments were prompted by acts of malpractice. The honourable member for Tuggerah listed incidents of malpractice going back a number of years. However, the honourable member cited only a few examples. One was of a doctor performing appendectomies in his surgery on a mass basis. By contrast I could cite the Chelmsford hospital example. Though the Opposition has been vocal in its call for a Royal commission into that hospital the Government has not been so hasty to accede to that request. The 1986 discussion paper probably typified the Government's propensity to knee jerk reaction, and indeed overreaction. A few recent examples are the Judicial Officers Bill and the residential tenancies legislation, to name only two. In each case the end effect has been the worsening of the very situation that the bills sought to correct. Usually such bills have contained extremely punitive measures.

In 1982 Mr Brereton proposed restructuring the board to increase the number of its members from 13 to 17, and in so doing to include representatives of so-called special interest groups, namely, women doctors and various other interest groups. That alteration was quite rightly ridiculed by the Australian Medical Association and other doctors as irrelevant. I am pleased that that provision has been deleted, as no doubt by now honourable members would be aware of my views on positive discrimination. The 1982 amendments contained provisions also for pecuniary interests. They make amazing reading now. They required that a list of doctors' interests be displayed in hospital foyers, and a public register be displayed. Perhaps there should be a similar register on display in the parliamentary foyer; then the public could see whether the Minister for Public Works has shares in TNT.

The legislation contains much-improved provisions. A member of the board must declare to the board if he has an interest in a particular matter under consideration; and if so, not take part in any discussion or activity by the board about that matter. Mr Brereton advanced the proposal also that not only surgeries but also many other premises could be entered, without warrant and without real substantiation, merely if it was thought "that medical records and other relevant material may be kept". That was certainly a *carte blanche* provision—rather shades of Orwell's *1984* and Thought Police. The requirement for search warrants and greater accountablility is a welcome shift in the Government's attitude. It is more indicative of the good old Aussie attitude of a fair go, to which we should all be entitled, both doctors and patients. The Medical Board will now have eighteen members, ten of whom will be medical practitioners. That is pleasing and I should imagine the medical profession will welcome that change.

Dr Refshauge: That is a worry.

Miss MACHIN: The honourable member for Marrickville says that is a worry.

Dr Refshauge: The honourable member for Gloucester cannot add up.

Miss MACHIN: He has been one of the prime doctor bashers.

Mr McIlwaine: The honourable member for Marrickville is a doctor.

Miss MACHIN: I am aware of that. He is a well-balanced doctor: he has a chip on both shoulders. It is interesting to note the variation in the membership of the Medical Board. At various stages that membership has been justified. The honourable member for Tuggerah said that eighteen is just the right figure. However, going back to the early 1980's—I shall not take honourable members to the 1930's—the membership was increased from thirteen to seventeen. According to the Minister at that time, that increase was supposedly to expand representation. Then in November 1983 the membership increased from eleven to seventeen. According to Mr Brereton that was to provide for a more compact board.

Now it is going from eleven to a board of eighteen. I do not know why it has to be expanded but government has finally made up its mind to do so. We cannot say it has rushed it. The fact that the board will have an expanded representation of practitioners and a reduced number of ministerial appointments is sensible. That change will ensure a better and more rational consideration of all matters. It is the result of a great deal of public and professional pressure which is a tribute to the medical profession's efforts. We will be looking to them to advance the self-regulation that they continue to advocate. The complainants' provisions of the past are vastly improved. The proposal in the 1986 discussion paper that no statutory declaration was required, that a complainant could be anonymous and quite frivolous but still subject the doctor to a search and possible suspension of practice while he was investigated has shades of a police state, or the French justice system where you are guilty until proven innocent, has been altered to require a statutory declaration and also detailing of incidents dealt with in the board's annual report. That should make all parties, that is the complainant, the investigator and the subject of the investigation, somewhat more accountable.

Section 32C deals with Commonwealth offences and the penalties that may be imposed under the provisions of the Act. This could open up a wide range of Medicare debate and, though that might be interesting and philosophical, now is not the time and place to go into it, much as I should like

to. The system has fostered a great deal of fraud from both the consumer and the provider areas. I should like to refer to some figures that were reported recently. According to the Commonwealth Department of Health figures, pathology and radiology services are the fastest growing component of funds paid to doctors working on the fee for service basis. In 1975–76, the first full year of Medibank, the services accounted for 18 per cent of money paid out. By 1981–82 they had gone to 20 per cent of monies paid out. The recent federal Government denials that Medicare and bulk billing, in particular, have lead to overservicing are obviously false. Medicare has led to overservicing, as the Liberal Party spokesman on health, Senator Michael Baume, pointed out.

Health Insurance Commission statistics prove that doctors who bulk billed between 95 and 99 per cent of their services last year had an average number of services of 7 428 but those doctors who bulk billed between 1 and 25 per cent of their services, had an average number of services of 4 698 or a little more than half the other figure. The Opposition queries some of the legal provisions in this bill. It questions the doctors' lack of legal representation. Though the doctors might know their medical backgrounds thoroughly, that may not mean they are articulate at a hearing or investigation, any more than it makes a solicitor or barrister a good diagnostician.

Neither the disciplinary tribunal nor the Professional Standards Committee will be bound by the rules of evidence. Obviously there will be serious matters to handle. On occasions the future of a career may hang in the balance and some very delicate issues may be involved. The hearings of these bodies should be bound by the same rules as other hearings. Australia unfortunately seems to be going the same way as its counterpart in the United States of America. The figures show that one in every five doctors there are sued for malpractice each year and the average court award to a patient is US$1.1 million or A$1.57 million. The average general practitioner in New York now pays a malpractice insurance premium of $28,500 each year. Those doctors in specialties such as obstetrics, orthopaedic surgery and neurosurgery can pay up to $142,000. Australia has seen a rapid increase in litigation. It has doubled in the last five years. The amount paid out by doctors in damages and legal costs has increased ninefold in the seven years from 1979 to 1986.

A doctor in New South Wales pays $1,500 a year subscription to belong to a medical defence union. That subscription rose sharply from $300 in 1984 to its current level at $1500. Unprecedented diseases such as AIDS will be of concern to doctors in the future. Doctors researching and treating AIDS patients should be assured that they will not be charged with neglect practice on an unfair basis due to lack of knowledge and lack of precedence. The costs of litigation, regulation and increased overheads, which add to the total cost, are ultimately passed on to the consumer. It is not the doctor, as is often suggested, who is responsible for the high fees and the high cost of health care. Doctors are not the greedy people that the Government would often make them out to be. There are many country doctors who deliver their services free. If the little old lady down the street cannot afford it, they help out.

It is interesting to note the increasing funding going into administration rather than the actual delivery of health services to the public. A former departmental chief, Dr Roderick McEwen, has been quoted as saying that at least 80 per cent of the increased costs of running the public health system was attributable to the salaries and wages of people who are in no way connected with the care of patients. The salary of the secretary of the Department of Health last year was $94,568, with expenses of about $4,500, which takes it up to about $100,000. That is not all that far behind the Prime Minister. Let us

not point the finger at the doctors all the time. The Opposition has been pleased to see a considerable backdown by the Government on some of its proposals in the past. I hope that the Government will take a more conciliatory role in the future than it has in the past and adopt a more sensible approach to dealing with the medical profession. I congratulate the Minister for taking a more sensible and fair approach to legislation which can only be a vast improvement on the earlier legislation.

Mr ROGAN (East Hills) [10.48]: I congratulate the Minister and the Government upon the presentation of the main bill. It is the most important change to the Medical Practitioners Act for some fifty years. As such, it is a major bill. These amendments could be called the Chelmsford amendments because they arose as a result of what Chelmsford highlighted. Chelmsford highlighted the worst aspect of medical treatment and neglect seen in this State over the past eighty-odd years, if not longer. I am delighted that as a result of my raising the Chelmsford issue in this House, the total inadequacies of the existing Medical Practitioners Act have been shown.

In the past I have referred to the inadequacies of the Medical Practitioners Act and to the total neglect of patient care that Chelmsford hospital represented. The Deputy Premier, the Hon. R. J. Mulock, when Minister for Health, directed the Department of Health to prepare a paper to stimulate discussion in the community about medical health care and proposals that may be adopted to make the Medical Practitioners Act more effective. I was invited to submit proposals and I was delighted to present a twenty-page submission. In a letter attached to that submission I said that the main aims of my proposals were to provide a high standard of quality medical and psychiatric care, for accountability of the medical profession, and for proper redress for patients, or relatives of patients, for damages caused as a result of medical and psychiatric malpractice.

I am pleased that this legislation falls within the provisions outlined in that submission, which was prepared by the Chelmsford victims action group in conjuction with myself. In particular I acknowledge the efforts of Mr Barry Hart who was a patient at Chelmsford hospital and who successfully sued one of the doctors of that hospital for the so-called treatment that he received. In that submission I proposed a whole series of changes based upon the Californian Board of Medical Quality Assurance, which has a mandate to control, regulate, and license the medical profession under the umbrella of the Californian Department of Consumer Affairs, which has three divisions to deal with medical quality, licensing, and allied health professions including psychologists, acupuncturists, physiotherapists, podiatrists, and others. The board is an all-embracing body providing medical quality assurance in all fields of medicine.

This legislation confines itself to covering medical practice in the medical profession. The proposals in the submission are worthy of further consideration, particularly the system that operates in West Germany under the control of the Institute for Expert Examination of Doctors Errors and the system in Great Britain where controls are imposed on the practice of medicine. My task tonight is difficult. I had intended to speak to this legislation for thirty minutes but because of the demands on the House and the Government's wish to have this urgent and necessary legislation passed, I shall confine my remarks to a much shorter period. In the time that remains to me I shall refer briefly to some of the provisions of the legislation. At present legislation provides for an investigating committee that does not investigate. Following a complaint made by one of my constituents the investigating committee in a letter to my constituent wrote:

The Investigating Committee is constituted under the Medical Practitioners Act, 1938, to investigate certain complaints against registered medical practitioners.

Enclosed herewith is a document that summarises the relevant provisions of the Act and sets out the procedures for lodging a complaint with the Committee.

You will note from this document that complaints of unskilful treatment by medical practitioners, or incorrect diagnosis or treatment, do not come within the jurisdiction of the Committee. Persons who consider themselves aggrieved by such actions of medical practitioners must seek their own legal advice as to the recourses available under the processes of law.

Under the present legislation, if a person has a complaint about malpractice, or the incompetency of a doctor, that person has to gather evidence himself and seek legal counsel to pursue his complaint before the investigating body and the medical disciplinary tribunal. This legislation addresses those deficiencies. The investigating committee will be abolished. This legislation will enable persons to lodge complaints with a medical board, which will properly investigate the complaints. The Medical Board will have staff sufficient to assess complaints. The complaints unit within the Ministry of Health will be expanded and patients who have genuine grievances against doctors guilty of misconduct will have their complaints properly pursued.

I am pleased also that the legislation provides a broadened definition of professional misconduct, to include unsatisfactory medical practice demonstrating inadequate knowledge, experience, skill, judgment or care, or any other improper or unethical conduct relating to the practice of medicine. This change has been brought about as a result of the courts' interpretation of what is considered to be misconduct under the Medical Practitioners Act 1938. The change is welcomed and will assist the pursuit of complaints against doctors found guilty of misconduct. An education research account will be established under the control of the Medical Board. Part of the function of that account will be to develop, research, and enhance generally the practice of medicine in this State. The Professional Standards Committee will discipline doctors and give doctors guidance if they show evidence of going off the tracks, so long as they have not been involved in gross negligence or incompetence. The committee will provide counselling so that their errors may be pointed out to them without the necessity of serious charges being laid against them.

The only question I have is in regard to where under the present Act a section 30 inquiry can be conducted into a doctor's competence to practise. I hope as a result of the reopening of the Audrey Francis inquest it may well be that the doctor who treated her will be called to account for her death. Under the new legislation if from evidence at that reopened inquiry it is revealed that the doctor is not competent to practise medicine, an equivalent section 30 inquiry will be able to be conducted into the doctor concerned. One could speak for an hour on this legislation but I shall conclude by commending the Government and the Minister for the introduction of this legislation. Its principal aims are the provision of a high standard of medical care. I believe doctors who do not responsibly carry out the practise of medicine or psychiatric treatment will be called to account. Redress will be provided for aggrieved patients who have suffered at the hands of incompetent, careless, dishonest or negligent medical practitioners.

If with the passage of time it is found that further changes are needed to the legislation, the Government through the Minister will be quick to introduce further amending legislation. I do not consider that that will be necessary; but if it is, I have every confidence that the Government will take the necessary action. I support the bills.

Mr ANDERSON (Penrith), Minister for Health and Minister for the Drug Offensive [11.2], in reply: I shall be brief in reply but I should respond to and clarify a couple of matters. I inform the honourable member for East Hills that on the advice available to me the answer is yes. I thank honourable members who participated in the debate. The honourable member for Gloucester said that there will be ten doctors on the board of eighteen; in fact, the minimum is thirteen—

Miss Machin: I did not say that. I said ten representatives of the medical profession.

Mr ANDERSON: I take note of that. There will be at least thirteen doctors out of the eighteen members. The question was raised about controls upon the after-hours medical services. On that matter a working party of the Medical Board prepared draft proposals; the Australian Medical Association provided draft guidelines; and Victoria is considering similar proposals. Queensland has had controls on these types of services since 1977.

I reject any assertions that the measures before the House are a dismantling of the 1983 Act. The amendments are a consequence of a number of developments. The amendments will greatly increase the responsibilities of the board, especially the disciplinary provisions. The expansion of the board to eighteen members is to allow opportunity to meet additional workloads. The Deputy Leader of the Opposition said that there ought to be elections for these positions on the board. He drew comparisons with other health organizations. The main difference between medical practitioners and members of other professions is that there are eight learned colleges that cater for medical practitioners. The proposal was an appropriate way to get a broad range of peer review and the appropriate expertise from a particular discipline.

Mention was made of three people. A number of assistant Ministers were appointed on the same day as was my colleague and friend in the other place. I am delighted to have as my Assistant Minister a person of the capacity and commitment to the people of this State as the Hon. Deirdre Grusovin. I have known her for many years and have the highest respect for her. Remarks made about her were unnecessary and did not do credit to the person who made them. A number of comments were made about the performance of the Minister for Public Works and Ports and Minister for Roads when he was Minister for Health. That honourable gentleman has been a friend of mine for more than twenty years. I have seen his performance in a number of capacities. He has performed well for the people in the western region of Sydney in his present portfolio. I assure every member of this House and people outside it that every person in the western region of Sydney will not forget that it was Laurie Brereton when Minister for Health who made the decision to remove inequities in the provision of hospital beds in this State and take beds to the west. We will always be grateful to him for that. I have not got the time to detail his other initiatives and achievements. I think the comments made about him were inappropriate.

I have mentioned briefly two of the three people who were the subject of comment in this debate, and they have an opportunity to defend themselves. But the remarks made about Gordon Messiter, the secretary of my department, were completely unnecessary and untrue. The remarks were a reflection on the person who made them. Gordon Messiter is a committed, capable, intelligent loyal public servant to the people of this State and he deserved better treatment than he received in comments in this debate. I am delighted to have the opportunity of working with him and other senior officers of the department.

It ill behoves anyone to make such an attack upon Gordon Messiter merely to score political points. I reject the assertions by the Deputy Leader of the Opposition, about the people he commented upon, but more particularly his comments about Gordon Messiter. Gordon Messiter does not have the opportunity to defend himself. He has served the people of this State in a number of capacities and departments with great distinction. He will continue to do so in whatever capacity. The remarks about him were not called for.

I thank members for their contribution, although I may not agree with the remarks of all honourable members. It is important that it be understood that the provisions of this legislation will give opportunity for an equitable system to deal with complaints. That will be in the interests of the medical profession, the medical consumers of this State and in the overall interests of the general community of New South Wales.

Motion agreed to.

Bills read a second time and passed through remaining stages.

DRUG OFFENSIVE BILL
DRUG AND ALCOHOL REHABILITATION ESTABLISHMENTS BILL
PRIVATE HEALTH ESTABLISHMENTS (AMENDMENT) BILL
PRIVATE HOSPITALS (AMENDMENT) BILL

Second Reading

Debate resumed from 12th May.

