

LEGISLATIVE ASSEMBLY

Wednesday, 1 June, 1988

Mr Speaker (The Hon. Kevin Richard Rozzoli) 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:

Casinos

The Petition of Citizens of New South Wales respectfully sheweth:

That because there is so much concern in the community over the dramatic expansion of gambling in New South Wales and the resultant growth of greed and materialism, and because the legalization of TAB has had no effect on illegal starting price betting, and because the Victorian Royal Commissioner Justice Xavier Connor strongly recommended against any form of legalized casinos because "There would be a substantial risk that one way or another they would be infiltrated by organized crime elements" which would further expand the activities of organized crime, the laundering of drug money and the growth of prostitution.

Your Petitioners therefore humbly pray:

That the parliament of New South Wales will take no steps to legalize casinos, which will further expand gambling and organized crime in New South Wales; will amend the loophole in the current legislation, which has allowed illegal casinos to flourish in New South Wales; and will close the 187 illegal casinos and gambling clubs currently operating in New South Wales.

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

Petition, lodged by **Mrs Cohen**, received.

Prostitution

The Petition of citizens of Australia, New South Wales, respectfully sheweth:

That because we are due to celebrate our bicentennial in 1988 and because the health, moral and social well-being of our State is being seriously harmed by the rapidly expanding prostitution industry, and because prior to the arrival of the European settlers no prostitution existed among the Aboriginal communities your petitioners humbly pray that the Parliament of New South Wales will take urgent and positive steps to eliminate the exploitation of women, teenagers and children through the degrading activity of prostitution.

Steps should be taken to ensure the elimination of the prostitution industry, as a major bicentenary project, by 1988. Arrangements should be made for co-operation by community organizations, law enforcement and welfare agencies to implement a program of rehabilitation and re-education, retraining and relocation for all prostitutes by 1988. A vigorous law enforcement campaign should be implemented over the next three years to remove all persons who are exploiting females and or males through prostitution and or drugs including bosses of organized crime, pimps, clients, and so on. Moves should be taken to reject legalized prostitution and or the licensing of brothels in New South Wales.

Your Petitioners therefore humbly pray:

That your honourable House will protect women, teenagers and children through the elimination of the degrading and exploitative activity of prostitution in New South Wales, by 1988.

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

Petition, lodged by **Mrs Cohen**, received.

Abortion

The Petition of citizens of New South Wales respectfully sheweth:

That because of the tragic deaths of over 100 000 Australian unborn children each year, by unnatural means as well as unfortunate accidents, and the confusion over the legal status and rights of the unborn child as well as its God-given historic right to life.

Your Petitioners therefore humbly pray:

That the Parliament of New South Wales will fully support Reverend the Honourable Fred Nile's private member's bill entitled the Unborn Child Protection Bill, and will ensure its prompt adoption and implementation in New South Wales, in the interests of future generations of Australian children.

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

Petition, lodged by **Mrs Cohen**, received.

Cooinda School

The Petition of citizens of New South Wales respectfully sheweth:

That there is objection to the closure of Cooinda school.

Your Petitioners therefore humbly pray:

That your honourable House will take measures to review the relocation of Cooinda school into Mainsbridge, and to review the ultimate integration of Mainsbridge children into Fairfield Heights Public School and later into other units in other schools, and to ensure that appropriate resources are in place for any integrations that take place.

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

Petition, lodged by **Mrs Crosio**, received.

MENTAL HEALTH REVIEW TRIBUNAL

Ministerial Statement

Mr COLLINS: I lay upon the table of the House copies of the annual reports of the Mental Health Review Tribunal for the years 1986 and 1987 and seek to make a ministerial statement. Under section 62 (2) of the Mental Health Act 1983 the annual report of the Mental Health Review Tribunal is required to be tabled in both Houses of Parliament. The first annual report of the Mental Health Review Tribunal was forwarded to the previous Minister on 21st April, 1987. Despite the fact that the Mental Health Act requires the Minister to table these reports, that Minister failed to comply with his statutory duty. So today is the first time the people of New South Wales have had the opportunity of knowing what the Mental Health Review Tribunal has been doing since 1986.

When one reads the first annual report it is not difficult to see why the previous Government was not prepared to table it. The findings of the tribunal reveal an administration that was simply unable to deal with the mentally ill

offender. To demonstrate this I will mention but a few examples. The report outlines the case of a woman who, despite being incarcerated since 1944 and having been recommended for conditional leave from hospital in 1974, remained locked away in one of Sydney's largest psychiatric hospitals. I am sure that everyone here would regard this as scandalous, and tragically so.