Mr COLLINS (Willoughby), Deputy Leader of the Opposition [11.7]: The Opposition supports the principal piece of legislation before the House. However, we do not accept all the cognate legislation and propose to divide specifically on the Drug and Alcohol Rehabilitation Establishments Bill. We are a society at war—at war with drug abuse in our community. Drug abuse is an affliction that riddles our society. In this State alone at the minimum estimate there are about 10 000 heroin addicts. There are lesser forms of drug abuse, but they still take their toll, perhaps less dramatically. Alcohol abuse is estimated to cost our society at least a billion dollars a year through premature deaths and injury.

It is critical that any responsible Opposition should get behind the Government in continuing the war against drugs. The Opposition certainly supports the Drug Offensive Bill. We note that its principal provision is to replace the Drug and Alcohol Authority, a statutory authority that has served this State for about a decade. My sister Jane Collins served as its first research officer. I am proud of the family association with the authority and the contribution my sister made to that authority in its infancy.

The time has come to upgrade and streamline the authority and extend its powers. The Opposition supports that provision. There is a need for the establishment of the New South Wales Drug Offensive Foundation, as provided in the main bill. The foundation will be able to accept public and private funds and redeploy them in the war against drugs in this State. I understand—and perhaps the Minister will correct me if I am wrong—that bequests will be able to be made to the foundation. I wish to pay tribute to many of the leading figures in our society who have given much time and money to advance the war against drugs, and in many instances pave the way for programs which have

subsequently been adopted by the public sector. I refer to people like Reverend Ted Noffs, who fortunately appears to be recovering from his recent critical illness, and Dick Smith. Those gentlemen have supported Life Education programs to endeavour to steer young Australians away from drug abuse and towards a more positive lifestyle.

The contributions of such people through the private sector must be recognized. They have been recognized to some extent by this Government in the past few years by funding an extension of the Reverend Ted Noffs' Life Education program. The Opposition supports the Government in that action. Many other organizations—some almost household names and some less well known—have done a great deal through the mobilization of private resources and personal contributions from citizens who want to support any attempt to beat the drug problem. That forms the basis of the Opposition's concern about the proposed licensing provisions. The Opposition opposes the Drug and Alcohol Rehabilitation Establishments Bill, which seeks to impose a set of licensing criteria upon a range of organizations. It is difficult enough to get sufficient people into the field in the drug war, and to get sufficient funds to fight the menace that is tearing our society apart, and that contributes to the breakdown of society, community lawlessness, and the creation of problems which permeate almost every level of government.

Rather than penalize such attempts, the Opposition believes they should be encouraged in every possible way. The Opposition rejects the fairly strict licensing provisions contained in the Drug and Alcohol Rehabilitation Establishments Bill. We put an alternative proposition to the Minister: a system of negative licensing, with the Minister having a power to close operations against which valid complaints have been made by drug users or people familiar with abuses that may occur. It was not clear from the Minister's second reading speech whether any instances had occurred of abuse of clients of drug rehabilitation programs, or whether there had been major failures in the system. The Opposition believes that problem could be dealt with by taking out of the system those who abuse the privileges of rehabilitation, and removing those who abuse clients or the trust placed in them. In his reply the Minister might consider the Opposition's proposal for negative licensing.

The Opposition whole-heartedly supports the establishment of the New South Wales Drug Offensive Foundation. However, the Opposition suggests that the Minister adds an amendment—if not on this occasion, then subsequently—to ensure that any funds derived through the operations of the Crimes (Confiscation of Profits) Act—which was belatedly proclaimed last year but nevertheless welcome—be earmarked for the work of the foundation. I am sure that people related to those whose lives have been lost through drug addiction and abuse would like to see funds from the assets of drug criminals dedicated to this purpose.

They are the principal concerns of the Opposition. The Private Health Establishments (Amendment) Bill and Private Hospitals (Amendment) Bill will exempt existing private hospitals and facilities from the licensing provisions of the Drug and Alcohol Rehabilitation Establishments Bill. Recognizing that the Government has the necessary numbers to pass the package of legislation, the Opposition does not oppose the Private Health Establishments (Amendment) Bill or the Private Hospitals (Amendment) Bill as they grant exemptions from the licensing procedures. Nevertheless, the Opposition objects to the licensing procedure as such, and will restrict the number of divisions called on the cognate bills.

There will be one further speaker for the Opposition in this debate—the honourable member for Gloucester. She will no doubt deal with some of the matters that I have not mentioned in detail. The Opposition is extremely conscious of the private sector's contribution to drug rehabilitation in the State. It is aware of the potential enormous costs for any government that wants to seriously tackle drug rehabilitation, particularly residential drug rehabilitation. The methadone treatment program has been expanded by the Government in the past few years in response to public demand. About 3 000 of the estimated 10 000 heroin addicts in this State are presently involved in the methadone treatment program.

Mr Anderson: It is 3 223.

Mr COLLINS: Any increase in that number will be welcome. Any additional funding or budgetary allocation that the Minister may be able to obtain through Cabinet would be welcome, and would be seen as useful expenditure. The Opposition urges the Minister for Health to expand that program further so that every heroin addict in this State who wishes to break the habit and involve himself or herself in a methadone treatment program will find a place available. The Opposition hopes that many of the schemes will be offered through private medical practitioners and private pharmacies as a cost effective alternative to the expansion of the public sector in dealing with the drug menace. Subject to the reservations I have expressed, the Opposition supports the principal legislation and will call a division on the cognate bill relating to licensing.

Miss MACHIN (Gloucester) [11.20]: I shall speak briefly on behalf of the National Party and support the comments made by the Deputy Leader of the Opposition. I support the Drug Offensive Bill. I recognize that the drug problem in New South Wales and Australia is of major proportion. It is perhaps the most serious crisis facing this generation. I have had the opportunity to meet a number of persons working to resolve the drug problem, including in particular the Reverend Ted Noffs, who, as the Deputy Leader of the Opposition said, is recovering in hospital. Some years ago I interviewed the Reverend Ted Noffs on behalf of that great National Party publication, the *National Leader*, when I was in journalistic mode.

I was interested to discuss some of the horrifying aspects of the drug problem in Australia and overseas. The Reverend Ted Noffs estimated that some 100 000 people under the age of twenty-five died worldwide from drug abuse. As he said, if that were to happen in a war, there would be a huge outcry. The Reverend Ted Noffs estimates that in some areas of Australia one person in three under the age of thirty is lost, probably one person in four in some Sydney beach suburbs. Those are horrendous estimates. In 1985, when I interviewed the Reverend Ted Noffs, I was told that four garbage services per week were being conducted in Kings Cross. I am sure the honourable member for Bligh, who is present in the House, could verify the nature of the problem.

Mr Yabsley: I have been on a few of those runs.

Miss MACHIN: On each run about 3 000 used syringes are picked up, or 12 000 used syringes per week. That was the figure some two years ago. Of course that was before the public became more aware of the dangers of AIDS. The problem increases. The Drug Offensive Bill will abolish the Drug and Alcohol Authority, a major authority, and replace it with three organizations listed in the bill, the Drug Offensive Council, the Directorate of the Drug Offensive and the Drug Offensive Foundation. That seems an ironic or odd way in which to streamline or improve drug programs, policy development and so

on. The Deputy Leader of the Opposition said the coalition parties would oppose the cognate bills because of the plethora of red tape, licences and controls and charges that those bills contain. The Opposition realizes, as I am sure the Minister would agree, that the contribution made by many institutions in the past has been of tremendous benefit. I hope their work will continue in the future. The kind of penalty to be imposed on them is perhaps a little unnecessary, as well as being administratively difficult and costly.

Organizations providing rehabilitation services, by supplying accommodation or otherwise, are perhaps best dealt with by negative regulation, whereby institutions have a discretion to set their own policies and make their own decisions. Unless certain actions or programs are specifically unacceptable, the institutions should be allowed to determine their basic framework of operation. The record of non-government organizations generally is good. I have visited some large organizations, such as the Life Education Centre. Another was the We Help Ourselves organization, commonly known as WHOS.

I visited the Goulburn residence of WHOS some eighteen months ago and discussed its work, largely done by former addicts helping their peers. That organization's attitude to the National Drug Offensive was quite interesting. However, its workers expressed disappointment that they had not been consulted for the input of people actually working at the coal face. Their advice had not been sought to the extent it should have been. Odyssey House also has a good track record in drug rehabilitation. However last financial year its funds were cut by some $27,000. I hope that this legislation will streamline and improve drug programs. If we are fair dinkum about financing institutions to assist in the Drug Offensive, more must be done. I have mentioned the Life Education Centre. I do not know whether honourable members on the Government side have been able to see what that organization is doing.

Mr Anderson: I restored Odyssey.

Miss MACHIN: In Kings Cross?

Mr Collins: What did the Minister say?

Mr Anderson: I said I restored Odyssey. It was suggested that that organization's funding had been cut. I said I restored it.

Miss MACHIN: According to my research, Odyssey House had a cut in funding for the financial year 1985–86 of $27,000.

Mr Anderson: It got funding, and I restored it this year. I cannot recall the precise figure.

Miss MACHIN: I had been discussing the Life Education Centre. Its programs, which have been going on for some ten years or more, have been picked up by other organizations and by the Government. I am sure there is bipartisan support of this Chamber for the work it is doing. In today's *Daily Telegraph* there was an advertisement for the anti-heroin campaign. It commenced by saying that Australian governments are spending an extra $100 million on education, rehabilitation, and treatment and law enforcement to fight drug abuse. I am sure if the Reverend Ted Noffs is able to read that advertisement in his hospital bed, that will be quite familiar to him. As the Minister probably knows, those are four approaches that the Reverend Ted Noffs has been advocating for many years as part of the drug program. Those are eminently sensible measures. It is pleasing that the Government, law enforcement agencies and others recognize that a multipronged approach is needed.

While discussing the Life Education Centre I express some concern at correspondence from the Premier's Department and the Minister for Health to various Life Education Centres and organizations. The Minister might clarify this matter in reply. I quote from a letter, signed by Mr Gleeson, and sent to Father Bridge of the Life Education Centre in the Hunter region. It referred specifically to funds for the Edgeworth permanent centre, which will service a wide area including my electorate, bussing in children from schools. Mr Gleeson noted: "The New South Wales Government has a deep commitment to the anti-drug abuse initiative", adding that the Premier had appreciated the opportunity last year to offer his personal support. Mr Gleeson concluded:

> The question of further funding will be considered in the context of the next budget and in the light of progress in the interim period.

Similar phraseology was used by the Minister in letters to other Life Education Centre workers around the State. That, understandably, has made them somewhat concerned about the future of their funding. For some years now certain Ministers and the former Minister for Health and now Premier have voiced strong support for the life education program. It is of concern that there is some doubt about funding for it. Perhaps the Minister, if he is not aware of the matter, might make some inquiries about it.

Let me now address the track record of the first $100 million campaign of the National Drug Offensive. It had the same multi-prong approach. It included education and the brochure, which was regarded as a rather cynical exercise in public relations considering that some $3.2 million was spent launching a booklet in 1986, including filming of the Prime Minister and so on. The result could be questionable. I doubt that the booklet is to be found in many places other than the Parliamentary Library, from which I obtained my copy of it. I know it was considered handy for some in Kings Cross to wrap up deals with heroin dealers there. Perhaps there is some irony in that, though it is rather sad. Others complain that on calling the Hot Line they were able to ensure that plenty of these pamphlets were sent out but not actually "Hands on Help". I hope that problem will be addressed.

The Opposition supports the need for education, rehabilitation and law enforcement. It is to be hoped that State and federal governments will join to ensure that we do not allow people such as Mr Taillon, a drug smuggler, using loopholes in our Customs Act to pass through Australia and take something like $300,000 worth of hashish with him. The honourable member for South Coast today mentioned a few problems in the Goulburn area with marihuana crops. I hope there will be a crackdown on marihuana growing instead of the rhetoric that has been so common to date. I was amused to recall a quotation of the former Premier talking about Taree. My predecessor's predecessor and now member for the federal seat of Lyon, Mr Bruce Cowan, requested that special police be assigned to crackdown on drug abuse on the North Coast. That area was not devoid of drug problems. In fact, there has a serious problem. However the former Premier said at the time that Taree had a clean bill of health so far as illegal drug use was concerned. The former Premier must have been talking about a different Taree or part of New South Wales, for the problem was bad then and it is getting worse. There are other anomalies in the system and it is impossible to address them all, although the bill seems to. The honourable member for Oxley referred to bongs being freely available in tobacco shops and at local shows. The Minister looks frustrated.

Mr Anderson: On a point of order. I have tried to be fair and reasonable. The issue of law enforcement has nothing to do with the Drug and Alcohol Authority or the Drug Offensive Council. It is not concerned with the Drug

Misuse and Trafficking Act to which the honourable member now refers. If the honourable member desires to have a discussion on section 11, let us have that discussion during the debate on the bill about which I gave notice today. This bill is about the drug offensive.

Miss Machin: It is referred to in the Poisons Act.

Mr Anderson: No, it is not. The honourable member is referring to section 11 of the Drug Misuse and Trafficking Act. All I ask is that debate be confined to this bill.

Miss Machin: On the point of order. The House was informed that one of the main reasons for introducing this legislation was to better co-ordinate all services to allow for interaction between departments. One cannot address the problem of drug abuse without considering some form of punitive measure and policing of the problem. One cannot ignore law enforcement when considering questions of drugs and drug abuse. However, I intended only to make passing reference to that matter.

Mr ACTING-SPEAKER (Mr Quinn): Order! The honourable member for Gloucester is entitled to make passing reference to matters related to drugs and drug problems. However, she cannot spend a considerable proportion of her speech on matters outside the scope of the bill.

Miss MACHIN: Many terms in the legislation suggest they are euphemisms for doing not a lot. On one page of the main bill I noticed such words as review, make recommendations, co-ordinate, monitor, evaluate, facilitate, promote, administer, formulate and consult. If the legislation is to be streamlined, this seems an odd way to go about it. Perhaps in time we will be able to judge it on its merits. I hope these bills will provide better co-ordination between rehabilitation agencies, preventive agencies and education agencies. Obviously a need exists for proper co-ordination of those services if any headway is to be made in dealing with the problem.

Mr ANDERSON (Penrith), Minister for Health and Minister for the Drug Offensive [11.33], in reply: I thank the Deputy Leader of the Opposition and the honourable member for Gloucester for their consideration and contributions to the debate. Everyone is delighted that Reverend Ted Noffs is making a recovery. The Government's commitment to life education centres has never been in doubt. Already the Government has contributed $3,952,137 to those centres. That includes the Hunter life centre. Everyone would agree that the methadone program has a number of significant pluses. One is that it does not involve the use of a needle, and thus the issue of AIDS—which will be dealt with in the short term by another bill—is not involved. The national campaign against drug abuse expansion is part of the Drug Offensive. According to a report I read about midnight last night the number of people on the methadone program has been increased from 720 to 3 223. That suggests that the Drug Offensive is much more than some booklet. I have been reminded that in recent days, in a major publication, my federal colleague Dr Neal Blewett put to rest doubts about the Drug Offensive. He announced expenditure of $100 million. In April the Australian Health Minister's council and Ministerial Council on Drug Strategy announced expenditure of $27 million for the coming year. That will prove most worth-while, providing education, treatment, rehabilitation and so on.

Reference was made to the rehabilitation licensing provision. Without going into too much detail, honourable members should consider that complaints have included physical abuse, sexual abuse, deprivation of sleep,

emotional abuse, physical restraint, and unreasonable psychological pressure over a period. I reject the Opposition's approach to the rehabilitation licensing provision. With a negative system, one must wait until there is an allegation and investigation before one can cancel a licence. However, I hope that the establishment of guidelines will prevent abuse occurring. I understand the Opposition's concern about the concept, but clearly this is a better way of protecting people who receive assistance from a rehabilitation agency. This system has not been introduced without thought. The network of alcohol and drug agencies, better known as ANADA, supported the system following a workshop's consideration of recommendations in 1986. ANADA said that the proposed amendments should be supported, in particular those amendments that will provide for the licensing of treatment agencies. So, the bills have the support of those who are involved. The passage of the bills will result in increased protection for those people. Though I understand the Opposition's concern, it is in the best interests of the people whom we seek to help to have a licensing system that will, I hope, prevent abuse occurring, rather than deal with it after it occurs. I thank honourable members for their contributions.

Motion agreed to.

Bills read a second time.

In Committee

The TEMPORARY CHAIRMAN (Mr Quinn): I shall deal with the Drug and Alcohol Rehabilitation Establishments Bill. With the consent of the Committee I shall propose the clauses and schedules as one question. There being no objection, the question is, That the clauses and the schedule be agreed to.

The Committee divided.

Ayes, 46

Mr Akister
Mr Amery
Mr Anderson
Mr Aquilina
Mr Arkell
Mr K. G. Booth
Mr Brereton
Mr Carr
Mr Cavalier
Mr Christie
Mr R. J. Clough
Mr Crawford
Mr Crosio
Mr Davoren
Mr Debus
Mr Doyle
Mr Duncan
Mr Ferguson
Mr Gabb
Mr Harrison
Mr Hatton
Mr Hills
Mr Hunter
Mr Irwin
Mr Knowles
Mr Langton
Mr McGowan
Mr McIlwaine
Mr McManus
Mr Mack
Mr Mair
Mr H. F. Moore
Mr J. H. Murray
Mr Neilly
Mr Petersen
Mr Price
Dr Refshauge
Mr Rogan
Mr Sheahan
Mr Shedden
Mr Walker
Mr Walsh
Mr Whelan
Mr Wilde

Tellers,
Mr Beckroge
Mr Wade

Noes, 29

Mr Armstrong	Mr Greiner	Mr Rozzoli
Dr Aston	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Small
Mr Beck	Mr Kerr	Mr Smiles
Mr J. D. Booth	Mr Longley	Mr Webster
Mr Causley	Miss Machin	Mr Wotton
Mr Collins	Mr T. J. Moore	Mr Yabsley
Mr Cruickshank	Mr W. T. J. Murray	*Tellers,*
Mr Fahey	Mr Park	Mr Phillips
Mr Fisher	Mr Peacocke	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd
Mr Unsworth	Mr Pickard

Question so resolved in the affirmative.

Clauses and schedule agreed to.

Bills reported without amendment and passed through remaining stages.

SYDNEY HARBOUR TUNNEL (PRIVATE JOINT VENTURE) BILL
STATE ROADS (SYDNEY HARBOUR TUNNEL) AMENDMENT BILL
MISCELLANEOUS ACTS (SYDNEY HARBOUR TUNNEL) REPEAL AND AMENDMENT BILL

Second Reading

Debate resumed from 12th May.

Mr BAIRD (Northcott) [11.50]: Tonight this House witnesses the absolute contempt the Minister for Public Works and Ports and Minister for Roads has for the people of New South Wales. In the past he has turned people out of hospital beds and turned the centre of Sydney into an eyesore with the construction of the monorail. At his direction millions of dollars are being poured into the Darling Harbour fiasco. With this legislation the Minister will commit future State governments to an irreversible project for the next thirty years. The legislation provides that the Government may construct a tunnel along any route that it chooses, and allows the Government to disregard completely any environmental impact statement. How long has the Government permitted debate on this legislation? It was introduced yesterday and declared urgent today. What has the Government got to hide? Why is this legislation being rammed through in such a hurried fashion? This project will affect the next generation, for the next thirty years. In 1992 dollar terms the project will cost $657 million, for which the Government will bear the entire risk. The House has 24 hours to consider legislation that even the Minister's colleagues have grave doubt about, and with very good reason.

Mr McIlwaine: Name them.

Mr BAIRD: It is well known that the Deputy Premier and Minister for Transport, and the Minister for Industry and Small Business, are opposed to the project. The Department of Planning and Environment recommended that

the project not proceed. The Minister for Planning and Environment in his report concluded that the project not go ahead as it was based on false assumptions, which have been described as sleight-of-hand. The Minister has disregarded the normal tendering procedures and processes of environmental assessment. He has ignored the conclusions of the Department of Environment and Planning and bullied his own department into producing a report that he favours. He has overruled his colleagues, including some of the most experienced members of the Cabinet. He is now ignoring the normal processes of parliamentary debate. What is the Minister trying to hide?

The credibility of the project is in question. Anyone who has the interests of New South Wales at heart would not commit such a project to this Parliament and this State in the manner it is being committed now, at midnight. By stealth and at night the Minister has introduced legislation in the face of objection by the press, and environmental and independent groups. The initial planning processes were surrounded by lack of important detail and cover-up by the Minister. Last year the Minister suddenly announced that he had reached a cosy deal with Transfield Kumagai-Gumi for a tunnel. Has the tendering process been discarded? After all, every other government project, except for the monorail, has operated on this basis. Every commercial venture operates on this basis, even when its operator decides he has a project that for all intents and purposes should go ahead. He calls for tenders to obtain the best viable deal.

The people of New South Wales are concerned about the way this arrangement was reached. The Minister has ignored one of the ground rules of commercial practice. The Minister said that no tenders were necessary because Transfield Kumagai-Gumi had submitted what he termed a unique proposal for a self-funding tunnel. He said that because of the expenditure that had been outlaid already by Transfield Kumagai-Gumi, the joint venture was entitled to the exclusive rights of the development. What an incredible precedent. Does that mean that any company can go to the Minister and say, "We have spent a certain amount of money, several million dollars, and because we have spent that money we should be assured of the exclusive rights to the project". The whole motion of commercial tendering has been thrown out the window. A new ball game is being played in this State.

The Minister said that Transfield Kumagai-Gumi has been battling since 1981 and that further tenders were not required. This is flagrant deception of the people of New South Wales. Surely the Minister will concede that this practice is not right. A report of an interview that appeared recently in the *Sydney Morning Herald* with the chairman of Transfield reveals that Transfield bought the plans for the project after setting up a consortium with Kumagai-Gumi and Westpac Banking Corporation. The reality is that Transfield was approached in October 1985 by Wargon Chapman with an idea for the project. The Minister has argued that Transfield Kumagai-Gumi developed the project and therefore it should reap the rewards. Transfield did not come up with the idea of the tunnel, nor did Kumagai-Gumi. Concern is being expressed throughout the construction industry. The Minister has let consultants and construction groups know that he is interested in one project only. The Minister has given assurances about his general approach. The construction industry is concerned about the impression they have gained that the Minister will not entertain tenders for other projects. I am not in a position to judge whether that impression is right or wrong.

Mr McIlwaine: The honourable member for Northcott was unable to get Dirk Wellham up in Carlingford.

Mr BAIRD: The Labor Party will be unsuccessful getting the honourable member for Ryde up; that would be defying gravity. The only people the honourable member is able to get up are in the trains, and only then after great difficulty. The Minister must be aware that such comments are rife throughout the construction industry. He has assured us that this is not so; but as a consequence of his heavy-handed approach the construction industry does not feel it has been fairly treated. He is responsible for all the Government's road projects, the Darling Harbour redevelopment, and the construction of the monorail. His colleagues are scared to come out publicly criticizing the project.

Mr McIlwaine: The honourable member for Northcott is scared. He ran away from Carlingford.

Mr BAIRD: If that is the best the honourable member for Ryde is able to do, I suggest that he let other honourable members contribute. The industry is concerned about this process of intimidation the Minister has adopted. The Minister has decided arbitrarily that the project should proceed. He has decided that tenders are not necessary. Yet compared with what action has taken place since, that decision is of little significance. The Minister's department commissioned an environmental impact statement by Cameron McNamara. In the normal course of events what would be called for is a proper independent assessment of costs relating to the viability and environmental impact of all alternatives. Instead, what was produced was a sales document; nothing more, nothing less. Recently I discussed with a consulting engineer what is involved with quarry projects in other States. He said that environmental impact statements are prepared, which are usually three times the size of this sales document from Cameron McNamara. The Opposition is not the only one suggesting that this is a sales document. The officer-in-charge of the Department of Environment and Planning has labelled it a sales document.

It would be amazing if the Department of Main Roads came up with anything other than a sales document. It was given the responsibility to come up with an environmental impact statement that would suit its own requirements, and it did. The Opposition would expect an independent assessment of the environmental impact requirements, but that has not been done. The lack of information in this document is appalling when one considers that the Government has rejected all alternative proposals. If there is to be no choice, the participating companies should provide a full and proper evaluation of the project—not this deficient and misleading document. Understandably the Department of Environment and Planning was appalled by this. It looked at the review of alternatives and understandably decided the proposal was inadequate, inappropriate, and condemned it. I shall deal with some of the specific questions asked in a report of the environmental impact statement. The report said that the environmental impact statement in reality is a sales document that fails to provide justification for the construction of the tunnel. The report further said that the environmental impact statement seriously overstates the benefits and understates the costs to the community and risks to the Government; that there is a lack of quantitative data from which to judge the impacts of the proposal; that the examination has revealed that the tunnel cannot be economically justified and that the environmental impact statement has grossly overestimated potential benefits.

I am not quoting from documents of the Opposition but from documents from the head of department of the Minister for Planning and Environment. This Minister in the dead of night is ramrodding this proposal through this House, overcoming every possible alternative and every environmental consideration. He is pushing the proposal through and saying "This is the one".

But he has not given the other alternatives a fair go or any systematic serious cost benefit analysis. The Minister has decided one project is a goer and that is the one he goes for. I could read from the whole report, because every page is a scathing condemnation of the environmental impact statement. No other Government in the world would proceed with a project costing more than $400 million if it had a report such as this prepared by one of the heads of a government department. To ignore the report is to plan suicide. The report quite unequivocally says that the project should not proceed because not enough is known about it and what is known about it argues against the tunnel construction at this stage.

I shall now deal with the Minister's response to the Department of Main Roads. Did the Minister put a halt on the project? Did he say there are serious concerns about it, evaluate the issues involved, and decide whether there are feasible objections to it. The Minister ignored all the courses of action that a responsible and accountable Minister should take. The Minister dismisses anyone who disagrees with him. He has decided this project will proceed even if every expert in the State argues against it. Certainly many experts have argued against it. His fellow Ministers became alarmed at the project. There were some suggestions of a public brawl between the Minister for Planning and Environment and the Minister for Public Works and Ports and Minister for Roads as they argued their independent points of view.

Undoubtedly the Premier was whistled up to tell the Minister for Planning and Environment to get his boy in line. The reputations of both Ministers are such that their motives are in question. There was a subcommittee on this matter comprising the Ministers and the Treasurer. Apparently the Minister for Public Works and Ports and Minister for Roads did not quite have the numbers so the matter was put before the inner Cabinet. We ask why? The Minister for Public Works and Ports and Minister for Roads is unconcerned about the report and poured abuse on it. He said it was full of errors, deficient and "off the planet". That is the act of someone ignoring the normal democratic process, not interested in facts, but only in having his own way. It is the act of a Minister accountable only to himself and not to the public, which he is supposed to represent.

The Minister's next step was to direct the Department of Main Roads to prepare its own report. The assessment of that department is not available, but it has been leaked out by people with conscience within the department. They decided to bring the facts out into the open. The report was prepared, but why did not the Minister release it publicly? If he has nothing to hide, he should have done that. Everyone knows why the Minister did not do that.

Mr Brereton: Every member of the press gallery has a copy of it.

Mr BAIRD: But you did not give it to them.

Mr Brereton: On the contrary, of course I did.

Mr BAIRD: No, you did not.

Mr Brereton: I did.

Mr BAIRD: I am sure the press would not agree, because I have spoken to members of the press about this. The review of alternatives is a brief synopsis of a 300 page document. The alternatives are given about one and a half or two pages of comment in the appendage. In dollar terms this is the largest project ever undertaken in New South Wales, but the Minister dismisses alternative proposals with a sweep of his hand. Is this democracy? The

Department of Main Roads assessment concedes many points made in the Department of Environment and Planning report. That is probably one of the reasons the Minister did not release it. The assessment admits overestimates were made of the value of traffic times, the variability allowance, the number of working days, the petrol cost analysis, and many other details raised in the report.

The problem was that once these factors were considered the DMR realized that the project could not be justified, so it changed many of the ground rules and assumptions to produce a more acceptable cost benefit figure. I have an expert opinion from a traffic engineer, Professor Blunden, of the DMR's assessment. He points out a series of deficiencies in the department's attempt to salvage the environment impact statement. He concludes that the docment is muddled, inconsistent and not convincing. The assessment finishes by stating "One could be forgiven for concluding that the DMR staff who wrote the report did not really believe in the project, and were just doing what they were told".

There have been the opinions of Mr Smythe and now Professor Blunden on this project, but the Minister has decided that everyone thinks the project is great and that no one has any criticism of it. But experts like Mr Smythe and Professor Blunden disagree. Their opinions are not the opinions of people in the street but of the real experts. Having attacked the credibility of one department and pulling his own department into submission, the Minister then forced the issue into the inner Cabinet to get the agreement he wanted. All the time doubts were starting to increase as more details of the financing of the project became more widely known from articles in the metropolitan newspapers. It became obvious that the project was not the risk-free gift to the Government it first appeared. The Government would have to provide a substantial sum towards the project. Expert opinion was firmly against the project proceeding at this stage. Residents of northside areas who would be affected by the project were most concerned and up in arms about it.

What is the Premier's role in this matter. The Premier proposes back to basics. Let us get down to the details of government and return to honesty in government. Why did not the Premier have the political nerve to tell the Minister that he had bungled the project and to scrap the plans until a full assessment of all alternatives had been carried out. The Minister should have been told to get his sums right, and, if the project was not viable, to abandon it. Instead the Premier has weakly submitted to the Minister's request. This Minister's passion for monuments has overridden every consideration. This project will continue for thirty years and will cost $657 million by 1992. The Government is afraid to allow this project to be subject to public debate and be decided on the facts. The Government's grounds for this project are very shaky. Ramming this legislation through Parliament is typical of the way in which the project has been approached.

Mr Brereton: Are you or are you not in favour of the tunnel?

Mr BAIRD: There are so many question marks and unanswered questions about this legislation. The Opposition has said there is a need for a second harbour crossing, but that is quite different.

Mr Brereton: What sort of a second crossing?

Mr BAIRD: The co-ordinated hyenas on the Treasury benches consider they have *carte blanche*. The honourable member for Miranda and the honourable member for Cronulla know why this city has horrendous traffic

jams. When the Government came to office in 1976, it cancelled all the freeway establishment plans and this city now has the worst traffic jams in Australia.

[*Interruption*]

Mr SPEAKER: Order! The honourable member for Northcott is entitled to be heard in silence.

Mr BAIRD: The Minister for Public Works and Ports and Minister for Roads says, "We want to know your plans". It is clear that the road system is in chaos. No one would deny that. But many questions are asked about the way it has occurred. More doubt and confusion exists over the financing of the tunnel project than any other issue. The Minister attempted to convince the House that the joint venturers were some type of Santa Claus, doing this for the welfare of the State and they would not make much profit—only $14 million. They were very benign. After a project time of thirty years, that is all they could expect. How nice it was. Even the thirty years was originally to be twenty-five years. When dealing with the tunnel concept, the Opposition realizes that many of the figures are rubbery. Many investments were drawn away from other areas as it soon became apparent that it was not a solely private enterprise funded project. The Department of Main Roads is giving the joint venturers a gift of $223 million that could be used elsewhere.

Mr Brereton: Come off it. Make sense.

Mr BAIRD: You were the Minister who came into this House and made grand announcements that the tunnel project would be privately funded.

Mr Brereton: It will be.

Mr BAIRD: How can it be privately funded when the Government is contributing $223 million?

Mr Brereton: That is the toll.

Mr BAIRD: Sure, it is the toll.

Mr Brereton: How else will it be funded? I said from the beginning that it would be funded by toll money.

Mr BAIRD: But it is not the money of the joint venturers. It is the money of the people of this State. That makes an enormous difference.

Mr Brereton: How else will the developers be repaid?

Mr BAIRD: If there is no accumulated surplus, the Department of Main Roads loan does not have to be repaid. The deal can be renegotiated if the parties do not like it. The department does not have to be repaid. At the end of the project, if any particular problems have been experienced, no interest has to be paid. I am sure the honourable member for Mosman, if he were building a house, would like to have a loan for thirty years and pay no interest at the end of that time. Anyone could understand that if interest is not being paid on a loan given by the taxpayers of New South Wales, then the project is not privately funded. It is funded by the people of this State and is a gift to the developers.

The loan requires a lot more scrutiny. The federal Government, in its economic statement announced tonight, has placed further tight constraints on State spending. But here is a $223 million interest free loan at a time of belt tightening and cut-backs. The suspicion in the minds of many people is that

the joint venture is being used by the Government to bypass the Loan Council. Perhaps this is the real reason why private joint ventures are involved.

The main bill pales into significance when one considers the terms of the loan in schedule 6. Paragraph 5.2 of the loan agreement in schedule 6 makes it clear that the joint venture partners will receive the loan whether or not the tunnel is constructed. What a deal! A $230 million interest free loan—and a tunnel does not even have to be constructed. I invite honourable members to look at this nice, cosy deal. Somewhere someone is being conned. One conclusion is that the Government has been conned, in which case it adds to the list of its bungles such as the casino tendering process and the Darling Harbour redevelopment. If the agreement is not due to sheer incompetence, another conclusion is that the Minister is conning the people of New South Wales. The Government has not achieved the privately funded, no strings attached tunnel that the Minister has been telling us about.

The Department of Main Roads will have a huge financial commitment which does not depend on the tunnel ever being constructed. The people of New South Wales demand to know why. Estimates have been made that if tolls continue at the present rate of inflation, $12.5 billion will be collected. The Minister insists on using a figure of a $400 million project. That is not a bad result in terms of the overall cost. With that type of ratio, who would fund a project? I am sure no one would fund a house purchase on a ratio of 30:1 funding. With an investment of $233 million, one wonders whether it would not have been cheaper for the Government to finance the project itself.

Funding used in private expertise becomes workable only if there are tax advantages. The question must be asked whether the Government is a participant in tax minimization. I am sure the Minister for Finance will be interested in my comments and show the same enthusiasm he has shown in tracking down other tax avoiders. In this legislation we have the biggest bottom of the harbour tax avoidance scheme of all. The Government, which often indulges in anti-tax avoidance rhetoric, has been revealed as hypocritical. I refer to paragraph 4.1 of revenue stream agreement in schedule 5 to the main bill, which states that if the taxation commissioner does not grant an income tax assessment deduction for depreciation on the submerged tube section, the contract can be renegotiated. In other words, if the joint venturers cannot use the tunnel as a tax deduction, the contract goes back to the drawing board.

The entire deal is predicated on the basis that the developers will be able to depreciate the submerged part of the tunnel, which is basically all of it. If they do not get that deal, they can renegotiate it in terms of this whole bottom of the harbour tax avoidance scam. If the developers do not get that allowance for depreciation, the taxpayer will be paying an even more horrific toll. We are paying a dollar now; some estimates are that at the current rate of inflation the toll will be $30. The Minister in his speech spoke about ludicrous suggestions of a secret deal. When a few details come into the open, like this rort, we realize why the deals have been kept secret.

What other horrors lie in store, the Opposition wonders. Here we have a $230 million loan without a tunnel and a bottom of the harbour tax scheme. What else is there to be uncovered? Then there is the ensured revenue stream agreement which has been the subject of great controversy. On a personal level this concerns me greatly. Tonight we are experiencing a locking in by this Government. The Government has decided that this is what will be provided in terms of a second harbour crossing. Our ability to have another alternative further down the track is seriously impeded. If another alternative is adopted,

serious problems will arise because the Minister has guaranteed a certain traffic flow through the tunnel. Serious questions have already been raised about the traffic flow. The traffic will be funnelled through the city.

In his Roads 2000 program the Minister said a grand scheme would be adopted and traffic would bypass the city. Now the Minister has a project whose whole future is predicated on the assumption that all the traffic will go through the city. The level of traffic flow is escalated, based on past historical events which do not necessarily apply. If we want a bridge at Abbotsford, or a tunnel further to the east or west of the Harbour Bridge, or a second crossing somewhere else, the Minister will deny they are necessary. He will decide what we need for the next thirty years, despite concern that we will be locked into his decision.

Mr McIlwaine: Does the honourable member for Northcott want a bridge at Abbotsford?

Mr BAIRD: I am not saying that. What I am saying is—

Mr Knowles: He would not have a clue.

Mr BAIRD: The honourable member interjecting certainly does not have a clue. The Minister will be condemned by the people of this State because in time the reality will be revealed and the people will then know what the Government, on this night, committed them to. At a future time when people are looking for alternatives to avoid traffic problems, those alternatives will not be available. So the first lie is with the traffic projections. Most experts agree that the traffic projections contained in the original environmental impact statement were inaccurate, that they were considerably over-estimated. Even the Department of Main Roads is of that opinion, despite the fact that the Minister was intimidating those who would criticize the report.

The simple fact is that if the projected number of vehicles do not use the tunnel and the revenue is short of that projection, the Government, not the private sector consortium, will pick up the bill for the shortfall. So the Government is committing the people of New South Wales for the next thirty years to an untold cost if those projections are not realized. We do not know whether those projections are accurate. Many experts have raised doubts about them. The Minister is committing us and our children to more taxation in the future.

The joint venturers have a no-risk agreement. The people of New South Wales will take the risk. The Minister cannot deny that. Whereas inflation rates are a reason for renegotiation, variation in traffic volumes from agreed levels are not. The Minister is gambling with taxpayers' funds on the shakiest of traffic predictions. The Minister should answer clearly the question: who bears the loss if the traffic volumes are less than anticipated? It certainly will not be the private venturers. It will be you and me, the people of New South Wales who will bear the cost.

The other part of the index is inflation. The agreement sets limits between which inflation is expected to vary from 1987 to 1991, 1992 to 2011, and 2012 to 2021. If the actual inflation is outside the agreed limits, renegotiation can take place. As the terms of the renegotiation are not stipulated, what guarantee does the public have that the joint venturers will not make some spectacular windfall profit, as the *Sydney Morning Herald* argued in February? That newspaper considered the extra revenue that would be gained between assumed inflation rates and the rates that would trigger renegotiation. It was shown that if inflation was, for each period, at the highest level possible for

renegotiation, the possible gross profit would be as high as $1.2 billion, based on the figures contained in the agreement.

Mr Brereton: Even the *Sydney Morning Herald* withdrew that story.

Mr BAIRD: It did not. It is a possibility. Does the Minister deny that if inflation for each period was at the highest level possible for renegotiation, that windfall profit is possible? One can work out the figures quite simply. Of course, that is a highly optimistic figure. The Minister has not studied the bill and he does not realize what the possibility is. It is not likely that anything like a windfall of that dimension will be gained. However, the possibility will be much more than the modest $14 million that the good fairies and the good people of Transfield-Kumagai Gumi are talking about.

Mr J. H. Murray: Is the honourable member for Northcott against a private enterprise organization making a profit?

Mr BAIRD: Not at all. But the people of New South Wales are being asked to be prepared to subsidize this agreement. We are being committed to further taxes and to underwriting the agreement. If the private venturers were taking a considerable risk, it would be fair enough that they would possibly reap a windfall profit. But that is clearly not so, as the agreement shows. If the private venturers strike a serious problem, the whole agreement can be renegotiated. If the consortium has not made enough money at the end of the project, they do not have to pay the $232 million; the project can be renegotiated at any time. In the private sector the ground rules are quite clear; if one is prepared to take the risk, one is entitled to the profits. But there is no risk for the private venturers in this project. Those taking the risk are the people of New South Wales.

Why is the Government prepared to commit us to a thirty-year financing deal? All other options for the tunnel crossing can be financed over a shorter period. Why is the Government taking this ludicrous gamble on future economic conditions? Imagine going back in a time warp to the 1950's and trying to project back then what the economic conditions would be like right now. It is a different ball game when making projections. One has to try to predict floating exchange rates and the like. The Minister is out of his depth in that exercise. He has committed the State to a financial deal, the consequences of which are totally unpredictable.

Next I deal with traffic congestion. Is the tunnel justified in preference to other projects? One must ask: is the project the best way to meet traffic congestion problems? Is the harbour tunnel proposal justified, and should the Department of Environment and Planning be listened to when it reports that, in terms of cost benefits analysis, the project is not justified in preference to other roadworks? What is the traffic problem? In his second reading speech the Minister talked about a traffic jam extending over a period of thirteen hours on the bridge unless something is done. Clearly the way in which traffic is dispersing through Sydney, new developments in cross-flow, the development of regional centres in which the Minister has been involved, and the Government's implementing its decentralization policies in moving government offices to Parramatta, have all resulted in altered traffic flows.

In recent times traffic peak periods have lasted for 1.5 hours in the morning and for a similar time at night. That peak period has not extended in recent years because of the factors I have mentioned, including daylight saving, flexitime, improved lane management and decentralization policies. The fact is that outside peak hours there is no congestion problem on the bridge. We do

not know whether this is the right way of meeting transport needs, because land use management and public and private transport alternatives have not been examined properly.

Mr McIlwaine: The honourable member is against public transport.

Mr BAIRD: That is not so. The Government should give other alternatives a fair hearing. Further, how much attention has the Minister given to possible congestion in the tunnel? At first it was proposed that we have a five-lane, 8.3 metre tunnel. Now it is to be a four-lane, 7-metre tunnel. One of the main points raised in the environmental impact statement is the present problems of congestion due to breakdowns on the Harbour Bridge. By narrowing the tunnel, the Minister increases the potential for this problem in the tunnel. There will be no breakdown lanes in the tunnel, so for a considerable part of the time the tunnel will be operating with only one lane open for traffic. If one brings to mind the number of breakdowns on the Harbour Bridge, it is obvious that that will be the case. So much for solving Sydney's traffic problems.

The next problem with assessing traffic flows is the real growth in demand for traffic capacity to the west of the city rather than to the east. It is true that the current route provides an effective ringroad and that by creating the eastern bypass one will stimulate demand on that route. The fact remains that the future growth of the city, a fact recognized by all, will not take place in the east, where the electorate of the Minister is, but rather in the west. This project is premised on diverting traffic round the east. However, the Minister keeps on changing the route. First it was to the west of the Harbour Bridge; then it was to the east; later, it was to be on different time spans. The Minister said that there would be an $80 million project, and that the Cahill Expressway would be torn down. Suddenly, the Cahill Expressway was back as part of the project. His changes of mind go on and on. The Minister claimed in his second reading speech, as he did in the letter to the *Sydney Morning Herald,* that the eastern bypass will take 30 000 vehicles a day off the city streets, despite the fact that his own environmental impact statement gives the figure as 15 000 vehicles.

[*Interruption*]

Mr BAIRD: The Minister should look at his document, produced by Cameron McNamara, which refers to 15 000 vehicles a day.

Mr Brereton: That is not my document.

Mr BAIRD: That is the document that the DMR used; it has not been changed. Then the Minister is quoted in the paper as having doubled that figure. I ask the Minister, did the EIS document prepared by Cameron McNamara quote 15 000 people and did the Minister simply double that figure, in his grandiose letter in which he said "It will be all right, trust Uncle Laurie"?. Of course, that was not true. Where in the Minister's second reading speech did he touch on the arguments raised by the Department of Environment and Planning and many other experts concerning a cost benefit analysis? The Department of Environment and Planning compared the cost benefit of the tunnel project with other similar road projects, such as the Gore Hill freeway study, the Warringah transport corridor, and others. The tunnel project had the worst rating.

Mr Brereton: I said 30 000 people will travel to the east.

Mr BAIRD: The Minister's document states 15 000. The Minister should read his letter. He said it would take 15 000 people to the east. To double that figure as the Minister has done is a nonsense.

Mr Brereton: The document at page 48 refers to 30 000 people.

Mr BAIRD: It refers to 15 000 people travelling to the east. The Minister must compare apples with apples. The Minister claimed in his second reading speech that the tunnel is part of the Roads 2000 project. That is a joke. The Minister knows that the tunnel was a sudden afterthought. Where does the Roads 2000 document discuss the tunnel?

Mr Brereton: It refers to a second crossing.

Mr BAIRD: The document does not mention a tunnel. The Minister said the program is integrated, but nowhere in the document is there mention of a tunnel. So much for the Minister's credibility. If anything, the tunnel will hinder an integrated approach to Sydney's road problems. It is clear that the road and transport improvements of the future will not proceed if they undermine the tunnel's viability. That is why it is vital that other alternatives should have been considered prior to the Government being locked into a project that will dominate building programs round Sydney for the next thirty years, and determine land use patterns.

I refer next to the environment. Anyone with any concern for the environmental impact of the harbour tunnel proposal can only look with horror at the tunnel legislation introduced today. Clauses 16 and 18 effectively give the Minister open slather. I regard this as my most significant concern about this legislation. These clauses will provide the Minister with unfettered power to do what he likes with Sydney's harbour foreshores. This is the Minister who approved the monorail to run through Sydney's streets. The legislation states that the route can be shifted. The EIS document is predicated on the route that has been determined. However, under the legislation we need not worry about that route; the route can be changed to wherever the Minister chooses. If that is to be the general approach, one could ask why we did not rely on the Darling Harbour Bill. The powers given to the Minister in that bill are so extensive that the Minister can relocate the tunnel wherever he chooses. That is one of the most damaging and disturbing aspects of the legislation. The Minister spoke about environmental concerns and EIS requirements. He has destroyed all the criteria and all the safeguards to allow this legislation to proceed. How can the Minister expect to be regarded seriously when he predicates the entire project on a Cameron McNamara document, predicated on one particular route, and then provides in this legislation that the Minister and the Government——

Mr McIlwaine: In what section?

Mr BAIRD: Proposed sections 16 and 18; they are quite clear. The Minister clearly has the power to change the route if he chooses. If he decides to utilize part of the Botanic Gardens, or an area in North Sydney, or move any old which way, there is no problem. By clause 18 the Governor may by regulation amend schedule 3, which refers to the site of the tunnel. The Minister can move the site of the tunnel to anywhere he chooses, by regulation. He does not have to submit any new route for parliamentary debate or public inquiry. The EIS, which is the sole basis for the project proceeding, has been completely rejected.

[*Interruption*]

Mr SPEAKER: Order! If the honourable member for Ryde wishes to contribute to the debate, he should seek the call.

Mr BAIRD: The Minister is not obliged to pay any attention to the EIS. He can choose an entirely new route. Already the route has been switched from west to east, altered to proceed partly under the Domain, and the construction of the tube shifted from Port Botany to Port Kembla. What could the public do if the Minister for Roads were suddenly to change the route of the tunnel? It could do absolutely nothing. Clause 17 of the main bill, which I invite honourable members to read, removes any right of appeal, any right for an objection to be taken to a court. That right is removed in one totalitarian, dictatorial swoop. The Minister has wiped out any chance of opposition. The Minister believes that he knows best and that there should be no opposition. Not only has he power to shift the route, but also to remove any right of appeal. That is an absolutely damning indictment of every principle of environmental planning in this State. The clause will not apply only to individuals.

Clause 16 refers to local councils. All honourable members will know which council is referred to. The clause will remove and override any right to objection. We have seen what happened with the Sydney council; the Government took away its powers and rode over the top of it. The Government's attitude is, if any councils get in our way we will run them over. So much for this Minister and his dictatorial and fascist approach to planning in the State. There are many question marks about the environmental impact of the tunnel, even given its existing route. Obviously we simply do not know sufficient about the noise effects, air pollution or traffic congestion, both during and after the construction phase.

Use of the Domain construction site will destroy nine valuable trees, alienate an important section of the Domain and detract permanently from the landscape. The area impacted by the tunnel is a valuable site—priceless in its importance to the city. Yet, we are asked to trust the Minister—this Minister for monorails—and his environmental concerns. We are asked to trust him to protect our environment, to change the route, although there will be no right of appeal to the courts. The tunnel will provide an exit to Macquarie Street for traffic from the Cahill Expressway to enter the tunnel from the Botanic Gardens. That was included as an addendum to the McNamara report, stating that it was not covered by the EIS. That represents a major change, and has had no environmental assessment. That is a taste of what is to come. As new complications emerge there will be addendums to the report. We will be told not to worry about an EIS; there will simply be another addendum; get the duplicator out and bung it through.

Then again there is the question of public opinion. The Minister is very good at quoting reports. He commissions his own reports, announces them with much panache and tells us that all the people of Sydney approve of his beloved monorail project, the Darling Harbour project, and the tunnel. However, that does not accord with independent opinion polls. They show that the public is evenly split on the merits of these projects. I asked a question upon notice of the Minister about this survey. The Minister replied that a sample of 800 people were questioned about the tunnel. I would not regard that as a significant sample size. The survey revealed that 80 per cent of those interveiwed were in favour of the tunnel. It is easy to affect opinion polls commissioned by an individual by determining the wording of the questions asked. If the Minister has nothing to hide, he should table the questions asked in the survey. Let us know what the people were asked and where they were asked. I sought from the Minister

information on what questions were asked. The Minister included a snippet of two questions in his reply.

Mr McIlwaine: On a point of order. The honourable member for Northcott has a question of some detail, number 2185, on the notice paper, dealing with this particular poll. As the honourable member has placed that question on notice to be dealt with under the forms of the House, it is not in order for him to raise those matters during this second reading debate.

Mr Baird: On the point of order. I asked that question with the clear intention of determining the validity of the opinion poll, ascertaining in which localities the questionnaire was conducted and how many residents of the North Shore were polled. If significant questions are raised by the opinion poll, I submit this is a legitimate way of obtaining answers to some of the disturbing questions.

Mr SPEAKER: Order! It has always been the practice for members to ask a question of a Minister to seek information. It has been ruled that a question asked without notice seeking information is in order if it is intended to use the information in debate. I am sure that is what the honourable member for Northcott was attempting to do when he placed the question on notice. No point of order is involved.

Mr BAIRD: Why has not the Minister outlined the questions that were asked? What suburbs on the North Shore were involved and who were polled? How many people in North Sydney were questioned? I was informed that 290 of the 800 interviewed were residents of the north of Sydney, the area primarily affected by the construction of the tunnel. How ludicrous it is that 290 people only, north of the harbour, were questioned. North of the harbour could apply to Murwillumbah and Tweed Heads. What relevance would opinions provided from those areas have? If the Minister has nothing to hide, he should inform the House how many people in North Sydney, Cremorne, Cammeray, and Willoughby were asked. My suspicion is that no residents of those areas were asked because their opinions did not suit the form of this biased questionnaire. Unless the Minister comes clean, we will never know. Suppose the Minister's opinion poll is genuine when it states that most people want a second harbour crossing. The Opposition does not condemn the idea of a second crossing.

[*Interruption*]

Mr SPEAKER: Order!

Mr BAIRD: To the orchestrated guffaws of the ill-informed Government supporters I say that the provision of a second harbour crossing is one matter; it is another that the tunnel be constructed in the way that this Minister wants it constructed. The Minister has struck a cosy deal with Kumagai-Gumi and Transfield and from the outset has pushed away every other alternative. In the Minister's second reading speech he said that the other proposals suffered one of a number of drawbacks. He said that they were not off budget and would have affected the rest of the State's roadbuilding program. He said also that the alternatives provided a short-term traffic solution only. Laughably the Minister suggested that all the alternatives were examined closely during the past twelve months. That must be news to the experts and consultants I have spoken to. They found great difficulty communicating with the Minister, let alone gaining access to the party or the Cabinet. I heard one story of a company representative who submitted an alternative proposal, standing outside the caucus room handing out the submission.

The report of the Department of Environment and Planning was perfectly clear when it criticized the environmental impact statement for its quick dismissal of the alternatives. The report said that the examinations of the alternatives were insufficient. The report stated that if some of the alternative suggestions were given the same cost benefit analysis treatment given to the Kumagai-Gumi tunnel by Cameron McNamara, they could have appeared equally favourable. The environmental impact statement dismissed eleven alternatives in no less than ten pages, many of which were simply diagrams of alternative routes. Reference was made to the dismissal of the Abbey group's proposal. The Minister said that many of the alternatives were public transport proposals that should not be considered.

The first criterion the Minister raised was that the Abbey proposal would affect the rest of the State's roadbuilding program and would divert funds elsewhere. None of the other alternatives were found wanting in that regard. Most were considerably cheaper than the Kumagai-Gumi proposal. Next the Minister mentioned that many of the alternative proposals for public transport systems would not solve the chronic traffic problems. Clearly the Minister ignores the relationship between public transport and road policies, and has conflicting priorities. One of the major problems confronting the State is the way the Government conducts its business. Each of the departments and each of the Ministers vie with one another for funds. The Minister for Public Works and Ports and Minister for Roads does not like the Minister for Transport receiving credit for the tunnel. He does not want to share his glory with anyone. He wants to have it all for himself.

All Ministers bid independently for funds. They present their individual proposals instead of introducing initiatives that will benefit Sydney's transport planning. The Minister has bulldozed his way through. He has pushed other Ministers aside and said, "Hey presto, this is the proposal that we shall proceed with". The final criterion relates to significant environmental problems. Most of the alternatives have no fewer environmental problems than the Transfield–Kumagai venture. One suspects that one of the reasons given for the rejection of the alternative proposals was that they did not come up to the Transfield–Kumagai proposal.

The proposals that have been submitted have come from some of the finest engineering experts in the State. However, the Minister has chosen to ignore their submissions. He has pushed them all aside. He has said, "Do not worry me with alternative proposals". He has informed the Department of Environment and Planning, interest groups, the residents of North Sydney, and the honourable member for North Shore, not to concern him with alternative proposals. He thinks that he is the source of all knowledge. This legislation is the culmination of the Minister's abuse of normal planning and commercial processes. Not only does the legislation provide the Minister with alarming powers for the project, but it also contains conditions that are unbelievable. I refer to the loan that is guaranteed, whether the tunnel is completed or not; the tax avoidance clause; the power to re-route the tunnel; the overriding of councils; and the lack of appeal rights.

Even if this tunnel were under no cloud whatever, the legislation should be rejected outright. The entire project is surrounded by the gravest of doubts. The Department of Environment and Planning opposes it, as do independent experts. Many officers of the Department of Main Roads oppose it. Almost half the Cabinet opposes it in its present form. Obviously the city is in need of a second crossing, but the way the Minister has gone about providing it is a matter for concern. The project will be condemned by the people of New South Wales

and the future generations that have been committed to pay for it. Environmentalists, whose concerns are overridden, will condemn it. Councils and the courts, which have no say in the process, will condemn it. The Government is proceeding with the legislation and must be condemned for selling out the people of New South Wales.

Dr ASTON (Vaucluse) [12.50 a.m.]: In the brief time that I have been a member of this House I should like to think I have been part of a learning curve—

Mr J. H. Murray: The J curve.

Dr ASTON: The J curve is part of Mr Keating's philosophy. A learning curve means that one is supposed to graduate from one stage to another. These bills, basically, are more against the public interest than any other bill that has been introduced since I have been a member of this House. They will work against the taxpayer. The bills are a sham and will perpetuate the proverbial shambles.

Mr Knowles: We just heard that.

Dr ASTON: And there is no doubt about it. You will probably hear it again from the next speaker. The bills are indicative of a government that is not fair dinkum, one that is more concerned with publicity than the public's welfare, where the Minister has to get things done at all costs mentality, a government that means deadlines for headlines. Like the Darling Harbour project, this project is so *ad hoc* it is almost like a meccano set. An unproven idea is being pushed through at all costs. Completion has become this Minister's only criterion for success, as is shown by the introduction of these bills. It does not matter much what is being done, it only matters that it is done; another example of deadlines for headlines.

The Opposition shares with the Government a belief that there should be another harbour crossing but does not believe these bills will sufficiently provide the mechanism to ease congestion and also provide a cost benefit to all those who wish to cross the harbour from north to south or from south to north. The Opposition also shares with the Government a concern about the environment. We consider that more debate and more exposure is necessary before the Government rams these bills through the House. The Opposition also shares with the Government a professed desire to get this Government back to basics, which has been the Government's theme for the past six months. The Opposition is concerned, as the Government is, with getting back to basics. But how can the Government really get back to basics and show true dedication to its priorities with the introduction of these bills? There are many more deserving areas for government funds. Back to basics does not mean spending money on Wranesque monuments or Darling Harbour developments or Barrie and Laurie tunnels. It means that money is spent where it is needed, on roads and areas outside the central business district and on hospitals. It means giving the people of New South Wales good value.

If this legislation is passed, the basics will be denied completely. The money could have helped the Minister for Health reduce the 30 000 people waiting for hospital beds and assist the hospitals of Sydney find the 2 000-odd beds that went missing when the honourable member for Heffron presided over that infamous beds to the west scam. I say scam deliberately, because all that happened was that the health services got worse. The people from the west, like the people from other parts of Sydney, were ripped off by the Government's bottom of the harbour scheme. Money that the Government is spending on this

Laurie and Barrie tunnel could have been so much better spent in improving roads elsewhere in the State, in alleviating traffic jams and congestion that clog so many areas of Sydney which will certainly not be eased by the tunnel. If anything, they could become much worse, because these bills ensures that money will be diverted from these projects to pay for this monument.

I emphasize that this Minister has said repeatedly—and he repeated it tonight by way of interjection—that the tunnel is a vital and integral part of the whole of the Sydney roads network. The Minister has told us in that stupid *Roads 2000* document that the Department of Main Roads has carefully planned Sydney's future road needs, and that *Roads 2000* is a perfect blueprint for future road construction and development. One does not have to look far within that document to see that the tunnel is supposedly part of this supposed wonderful network. The document does not even name the tunnel. On page 7 and again on page 9 it mentions nothing more than a second harbour crossing, yet this is one of the biggest and most expensive single developments this State has had.

Mr Brereton: What is your alternative?

Dr ASTON: Hang on. The Minister does not understand, or has not been apprised of that by his minders, of whom there are many here tonight. On 3rd March I attended a meeting of the Institution of Engineers at North Sydney at which Mr Dobinson, one of the most senior administrators in the Department of Main Roads, gave a briefing on how the Roads 2000 program was developed. I admit that the evening was well run and instructive, as one would expect when nothing much was to be told, but it was a pretty boring night. There was a sheet over the screen which ghosted the whole of the proposed roads network. One of the interesting comments of Mr Dobinson was that the tunnel, mentioned in the *Roads 2000* document as a second crossing, was never considered to be part of the Sydney roads network; never seen as a vital and integral part of that network but merely as an adding on, an afterthought. Transfield–Kumagai's offer was a once in a lifetime opportunity that the Government could not knock back.

The Department of Main Roads loan agreement which these bills will endorse makes a mockery of the basics that I referred to earlier. If passed, the bills will allow the Government, as the honourable member for Northcott said, to give a $223 million present—and that is what it is, a present or gift. The loan has to be repaid only at the end of the thirty-year period and even then no interest will be paid. How can that be considered to be in the best interests of the New South Wales taxpayer? It cannot, and no empty protest by the Minister—which he has made on three or four occasions in the House—can justify a $223 million interest free loan.

Mr Brereton: It is the toll.

Dr ASTON: I know it is the toll. The toll currently will run at $1 premium and will produce $30 million a year. That money will come from the motorist and not from the Government.

Mr Brereton: Who did you ever think it was going to come from?

Dr ASTON: But you are telling us that it is not government funded.

Mr Brereton: It is not government funded.

Dr ASTON: It is.

Mr SPEAKER: Order! Only one member should be addressing the House, and that is the honourable member for Vaucluse.

Dr ASTON: If the motorist pays the Government and the Government pays Kumagai, indirectly the taxpayer pays Kumagai.

Mr Brereton: It is the user who pays.

Dr ASTON: Of course, it is. You have rejected that in every statement you have made.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Northcott to order.

Dr ASTON: If this Government were a private corporation, the actions endorsed by these bills would be regarded as suspect. The shareholders of the company—the taxpayers—would have every right to complain. They would have every right to allege fraud and a breach of directors' duties. The Government has known for some time what it will do and how it will divert money from other more needy areas, yet it still persists in its nonsensical statement. For the Minister to claim, as he frequently does, that this tunnel will be 100 per cent privately funded is patently absurd. It will divert funds from other more worthwhile projects. For the Minister to claim otherwise must rank him with the parliamentary greats, such as the former Premier who stated categorically that there was no organized crime in New South Wales.

This Government's financial record is hopeless. Any government that loses more than $1 billion a year with its public transport system cannot be in tune with the basics. When the railways and the buses each lose more than $19,000 per employee, even the Government must admit that it has lost sight of the basics. In financial terms, basics means expenditure either equals or is less than receipts. So far as this tunnel is concerned we come back to the basics of money. The same people who run the Government with such a poor financial record are suddenly confident of their new financial dealings in regard to the tunnel—dealings with a group about whom even the *National Times* made serious allegations. The allegations concerned links between the channelling of President Marcos' funds and the Kumagai group. Despite these well-known allegations this Government has continued to negotiate with the joint venturers. Why is there not a casino licence type of investigation in this case?

This is another example of the Government's double standards. It removes the casino licence from Hooker-Harrah's on the grounds of undesirability, but awards a contract worth more than $400 million to a company about whom the allegations of bottom of the harbour financial practices are even more grandiose than its plans to build a monument to dear old Laurie and Barrie. This bottom of the harbour scheme would be carried out by a callous and deliberate overriding of the parliamentary process. The legislation should have been laid on the table for weeks. The Opposition and others should have been allowed several days, not hours, to study it. Now that the contract is before us, the Opposition should have been allowed sufficient time to examine fully its financial implications. By declaring the bills urgent and having the guillotine hanging over the heads of every speaker, the importance of debate on this crucial legislation is downgraded, and the parliamentary process is once again subjugated.

This assertion is supported by the actions of the Government in keeping the Opposition in the dark about the tunnel. Copies of the environmental impact statement were not received by the Opposition until at least a week after the media received its copies. The press received its briefing about the financial details of the proposal many weeks before Opposition members received their copies, and no offer was forthcoming to discuss financial aspects with the bankers until the Opposition complained in this House. This indicates a government which has once again placed publicity above the parliamentary process. The Government by press release makes a mockery of even having debate in this House. It is indicative of a Minister whose arrogance is matched only by his prominence on the highways and byways of this State.

It is clear that this Government had already made up its mind long before the decision was made. The press releases and public announcements of the Minister indicated it was an open and shut case. No serious discussion of the other alternatives has been undertaken. How could it be, when the Minister was already announcing expected dates of completion? This "get it done first, ask questions later" mentality is worthy of the Charge of the Light Brigade, not a Minister of the Crown. The environmental impact statement, as claimed inside and outside the House, is little more than a sales document designed to do nothing more than expedite the approval.

By including a deeming provision in the legislation, the Minister is admitting that the environmental impact statement is inadequate. Why else would it be included? Even the joint venturers admitted that parts of it were incorrect so far as the financial details are concerned. They acknowledged, admittedly after questioning, that operation costs would not be between $6 million and $9 million per annum, as originally stated, but $10 million per annum. Who is to say there are no further mistakes in the document? We will never know because the Minister says he has deemed it okay, and we must accept it.

It is bad luck about environmental objections, local council objections, or commercial contractual practices. Big brother Brereton is not just watching; he is telling us how to act and we are not allowed to complain. This is not new for this Minister. He has done the same thing with the casino and Darling Harbour. I have no doubt the removal of the Sydney city council was largely at his instigation. It was certainly done in accordance with his *modus operandi*—when something is in the way, legislate it out of existence. By approving this legislation, honourable members will be placing a financial millstone around the necks of future generations of Sydney residents. The legislation deserves more time, more thought, and more alternatives. At a time when Australia is experiencing severe economic difficulties, the luxury of building such a project must be questioned.

That is particularly so when one realizes that removing the toll and its infrastructure would probably give Sydney Harbour Bridge an additional capacity of one and a half lanes. The federal Government's economic statement this evening will probably force the State Government to slash spending in so many areas. It is amazing that this Government would allow the plans for a monument like this to proceed. What is needed is enough honesty and guts at least to delay this project and its $223 million outlay of government funds until more rosy financial times. We need the same sort of honesty and guts shown fourteen years ago by those Botany council aldermen when they voted according to their consciences and got their priorities right. It was that sort of back to basics that this Minister has sought to avoid.

We must get back to the basics, as the Premier has stated. Honourable members must vote according to their consciences and get their priorities right. All honourable members must reject the bills and ensure that money is spent where it is needed—on hospitals, roads, and education. The myth that this Government is better than its predecessor and concerned with the basics is in this case totally wrong. Government supporters have asked the Opposition to produce some alternatives to a tunnel under Sydney Harbour. The Opposition does not have the Department of Main Roads behind it, or the finances to put into research, administration, secretarial services, and all the things which are essential if one is to suggest a positive and constructive alternative to the tunnel.

Mr Knowles: Tell us all about it.

Dr ASTON: The Government does not have an alternative either. It has been pasted with a tunnel which Government supporters see on plastic and glossy brochures as being their saviour. Government supporters see it as the complete solution to the traffic congestion of Sydney. It is not. I defy any member of the Government to produce an alternative to the tunnel.

Mr Shedden: Have you anything to offer?

Dr ASTON: The Government must sort things out for itself. What is happening here tonight is an atrocious abuse of the parliamentary process.

Mr MACK (North Shore) [1.6 a.m.]: The Minister said he does not want to gag the debate tonight. Over the past three months he has gagged every speaker who counts, so it is appropriate that at the kill he will let things rattle on. It is also appropriate that tonight representatives of Transfield-Kumagai and the Department of Main Roads are present in the gallery to be in at the kill of what is probably the most arrogant and breathtaking legislation that has ever been before this House. Three or four years ago I was present in the House when the first type of authoritarian approach was made on the Pagewood Westfield project. The Deputy Premier at that time made his excellent speech about no more territorial ambitions. He said that would be the last time it would happen; the last time that people's environmental and legal rights would disappear.

In quick succession we then saw bills dealing with Parramatta Park, the resort development at Leura, the monorail, and the Sydney sportsground. Legislation was not needed for the Gateway, Anthony Hordern or the Intercontinental developments. The features of all those bills was the removal of public environmental and legal rights and the abandonment of all proper tendering procedures and proper processes by which a government would normally carry out public works. But the legislation being debated tonight tops them all.

These bills are not really bills; they are developers' financial arrangements for the project. Since Kumagai first approached the Minister two years ago, he has been unashamedly committed to its scheme. It has not mattered what the scheme was. When the plans first began, the tunnel was to be located on the western side of the bridge through Lavender Bay. That was greeted as a marvellous scheme and the best thing that could happen. Suddenly it made no difference that the tunnel was shifted to the eastern side of the bridge. Then that became the best scheme we had ever had.

I remember the magnificent speech of the Minister about how the ugly Cahill Expressway would be removed. This ugly construction by an earlier Labor Government would be corrected. Suddenly the Cahill Expressway had to stay. Then the bridge was the main bottleneck and all the approach roads north and

south of the harbour were the trouble. The roads had an excess capacity so the bridge had to be expanded and a tunnel constructed to solve this problem. At the last minute, what do we find? The Domain tunnel must have six lanes, the western freeway must have five lanes, and the Gore Hill freeway must have six lanes. That does not worry the Minister.

Best of all, the Minister sold to the public his message that this was a totally private enterprise. Members of the Opposition who spoke earlier in this debate have pointed out how ridiculous that claim is. It is a totally Government-funded and Government-guaranteed project. The whole of Sydney was flooded with leaflets, schools were flooded with video tapes and biased public opinion polls were conducted. A most magnificant selling job was done by Transfield-Kumagai, which spent millions of dollars promoting the proposal. And why not? They stand to gain by this most incredible financial deal in the history of this State. No one would worry about smuggling heroin or growing marihuana if they could do a deal like this. For a lousy $7 million investment the private joint venturers are guaranteed under all circumstances probably $12,000 million.

In his second reading speech the Minister continued Dr Goebbels' repetition of the same old themes. The Minister said that the project is environmentally sound and it will not affect a single property. That hundreds of people with residences in North Sydney will have their properties dramatically devalued by noise and air pollution, hundreds of businesses will go broke, schools and olympic pools will be dramatically affected, does not concern the Minister. He merely says that they will not be affected. The Minister has sold the message that this project will solve Sydney's traffic congestion problems. I hope the Minister has seen the front page of the *South China News* published about two weeks ago, which dealt with the Hong Kong tunnel. It wrote of massive traffic congestion at both ends of the tunnel. Now, the Hong Kong authorities are sending people to America to investigate new methods of faster toll collection. They are considering building a second tunnel because the first tunnel that was supposed magically to solve traffic problems did not do that, just as this project will not solve Sydney's traffic problems.

The Minister has tried to convince the public that the 50 per cent increase in cars, that is another 80 million cars using the tunnel, will actually result in cleaner air. He is trying to tell people that another 80 million cars crossing the harbour each year will result in cleaner air. Then we had the bypass diversion to the city. Anyone who considered it realized that it did not bypass a single thing. It increased bridge capacity to feed the Darling Harbour carpark. All independent traffic experts confirm that. The dismissal of the harbour crossing alternatives have been canvassed. How those proposals can be thrown out the window I do not know. For $50 million one could have a similar increase in bridge capacity through several of the proposals. However, the Minister would commit us totally to the Transfield-Kumagai project. The Minister says constantly that I am out of touch with the electorate. Is that right?

Mr Brereton: Correct.

Mr MACK: I invite the Minister to come to the Sydney Town Hall on Saturday week. I would like him to encourage the Australian Labor Party to run a candidate supporting the tunnel proposal. Then we would see who is out of touch with the electorate. Let us now go to the Marcos special, as the Sydney Harbour Tunnel Bill is known. Part 2, clause 7, deals with the ensured revenue

stream. No wonder Peter Goodman is smiling. This is the first stranglehold on the people of New South Wales. This is the provision that ensures the money no matter what. Any obligation imposed on the State by the Ensured Revenue Stream Agreement is an obligation to make any payment irrespective of any event or circumstance that otherwise would or might at law terminate or permit termination of the agreement. It shall operate and be enforceable no matter what. Notwithstanding any provisions of the Frustrated Contracts Act, the State will ensure that Transfield-Kumagai will be paid no matter what.

Then we come to the provisions of the Environmental Planning and Assessment Act. The main bill naturally removes all significant parts of that Act. It will remove parts 3, 4 and 6 of that Act, the only parts that count. It also provides that those parts never applied to the previous work. So the measure is retrospective as well. The environmental impact statement has been described by one of the State's own departments as farcical and a worthless sales document. It is totally legitimized in retrospect. Of course, all possible legal and public rights are erased.

Clause 9 deals with wiping out all other legislation that would prevent the tunnel from proceeding. Among them are the Coastal Protection Act, the Local Government Act, the Royal Botanic Gardens and Domain Trust Act, the Sydney Opera House Trust Act, the Crown Lands Consolidation Act, the Government Railways Act, Maritime Services Act, and the Sydney Harbour Trust Act. None of those Acts will apply to the tunnel project. Just to make sure that nothing will go wrong with the concrete overcoat, any remaining parts of the Environmental Planning and Assessment Act still applicable will be subject to determination by the Commissioner for Main Roads. That is a little like putting Hitler in charge of Jewish welfare. Part 4 of the main bill deals with the resumption of land. That resumption of land is without compensation where the land happens to belong to a council. Land belonging to any other person or body will be subject to compensation after resumption. It is no surprise to see the way councils are treated under the bills.

Clause 16 contains the statement that the "Minister may give to the council such directions as the Minister considers appropriate". I guess the Minister has come a long way since the Botany days when he had to argue with aldermen in the kitchens. Now he can just order councils around irrespective of right. Clause 17 provides for the abandonment of all legal rights, both future and retrospective. It seems from clause 18 that the Government has learned from its Darling Harbour experience. The provision in clause 18 means that the Government will not have to refer matters to the Parliament if it has any problems in expanding the tunnel site. Under clause 18 the site can be expanded at will. If the Minister considers that any land is necessary for the tunnel project, no matter whether it is in Tibooburra, Broken Hill or Bega, that land can be resumed under the provisions of these bills without recourse to Parliament.

Then we come to the real meat of the bills, the schedules. Under the schedules the obligations of the Crown are made absolute, unconditional and irrevocable. It will not matter if the tunnel does not commence operations, does not operate continuously, or even is not completed. The Crown will still be obligated. If there is any interruption or cessation of work on the Sydney Harbour Tunnel, that will not matter. If the Government receives no tolls, that will not matter. The Crown is bound absolutely by the schedules. If the Commissioner for Taxation does not agree to the tax rort, that will not matter

either; the Government will carry all those risks. Even if legal disputes arise, all the developer's legal costs will be covered by the Crown.

Then we come to the sting in the tail of the schedules. The Minister guarantees a traffic jam for the next thirty years. He guarantees 80 million vehicles a year will use the tunnel. It is incredible that a Minister for Roads will guarantee a traffic jam in the centre of Australia's largest capital for the next thirty years. He guarantees 40 000 cars travelling each day. That figure might fall. Those travelling north might continue on to Queensland because even that State starts to look good when one considers the provisions of these bills. In 1986 terms, that number of cars using the tunnel would guarantee a payment of $1,266 million to the developer.

Now we come to the toll for using the tunnel. As I have said before, many people have trouble recovering money thirty days in arrears. We do not know how much will be paid in advance on the agreement, but at the best it will be for six years and perhaps indefinitely that people will be paying for this project. Under this famous so-called private enterprise project, those on the North Shore will be paying the toll even though they do not support the Government. Not a member of this House would deny that there would be no question of a toll if any Labor seats were involved. If the project affected Rockdale or Bankstown, there would be not even a suggestion of a toll. The Govenment is introducing a new feature into politics. We all know that governments have pork-barrelled for years, but this is the first government to make that pork-barrelling overt. It says to the electors: "If you do not vote the right way, we will take away your trains and impose a special tax on you".

The Government has been saying that loudly and clearly. Who will benefit from this marvellous deal? In terms of this contract, it is not even a $2 company but only a 2c company. All they have to contribute is $200,000, and they must have the financial means to provide additional capital of $6.8 million if required. All loans are guaranteed. With regard to repayment, the Government cab will be the last cab off the rank. If anything goes wrong, if there is any liquidation or winding up of those involved, the Government will be the last to receive payment. There is no question but that the people of New South Wales have been totally duped by this project and have been sold out. The best that anyone could say is that the project is the result of some form of monumental mania on the part of the Minister. The Minister has irrevocably committed Sydney's transport, environmental and financial future. He has done so by the approval of a project the likes of which has been condemned in every major city in the world and by every independent expert, both here and overseas. With this project the Minister has gone too far. I am convinced that it will be a deciding factor at the next election. That is on the assumption—considering what the Government is doing—that another election is ever held.

Mr BRERETON (Heffron), Minister for Public Works and Ports and Minister for Roads [1.21 a.m.], in reply: Tonight we have seen a tragic sellout of the interests of the constituents of those honourable members opposite who represent the North Shore of Sydney. Never ever have they been less relevant to the needs of their constituents. Never have I heard them more negative than tonight, when they have failed absolutely to make any constructive suggestion of any viable alternative to the proposal put forward by Transfield–Kumagi and the Westpac Banking Corporation. During the early 1970's I sat in this House when the Opposition was in government. In all that time until 1976 I did not hear a single constructive word put forward by the coalition to introduce some relief and future for the traffic congestion facing motorists on the north side of the harbour. In the eleven years since then I have not heard one single

constructive suggestion from the Opposition to alleviate congestion on the Sydney Harbour Bridge.

I shall deal with some of the matters raised during the debate by the Opposition and by the honourable member for North Shore. Let me say first that there has never been a project subjected to greater scrutiny by the Government, independent experts, the press and the Opposition than has this project. It has been on the drawing-boards for thirteen months. It has been the subject of full environmental scrutiny in accordance with the provisions of the Environmental Planning and Assessment Act. It has been before numerous committees of the Government. It has been fully assessed by all government departments, including the Department of Transport, the Treasury, the Department of Environment and Planning and the Department of Main Roads. Every government department has had an opportunity to contribute to the project.

The best engineering experts, the best environmental consultants, the best merchant bankers and independent financial consultants have all provided their assessments to the Government. The Opposition has had personal briefings from the joint venturers as to every aspect and every element of the project. Members of the press have received private briefings by the joint venturers as to every aspect and every element of the project. Every one of the financial agreements involved in the project are encompassed in the legislation. The Government has been determined from day one that the project should be absolutely open and absolutely public. Yet tonight the Opposition has said that the project has been cloaked in secrecy. That is not so, and nor will it be. Tonight the Opposition has been provided the opportunity, without any inhibition by the Government and without any threat of the gag, to participate in a full debate. That will be the case also when the bills are dealt with in the Legislative Council in the weeks ahead. If the Opposition has any constructive suggestions it should raise them in the other place. It has failed totally to do so tonight.

Reference was made to the tender process. This project was a Transfield initiative. Transfield has been working on this project since the early 1980's. They were given the opportunity of developing their proposal. From the very start the Government said it would fully consider any viable alternative. Indeed, every alternative has been assessed on the same criteria, but all the alternatives failed—for the very reason that the Opposition failed to come forward with any viable alternative tonight. The alternatives were not economically viable or environmentally acceptable or technically feasible. That is not to say there are not some good suggestions that have been made, and particularly in the area of public transport. Eventually one of those projects will be developed and approved, much to the enhancement of public transport in Sydney. However, none of those suggestions address the single problem that is the enormous parking lot on the approaches to the harbour bridge every morning and afternoon because of the lack of capacity of the harbour bridge.

There was criticism of the proposal not being subject to public tender. The Government considered and assessed every alternative. Only one of them has the technical brilliance, is environmentally acceptable, and has been approved by the Government. I defy the Opposition to put up any viable alternative. Bear in mind that 70 per cent of the project will be let to public tender, and will be tendered for by all companies in the construction industry in all Australia. So, let us not have any nonsense that this has been other than an open and public process and that all alternatives have not been assessed.

The Opposition made much of the environmental impact statement. That statement was put forward by the joint venture. However, it was independently assessed by the Department of Main Roads, which engaged the best possible consultants for that purpose. The statement was also assessed by all other government departments. Significantly, the Treasury and the Transport Ministry were very much in favour of the proposal. So, there should not be any nonsense from the Opposition about divisions in the Government. The Government examined the project closely, and supports it.

Reference was made to the Department of Environment and Planning. Certain elements in the department thought it was socially desirable to have a traffic jam on the harbour bridge, as that meters traffic coming into the city. I do not think that suggestion holds water, nor can it be defended politically. However, another very responsible element in the department suggested we should look at the particular problems that the project should not proceed in the Port Botany area because of its concentration of petrochemical industries. The Government has been absolutely responsive to that submission put forward by the Minister for Planning and Environment, the Hon. R. J. Carr. As a result of that submission, the construction site of the project has been moved from Port Botany to Port Kembla. So, let us not hear any nonsense about the Government not taking into account all of the realistic objections put forward. Sixty conditions have been imposed on the joint venturers—all aimed at minimizing the environmental impact of the project, which will cost the joint venturers $60 million.

Mr Baird: All of which will be reimbursed.

Mr BRERETON: The honourable member for Northcott really amazes me. The basis of his argument tonight is that the joint venturers should build the tunnel at no cost to the Government. They should not collect a toll. They should not recoup their costs. They should build a tunnel out of the goodness of their hearts, because the Government does not have the money to pay for it. What sort of financial Philistine is the honourable member? I have never heard such nonsense in all my life. It is like the honourable member saying that there has not been a proper assessment of the alternatives. The assessment report of the Department of Main Roads includes a full assessment in three places, including in appendix D to chapter 5 fourteen pages devoted to assessment alternatives. So, let us not have any nonsense about there not being a full assessment of the project. The Opposition suggested tonight that the Government could have funded the project. Let me make one point absolutely clear: the Government's first priority is to road construction in the western suburbs of Sydney. That is the Government's commitment; that is where the Government funds must be expended as a matter of priority.

Any proposal that may be funded off-budget and does not compete with the funds that have been committed to the western suburbs of Sydney will be examined realistically. The Transfield–Kumagai proposal is superb in that it will be funded by the user. The Liberal Party has preached for generations that the user should pay, yet it says of this project that the user should not pay—the Government should pay. The honourable member for Northcott said that this proposal was the greatest bottom of the harbour scheme of all time. The proposal has been assessed fully by experts from a taxation and financial point of view. The honourable member does a great disservice to Coopers and Lybrand who presented taxation advice that certified the appropriateness of the arrangement and advised that the Government was legally entitled to proceed. Dominguez Barry Samuel Montagu was commissioned by the Government to

provide independent advice. It concurred with the advice provided by Coopers and Lybrand.

The $223 million that has been referred to tonight will be collected by way of a toll with strict limitations under the Act as to how it can be spent. It must be devoted to the construction of a tunnel, as the Government said it would be from the commencement of the project. The honourable member for Northcott is saying that the people on the North Shore should be paying more by way of a toll but that the money collected should not be used to provide for the construction of a second harbour crossing but be used to provide roads for the west. What absolute nonsense. Mention was made also about traffic problems. The traffic that uses the bridge today could feed a further lane. When the bridge was opened it carried 13 000 vehicles a year. Today it is carrying 196 000 vehicles a day and by the year 2000 it will carry 240 000 vehicles a day. Those figures are based on a conservative growth rate of 1 per cent per annum. During the past ten years the growth rate was 2 per cent; for the ten-year period preceding that the growth rate was 3 per cent per annum.

Clearly the projections of the Department of Main Roads are conservative in relation to future traffic needs and the traffic that will be generated as a result of the development. The tunnel will provide a bypass of the central business district. It will not be linked with the central business district in any respect. The honourable member referred also to Transfield–Kumagai not taking any risk. Transfield and the joint venturers Kumagai-Gumi are taking all the construction risks and all the risks involved with a massive production such as this. Any cost overruns, industrial disputation, or geotechnical problems that they encounter will be met fully by the joint venturers. The honourable member should not suggest to the House that all of the risks are borne by the Government. The Government will bear an absolute minimum risk. The project will be funded by an indexed toll based on conservative future traffic growth assessments. All the construction risks are being borne by the joint venturers.

It has been said that the joint venturers will receive a windfall of $1.2 billion. That figure is fanciful. It was drawn from an article that appeared in the *Sun-Herald* written by an inexperienced journalist who ignored totally the other side of the equation. As honourable members are aware, although money comes in, there are outgoings. There are debt service costs and costs involved with the construction of the tunnel. Money is received on one side but is paid out on the other. I should have thought that anyone with any economic sense would understand that. There is no provision for any windfall to the joint venturers. The arrangements will be conducted by way of a fixed priced contract. The operation costs will be monitored closely by the Department of Main Roads. The maximum amount that the joint venturers would receive is $7 million in 1986 dollar terms.

An assessment conducted by the Department of Main Roads will be processed in accordance with the Environmental Planning and Assessment Act once this legislation is enacted. As part of the Government's open policies, it will make the assessment available to everyone. The overwhelming majority of people support the tunnel proposal. The honourable member for Northcott suggested that he should like to examine the figures of the McNair Anderson survey. McNair Anderson is a reputable company and its survey revealed that 88 per cent of people surveyed on the North Shore agreed with the proposal; 7 per cent neither agreed nor disagreed; and 4 per cent disagreed or strongly disagreed. I make those figures available to the honourable member. They are illuminating. The survey revealed, as did the survey conducted by the *Sun-*

Herald, that the majority of people are keen about this proposal because they know something has to be done. As a result of this innovative scheme, at the completion of a 30-year period the tunnel will be presented to the people of New South Wales. It will be worth $2 billion. It will be presented free of any encumbrance. It will be provided only through the efforts of the joint venturers. Transfield, not Kumgai-Gumi, presented the proposal to me in response to the Government's invitation as part of the Roads 2000 study. Submissions were called for a second harbour crossing. This brilliant submission was received.

[Interruption]

Mr SPEAKER: Order! The Minister needs no assistance from the honourable member Northcott, who should not interject.

Mr BRERETON: The project will be proceeded with in accordance with part 5 of the Environmental Planning and Assessment Act. The project will be determined without the North Sydney council having the power of veto. If the project is ever to be completed, it must be built in the same way that all roads are built in New South Wales, under the provisions of the Environmental Planning and Assessment Act. If that were not the case, we would have to rely on the North Sydney council to approve the project as it affected its area, and on other councils as it affected their areas. The project will have to be co-ordinated. Dominguez Barry Samuel Montagu tendered advice to the Government after thousands of hours of inquiry conducted over a twelve-month period.

The advice tendered was that it was satisfied that the funding package proposed by the joint venture was the best option available to meet the criteria set down by the Government. The criteria was the cost of the project was to be financed by tolls to be kept as low as possible, but in any event the toll was not to exceed one dollar a round trip at 1986 prices and that the project be constructed, financed, and operated as a private venture with a lease of public property to the project for a fixed period. I am sure the Opposition would not say Dominguez Barry Samuel Montagu is anything less than a company of the highest reputation. It advised that the Transfield–Kumagai proposal was the best one received. The Opposition does not seem to understand that this off-budget project will not affect the remainder of the Government's road building program in any respect. It will not affect any other area of Government expenditure. If it did, I would not be putting it forward. It is being funded by a toll that will be paid by people who will receive the benefit of greatly improved conditions of travel across the harbour.

The statement by the federal Treasurer tonight shows that the State finances will face pressure. The Government will be looking to whatever source it can in the private sector to come up with innovative schemes to provide benefits to the people of this State—benefits that the Government simply cannot fund itself. That attitude of government is in stark contrast to what has been heard from members of the Opposition. Years ago the Labor Party considered the Liberal Party to be the voice of big business. In this House in the past two weeks members of the Opposition have attacked the firm of Civil and Civic about the casino proposal. The Opposition has bad-mouthed that reputable construction firm. It has attacked the Darling Harbour Authority about private participation, when the managing contractors for that project were Leightons, and investors included the Parry Corporation, Haysons, Custom Credit, Thomas Nationwide Transport, and Johnray Holdings. The Opposition has attacked all those companies.

In this debate members of the Opposition have attacked Transfield–Kumagai, Westpac—its bankers— and, by implication, Dominguez Barry Samuel Montagu and all the people who have given advice to the Government that the tunnel is the best proposal. What Opposition members have done has been mirrored by their federal colleagues in the past forty-eight hours when they decided to throw the financial institutions, and those involved in national media interests, into utter confusion. The Opposition is giving the business community a great deal of food for thought. Not a day goes by that representatives of the business community do not say to me that they do not know what has happened to the Opposition, the Liberal Party and National Party Opposition, in New South Wales and Australia. Never has the Opposition been less relevant to the future of this nation. Never has it been more incompetent and more hopeless in its projections for the future.

I pay tribute to the engineers and planners involved in this scheme. First, I pay tribute to Transfield, to Kumagai–Gumi, and to all those who have invested many thousands of hours to bring together what is the most exciting innovative proposal that I have seen in my time in politics. These people should be commended for their inititiative, their guts, determination and downright enterprise. Any person would congratulate them. Tribute should be paid to the Department of Main Roads engineers who are extremely enthusiastic about this project. They have invested countless thousands of hours in developing and assessing the project. They have brought it to the point where the Government has been able to introduce this legislation tonight. I pay tribute to everyone associated with the project. I commend the legislation.

Question—That these bills be now read a second time—put.

The House divided.

Ayes, 46

Mr Akister
Mr Amery
Mr Anderson
Mr Aquilina
Mr Arkell
Mr K. G. Booth
Mr Brereton
Mr Carr
Mr Cavalier
Mr Christie
Mr R. J. Clough
Mr Crawford
Mrs Crosio
Mr Davoren
Mr Debus
Mr Doyle
Mr Duncan
Mr Face
Mr Ferguson
Mr Gabb
Mr Harrison
Mr Hills
Mr Hunter
Mr Irwin
Mr Langton
Mr McGowan
Mr McIlwaine
Mr McManus
Mr Mair
Mr H. F. Moore
Mr J. H. Murray
Mr Neilly
Mr Paciullo
Mr Petersen
Mr Price
Mr Quinn
Dr Refshauge
Mr Rogan
Mr Sheahan
Mr Shedden
Mr Walker
Mr Walsh
Mr Whelan
Mr Wilde

Tellers,
Mr Knowles
Mr Wade

Noes, 26

Dr Aston	Mr Hatton	Mr Peacocke
Mr Baird	Mr Hay	Mr Rozzoli
Mr Beck	Mr Jeffery	Mr Schipp
Mr J. D. Booth	Mr Kerr	Mr Small
Mr Causley	Mr Longley	Mr Webster
Mr Collins	Miss Machin	Mr Wotton
Mr Cruickshank	Mr Mack	*Tellers,*
Mr Fahey	Mr W. T. J. Murray	Mr Phillips
Mr Fisher	Mr Park	Mr West

Pairs

Mr Cleary	Mr Caterson
Mr Mulock	Mr Dowd
Mr Unsworth	Mr Greiner

Question so resolved in the affirmative.

Motion agreed to.

Bills read a second time and passed through remaining stages.

House adjourned at 1.52 a.m.

QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers* this day.

SYDNEY FERRIES RESTORATION

Dr METHERELL asked the **Deputy Premier and Minister for Transport—**

(1) Was an announcement made in 1985 that the ferry *Kanangra* was to be restored by the UTA as a Bicentennial project at a cost of $2 million?

(2) If so;

(a) Was a decision taken late in 1985 to abandon this restoration project and sell the *Kanangra*?

(b) To what purpose are the funds allocated to this project to be diverted?

(c) Was the decision to abandon the restoration project kept secret until late April 1986?

(d) If so, why?

(3) What role will the New South Wales Government and UTA now take in attempts to save some of Sydney's grand historic ferries from being sold as scrap or sunk?

(4) Will at least one of these ferries be restored and placed in the National Maritime Museum at Darling Harbour?

Answer—

(1) An announcement was made in 1984 that the *Kanangra* would be restored as a Bicentennial project at a then estimated cost of $2 million.

(2) (a) No. The absence of special Bicentennial funding for the project and a substantial increase in restoration costs were significant factors in the decision made in 1987 to hand over the vessel to the Sydney Maritime Museum.

(b) The diversion of funds available to the Urban Transit Authority for the restoration of the *Kanangra* would have meant that funds would not have been available for the acquisition of essential items of capital works, such as new buses and ferries, which are necessary for the upgrading of Sydney's public transport system.

(c) No. No decision was made to hand over the *Kanangra* until 1987.

(d) Not applicable.

(3) and (4) The New South Wales Government will do as much as is financially possible to assist in the preservation of Sydney's maritime heritage. The Government has contributed $250,000 by way of essential hull restoration work and cash donation to the Sydney Maritime Museum for the *Kanangra.*

STATE RAIL AUTHORITY APPRENTICE TRAINING COLLEGE

Mr BAIRD asked the **Deputy Premier and Minister for Transport—**

(1) How many apprentices will be trained at the State Rail Authority's Apprentice Training College at Chullora for 1986–87 and how many trades will be covered?

(2) What number were trained last year and how many trades were covered?

(3) (a) Is the apprenticeship intake declining; and

(b) If so, why?

(4) What is the total capacity of the Training College?

Answer—

(1) The State Rail Authority proposes to train one hundred and fifty-two (152) apprentices, covering sixteen (16) trades, at its Apprentice Training College at Chullora during 1987.

(2) Two hundred and seventy-eight (278) apprentices, covering sixteen (16) trades were trained at the College during 1986.

(3) (a) Yes.

(b) With the introduction of new, high technology rolling stock there have been dramatic changes to fleet maintenance and workshop functions which have resulted in a declining need for the number and variety of trades previously required. As a consequence, the apprenticeship intake has been reduced proportionately.

(4) The Apprentice Training College is being modified to include adult technical training. As a result of these modifications the College will have the capacity to train two hundred (200) apprentices and two hundred (200) adults for technical training and re-training.

WATERFALL TO PORT KEMBLA RAIL ELECTRIFICATION

Mr BAIRD asked the **Deputy Premier and Minister for Transport—**

(1) What was the total cost of the electrification of the Illawarra Line from Waterfall to Port Kembla?

(2) What was the cost in terms of dollars per kilometre?

(3) Is this figure unusually high and, if so, why?

(4) How does the cost per kilometre compare with the Sydney to Newcastle rail electrification and other similar State Rail Authority projects?

(5) How does the cost per kilometre compare with similar projects in other states?

Answer—

(1) $188 million.

(2) $3.41 million per route kilometre.

(3) Yes. Because the cost includes the related track and upgrading work which had to be carried out under extremely difficult terrain and access conditions for significant parts of the route.

(4) The electrification of the Ilawarra line was not similar to other State Rail Authority projects because of the very different scope of the work in terms of terrain, access, upgrading and tunnel modification.

(5) There have been no recent similar electrification projects in other states.

MOTOR VEHICLE TRANSFERS

Mr BAIRD asked the **Deputy Premier and Minister for Transport—**

(1) Under what circumstances is the $50 surcharge for late payment payable on transfer of car ownership?

(2) Can the owner be forced to pay the surcharge without the Department producing documentation of the fine?

(3) Has the Department of Motor Transport publicized the penalties for late payment?

(4) Was any such publicity confined to newspapers?

(5) If so, why, and what provision has been made to notify those members of the public who do not read newspapers?

Answer—

(1) The $50 surcharge for late payment of a transfer fee is imposed where a vehicle changes hands and the new owner fails to apply for transfer of the registration within 14 days of acquiring a vehicle.

(2) The basis for the imposition of the surcharge is the sale date provided by the seller on a sale notice. This date may be on the documentation the purchaser presents to the Department of Motor Transport when applying for transfer or on the sale notice forwarded to the Department by the seller of the motor vehicle. As such, the documentation upon which the surcharge is based may be provided by the seller, the buyer or both parties. However, the surcharge is not applied if the buyer successfully disputes a sale date provided by the previous owner.

(3) The intention to introduce the surchage was announced by the former Premier on 1 February, 1986. The Department publicized details about the late payment surcharge over a five month period in metropolitan, suburban and country newspapers prior to enforcement action commencing on 1 October, 1986. As well, warnings on renewal notices and other relevant Departmental forms also began from early May, 1986.

(4) The direct media campaign was confined to newspapers, and the NRMA's *Open Road.*

(5) Experience has shown that newspapers are the most effective method of announcing new initiatives to the greater cross section of the Department's customers. In addition, a pamphlet about transfer surcharges and liability for late payment is available at all motor registries for pick up by customers transacting other business such as licence and registration renewals. These measures, plus the issue of over one million renewal notices so far carrying the surcharge warning, the reminder printed on the front of the Department's envelopes, editorial and advertising copy directed at the extensive readership of the NRMA's *Open Road,* and general press comment have ensured that all but the very reclusive are now aware of the surcharge and its purpose.

In order to confirm this contention, the Department of Motor Transport carried out a sampling of the timeliness of transfer applications prior to the publicising of implemenation of the late transfer surcharge compared with the timeliness of lodgement after 1 October, 1986. The sampling of 500 transfer applications for a period in early March, 1986 revealed that of these 41 per cent were more than 14 days late and could have attracted the surcharge. This can be compared with the 7.5 per cent that actually incurred the surcharge during October and November, 1986. It can be confidently concluded, therefore, that the publicity given to and implementation of the surcharge resulted in over 80 per cent of applications which were previously late being now lodged on time, i.e., within 14 days of the sale.

TAFE EXAMINATION AND STUDENT RECORDS DIVISION

Mr YEOMANS asked the **Minister for Education**—

(1) Did the TAFE Examination and Student Records Division's expenditure exceed its 1985–86 allocation?

(2) If so, by how much and how does this compare in percentage terms to the original allocation?

Answer—

(1) and (2) Any reference to the Division's initial allocation as an indicator of its total 1985–86 expenditure is false. Expenditure in 1985–86 was $1.954 million. The initial allocation of $1.1 million was made with the full knowledge that supplementation would be required. The initial allocation was never expected to cover cost increases and other costs resulting from a review of operations, relocation of the Division to Parramatta and the increasing volume of course enrolments and examination results.

MULTICULTURAL PERSPECTIVES POLICIES

Mr ZAMMIT asked the **Minister for Education**—

(1) Has he succeeded in implementing the Government's Multicultural Perspectives to Curriculum and Intercultural Education Policies into all schools in New South Wales, by February, 1987?

(2) Was a promise made on behalf of the Government to implement this policy into all schools by February, 1987?

Answer—

(1) and (2) The Director-General of Education has issued a memorandum to schools which outlines an acceptable level of implementation of the policies to which the Member for Burwood refers.

DEPUTY PREMIER AND MINISTER FOR TRANSPORT: OFFICE REDECORATION

Mr ZAMMIT asked the **Deputy Premier and Minister for Transport**—

(1) Has your Ministerial office been redecorated in the past eighteen months?

(2) If so, was the work carried out by the Public Works Department?

(3) If work was carried out by private contractors, were tenders sought?

(4) What was the final cost of any renovations?

Answer—

(1) No.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

DEPARTMENT OF EDUCATION STAFF AND TEACHER APPOINTMENTS

Dr METHERELL asked the **Minister for Education**—

(1) Will the Government introduce appointment on merit for senior staff at special schools and special education units at normal schools?

(2) When will appointment on merit for school principals be introduced?

(3) When will leading teachers be appointed to high schools with more than 1 000 students?

Answer—

(1) The Special Fitness Appointments Committee of the Department of Education handles the appointment of senior staff to special schools and special education units. The Committee examines the qualifications and experience of all applicants for vacant positions and makes recommendations on appointments to the Director-General.

(2) I have recently introduced legislation to provide for the appointment of school principals on the basis of comparative assessment of merit. When the Education Commission (Amendment) Bill becomes law, the Government will introduce the scheme as soon as possible.

(3) If there is any merit in the proposal, when resources become available. Governments can only fund what they can fund. This elementary understanding of resource economics continues to elude the honourable member. I suggest that he have detailed discussions with the Member for Northcott.

STATE RAIL AUTHORITY FREIGHT CUSTOMERS

Mr BAIRD asked the **Deputy Premier and Minister for Transport**—

(1) How many special trains were chartered between July and December, 1986, to entertain freight customers?

(2) What would have been the total cost for private individuals to have booked those services?

(3) What were the total catering costs for the special trains chartered in the period referred to?

Answer—

(1) Between July and December, 1986 there were four special trains organized by the State Rail Authority for freight customers.

One train was arranged specifically by freight services for freight business customers and three were arranged by clients from the industry with costs shared between the client and the State Rail Authority.

The four occassions were:

9 October: Sydney—Charbon and return, client Blue Circle Southern.
31 October: Sydney—Wee Waa and return, client Namoi Colliery, ANL Shipping, Sydney Haulage Terminals.
22 November: Sydney—Medlow Bath and return, client TNT Rail Fast.
13 December: Review with freight business customers of freight network in Sydney.

(2) The total cost of the four special trains was $46,330 of which the State Rail Authority paid $18,843.

(3) The total catering costs for the four trains within the total cost of $46,330 was $26,300.

TRACKFAST

Mr HATTON asked the **Deputy Premier and Minister for Transport—**

(1) Are there substantial delays to the New State Rail Authority Track Fast Parcel Dispatch System?

(2) How much does the State Rail Authority pay for the associated buildings?

(3) From whom did the State Rail Authority purchase the buildings?

(4) Were there substantial pre-purchase investigations undertaken by the State Rail Authority?

(5) Were the pre-purchase reports undertaken by private enterprise or State Government?

(6) Did any of the reports indicate the presence of asbestos in the buildings?

(7) What has been the cost to the State Rail Authority to undertake remedial works?

(8) Why was the new Track Fast System implemented at Chullora prior to these works being undertaken?

Answer—

(1) Certainly, prior to Christmas 1986 there was a significant delay to consignments conveyed by the Small Freight Services (TRACKFAST).

The delays were mainly on the Interstate corridors with Victoria in particular experiencing industrial unrest that impacted on our services.

Queensland also had initial problems following the opening of the Roma Street Freight Centre; these have now been resolved with no substantial delays being experienced.

Immediately following the Christmas break work commenced on 29 December, 1986 on the removal of asbestos cement sheeting from the Terminal building. Work was programmed by stages and was scheduled to be completed by 16 February, 1987. Staging was essential to allow continued operations over a normally quiet period of low business activity.

The expected downturn in business did not occur and coupled with problems being experienced with the contractor serious disruption to services resulted. Delays of up to 7 days were common. However, since 13 February, 1987 normal service levels have been restored.

(2) and (3) The container terminal and associated buildings were purchased outright from Seatainers Limited and there are no continuing payments.

(4) and (5) The purchase occurred after lengthy pre-purchase investigations by the Authority.

(6) It is important that the reference to asbestos be taken in context with the nature of the material. The reference is to asbestos cement sheeting and not to the more commonly termed "asbestos" which is of a soft nature and used as lagging and insulation.

(7) The capital budget for the replacement of the asbestos sheeting was $600,000. The work is still being progressed and it is expected that it will be completed within the budget allocation.

(8) The decision to replace the asbestos sheeting was unrelated to the Small Freight amalgamation.

Amalgamation was achieved on 22 September, 1986 as a result of a most stringent schedule.

Replacement of the asbestos was independently programmed for 29 December, 1986 until 16 February, 1987, a period of low activity during previous years. However, difficulties with the contractor relating to his failure to comply with tender specifications and previous agreements resulted in serious disruptions to terminal operations.

This coupled with the anticipated lull in business did not eventuate and resulted in a congestion of freight through the terminal.

The activity during the difficult period remained at a level of between 75 per cent and 80 per cent of the pre-Christmas peak and far exceeded anyone's expectations.

MOTOR VEHICLE REGISTRATION FEE CONCESSIONS

Mr BAIRD asked the **Deputy Premier and Minister for Transport**—

(1) What concessions are available in the payment of motor registration fees for pensioners on a full pension?

(2) What concessions are available for pensioners whose income is just over the limit needed to receive the full pension?

(3) Does the Department of Motor Transport consider requests for concessions from those on low incomes but who do not fit into the categories of concession entitlement?

(4) If so, what factors are considered?

Answer—

(1) Under the Pensioner Registration Scheme an eligible pensioner is granted exemption from the payment of motor vehicle registration fees, weight tax, tax levy and a reduction in third party (bodily injury) insurance premiums.

The concession is available to a pensioner on only one vehicle at any given time. In the case of a vehicle registered in joint names the concession applies if both the joint owners are eligible pensioners. Where two eligible pensioners living at the same address each own a registered motor vehicle, or the two vehicles are registered in the joint names, the concession is granted in respect of both vehicles.

(2) In determining eligibility the concessions are available only to those pensioners who have been means tested by the Commonweath Government and, subsequently, have been issued with a Pensioner Health Benefits card.

(3) No.

(4) Not applicable.

MOTOR VEHICLE DRIVERS LICENCE RETESTING

Mr T. J. MOORE asked the **Deputy Premier and Minister for Transport**—

What process exists within the Department of Motor Transport to counsel those approaching the age range for mandatory retesting of what this involves?

Answer—

Procedures for dealing with cases of this nature are that where the licensee will turn 85 years during the currency of their existing licence, a letter is forwarded two months prior to the expiry of such licence asking them to undergo a driving test and advising them how to arrange for the test.

No special arrangements exist to counsel aged drivers preparatory to undergoing a driving test because the test is designed to be an examination of the driver's ability to cope with the experiences which confront them in every-day driving.

To highlight the nature and requirements of the test could only have the effect of placing the drivers under unnecessary stress; a situation which the Department takes positive steps to avoid. In this regard, all driver examiners are made fully aware of the special problems facing elderly drivers and the test for these drivers is designed to reduce any potential stress. In particular, the time allowed for such a test is much longer than that generally allowed for tests in an endeavour to avoid placing the driver under any undue pressure.

Nevertheless, arrangements are in hand for the letter which is sent to these drivers to include the advice that copies of the *Motor Traffic Handbook* are obtainable, free of cost, from any motor registry. The letter will also suggest that the drivers familiarize themselves with the contents of the booklet to assist them when taking the driving test.

ENVIRONMENTAL EDUCATION

Mr HAY asked the **Minister for Education**—

(1) When is the Education Department's Environmental Education Policy to be introduced into schools throughout the State?

(2) What strategies are going to be used to implement this policy?

(3) Are regional environmental education consultants going to be appointed to assist in the implemention of the environmental education policy?

Answer—

(1) 1987.

(2) The Department of Education has established a Curriculum Implementation Co-ordinating Group to co-ordinate the implementation of the Statement.

(3) Regional Directors of Education make decisions on the appointment of environmental education consultants. They will make decisions on such staffing in the light of regional priorities and available resources.

STATE RAIL AUTHORITY CHIEF EXECUTIVE

Mr BAIRD asked the **Deputy Premier and Minister for Transport**—

What training has the Chief Executive of the State Rail Authority, Mr P. J. Johnson, had in management, other than in the industrial relations area?

Answer—

The newly appointed Chief Executive of the State Rail Authority, Mr P. J. Johnson was an official of the Electrical Trades Union for approximately 15 years rising to the position of Assistant Secretary of the New South Wales Branch. In 1969 he was appointed by the non-Labor Government of the day as a Conciliation Commissioner under the provisions of the Industrial Arbitration Act of New South Wales. He held this position for approximately 10 years.

In 1980 he was appointed Deputy Chief Executive of the State Rail Authority of New South Wales.

As Deputy Chief Executive he was a member of the State Rail Authority of New South Wales, the Urban Transit Authority of New South Wales, the Ferry Advisory Board, the Railway Workshops Board, the Transport Investigation Advisory Board and the Property Advisory Board.

He was also Chairman of the Inter-Departmental Level Crossing Committee and the Authorities' Director of Affirmative Action.

As a foundation member of the State Rail Authority, Mr Johnson has had considerable input into the management structure of the Authority and as Deputy Chief Executive had the executive responsibility for the management of Workshops, the Employee Relations Branch and the Transport Investigation Branch.

Mr Johnson was also personally involved in a review of various reforms of work practices and had the responsibility for the management and implementation of all the major changes arising from this review. These exercises resulted in massive reductions in operating expenditure and were the most significant changes to occur in the history of the New South Wales railway system.

As Deputy Chief Executive, Mr Johnson relieved in the position of Chief Executive during many periods of absence of the previous incumbent. He has also been Acting Chief Executive continuously since 4 November, 1986.

Mr Johnson is currently Chairman of Directors of the Royal North Shore Hospital and Area Board and has served 27 years as a Board member.

It should also be pointed out that the appointment of the Chief Executive was made on the recommendation of a selection panel comprising the Secretary, Premier's Department, the Chairman of the State Rail Authority, Sir Lenox Hewitt and two leading representatives of private industry. This selection panel were satisfied that Mr Johnson had demonstrated a proven track record in the management field.

STAMP DUTY

Mr SCHIPP asked the **Minister for Finance, Minister for Co-operative Societies and Assistant Minister for Education—**

(1) Do banks pay stamp duty on personal cheques at the point of issue of the cheque book to their customer?

(2) Do credit unions pay stamp duty when supplies of cheque books are requisitioned?

(3) If so, is this apparent discrimination an oversight of the deregulation process or is there another reason?

(4) Will he review this disparity?

Answer—

(1) Banks pay stamp duty on personal cheques at the point of issue of the cheque book to their customers unless the cheques requested are specially printed for the customer. Where the cheques are specially printed, stamp duty is paid when supplies are requisitioned.

(2) As cheque books requisitioned by credit unions are specially printed, stamp duty is paid when supplies are requisitioned.

(3) and (4) A review of the whole question of stamp duty on cheques was commenced by the Department of Finance prior to the honourable member's question. The point at which payment of duty should be made on specially printed cheques is one of the issues being examined in that review.

MANLY HIGH SCHOOL TEXTBOOK GRANT

Mr HAY asked the **Minister for Education—**

(1) What will be the textbook grant to Manly High School for 1987?

(2) When was the grant last increased?

(3) Is the grant indexed?

(4) What was the inflation rate for school textbooks and videos for 1986?

(5) What does the grant represent in dollar terms per student?

(6) Does he intend to increase the grant and by what percentage?

(7) When will this occur?

(8) Will the grant be indexed to the Consumer Price Index?

Answer—

It is interesting that information sought by the office of the Shadow Minister for Education—the Member for Davidson and duly provided by my office out of a sense of courtesy—should shortly after form the basis of a question on the notice paper from the Member for Manly.

Whatever the origins of the question, I am nonetheless happy to respond.

(1) $9,719.

(2) 1981.

(3) No.

(4) The Australian Bureau of Statistics does not maintain such an index.

(5) $13 per annum for years 7 to 10. $32 per annum for years 11 to 12.

(6) The Department of Education has sought an increase. The amount of increase will depend on the resources available to the Government in the general context of funding the 1987–88 Budget.

(7) See answer to (6).

(8) No.

HIGHER SCHOOL CERTIFICATE EXAMINATIONS

Mr T. J. MOORE asked the **Minister for Education**—

(1) Are "model" sets of answers prepared for mathematics, science and other technical examinations set for the Higher School Certificate?

(2) Are such documents furnished to the persons marking relevant examinations at the time of such marking procedure?

(3) Are such documents made available to interested persons after the completion of each year's examinations?

(4) If such documents are prepared and are not publicly made available, why are they not made available?

Answer—

(1) No.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

HAVENLEE SCHOOL BUSES

Mr HATTON asked the **Minister for Education**—

(1) When are the Havenlee school buses currently used for the conveyance of handicapped children to Bomaderry expected to reach the end of their life expectancy?

(2) How many kilometres has each of these vehicles travelled?

(3) Have both these vehicles been the subject of reports from the Department of Motor Transport and the NRMA?

(4) If so, what was the substance of the reports?

(5) How much is the Havenlee school bus committee expending for maintenance and associated running costs each year?

(6) Is this amount paid from the school bus subsidy allowance?

(7) Are these buses an integral part of the handicapped integration programme?

(8) If so, are they needed to convey children to various locations regularly as part of that programme?

(9) Has the Education Department any plans to replace the bus?

(10) If not, how will the intellectually handicapped be transported to and from Havenlee school when the bus has reached the end of its useful life?

(11) Are the annual distances travelled by each bus increasing and if so, what were the increases for each bus?

Answer—

(1) to (11) As the vehicles in question are not owned by the Department of Education the information sought by the Member for South Coast is not a matter of public record.

The Department of Education is not in a position to accept financial responsibility for the conveyance of handicapped children other than from home to school.

If the Association no longer wishes to provide transport between home and school the Department of Education will arrange for a service to be provided under a local contract.

ORANGE TAFE COLLEGE SECRETARIAL COURSES

Mr WEST asked the **Minister for Education**—

(1) Is there an abnormally high drop-out rate from the Secretarial Studies course at the Orange College of Technical and Further Education?

(2) If so, why?

(3) Are those students undertaking this course who are too old and receive Austudy and book allowances suffering financial difficulties?

Answer—

(1) No.

(2) Not applicable.

(3) If the Member for Orange can clarify what he means by the term "too old", I will be happy to respond. I would point out however that there is no evidence to indicate that any withdrawals have resulted from the level of support provided by Austudy.

The management of the School of Secretarial Studies at Orange College of TAFE is highly competent and innovative. Use of resources has been maximized and the range and diversity of programs is at a very high level ensuring that the community is well served.

SCHOOL OF SECRETARIAL STUDIES TEACHERS

Mr PICKARD asked the **Minister for Education**—

(1) Have TAFE teachers sought a 15:1 ratio for classes of secretarial studies?

(2) Have there been consistent recommendations of the appropriate committee to bring 15:1 class sizes for typing into effect?

(3) If so, has the Director General of TAFE refused to implement such recommendations?

(4) Will implementation of the suggested ratio improve the quality of education for these students and improve their employment prospects?

(5) Have apprenticeship classes had this ratio for up to forty years?

(6) Why have the secretarial classes not been given the same pupil/teacher ratio?

Answer—

(1) Yes.

(2) Yes.

(3) Yes.

(4) No.

(5) and (6) The size of all classes in Technical and Further Education is determined on the basis of education effectiveness and efficiency—criteria for the determination of class sizes include the need for close individualised supervision, the variety of learning tasks being performed, the physical layout of the practical area and the need to maintain a safe learning environment.

Students in the School of Secretarial Studies have class sizes ranging from five to thirty depending on the nature of the subject being taught. The size of apprenticeship classes is irrelevant.

SCHOOL CARETAKERS

Mr PICKARD asked the **Minister for Education—**

(1) Has he made a decision about the retention of caretakers in schools, particularly Normanhurst Boys' High School?

(2) If a decision has yet to be made, when does he anticipate that this decision will be made?

(3) Will these caretakers be sacked?

(4) If so, who will carry out the work now done by the caretakers?

(5) Given the age of most caretakers, will any redundancy payments be made if these positions are abolished?

(6) Will they be offered other positions so that they can attain retirement age within the service?

Answer—

(1) Yes.

(2) Not applicable.

(3) No.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.