In the case of W, the tribunal found that a woman who had never been tried for the offence of murder was, none the less, incarcerated for 40 years without her case ever being reviewed. The tragedy of this case is that the tribunal found that she should never have been incarcerated in the first place. Following the recommendations of the tribunal, this woman ceased to be a forensic patient and remains to date in a psychiatric hospital, receiving appropriate care and treatment. In 1985 in another case a 64-year-old man was found unfit to plead. The judge ordered that he be kept in strict custody until transferred to hospital for his illness. Despite the ruling of the judge, this man was never transferred, but instead remained locked in a maximum security prison.

Of course, not all of the 72 cases reviewed by the tribunal during 1986-86 were as horrendous as those. Overall, however, the findings of the tribunal highlighted a system for dealing with forensic patients that was simply not capable of discharging its responsibilities in relation to these people. Is it any wonder then that the previous Government sought to withhold this sorry state of affairs from the people of New South Wales. While I am Minister for Health the public of this State can be assured that they will be kept fully informed about what is going on in the health system.

Honourable members will see in the second report of the Mental Health Review Tribunal that the tribunal president raises a number of matters that he believes require further consideration. He particularly mentions that the Deveson committee, established to review the 1983 Mental Health Act, did not have a representative from the tribunal as a member. Since I became Minister for Health, I have rectified this situation. The result has been that this committee has had the opportunity of carefully reviewing some of these matters raised by the president of the tribunal. The matters that it has not been able to consider will be addressed in the near future. I look forward to receiving public input on the tribunal's recommendations.

Homebush Abattoir

Ministerial Statement

Mr ARMSTRONG: I wish to make a ministerial statement relating to Homebush Abattoir. As honourable members would be well aware, last week I announced that Homebush Abattoir would cease operations on 10th June this year. Since that announcement there has been much irresponsible talk, and I want to settle this matter once and for all. The Labor Opposition is adrift on this question, just like the slaughterhouse pollution it has been dumping on Sydney's beaches for years. Additional information that has come to hand supports the Government's decision. Last Friday the Meat and Allied Trades Federation of Australia issued a press release recognizing the need to close the abattoir.

The Meat and Allied Trades Federation represents more than 90 per cent of the independent butcher shops in Sydney. The content of the federation's press release should, once and for all, put paid to the irresponsible talk suggesting that independent butcher shops would suffer as a result of the

closure of the abattoir at Homebush Bay. The secretary of the Meat and Allied Trades Federation, Mr Bill Patterson, denied there would be a substantial increase in the retail price of meat as a result of the closure of Homebush Abattoir. He explained that the wholesale-retail trade already obtains its major domestic meat supplies from country abattoirs—which is quite contrary to what members on the Opposition side of this House have been saying. Mr Patterson's statement is in direct contradiction to some of the garbage being peddled by either ill-informed or politically manipulated sources at Homebush Abattoir.

Mr Patterson went on to say that the reason the trade obtained the bulk of its supplies from the country was the high cost and inefficiencies of presenting stock for slaughter at Homebush over the past 10 years. He said that Homebush Abattoir now slaughters only approximately 5 per cent of the two million cattle and only 8 per cent of the eight million sheep slaughtered annually in this State. In his own words this reveals clearly the insignificant nature of Homebush Abattoir as a major slaughterer of stock. Mr Patterson observed that the decision the Greiner Government has taken on Homebush Abattoir was reached last year by the former Unsworth Government, and the former Minister for Agriculture, Mr Hallam, who foreshadowed such a closure.

Mr Knowles: You are carrying it out.

Mr ARMSTRONG: That is right, because this Government honours its promises, which the former Government did not do. That is why the Labor Party is in opposition. Members opposite played politics with the men and played politics with the industry, and they lost. Mr Patterson continued to say that the small number of stock now slaughtered at Homebush could easily be accommodated and transferred to country abattoirs. However, he stressed the need for a centralized wholesale meat market at Homebush to cater for the domestic needs of the consumers of Sydney—the major domestic meat market of Australia. Mr Patterson said that the possibility of a consortium being willing to build a modern, high-tech abattoir at Homebush was questionable. He said the world trend was not to have major slaughtering facilities within major cities. In his view it was far more efficient and more humane to transport stock to nearby country abattoirs rather than transfer them into cities the size of Sydney. Mr Patterson said it was significant that claims that meat prices would rise by 25 per cent are being made by the meat employees union which has a significant section of its membership working at Homebush. He went on:

However regrettable as it may seem, the harsh facts of life are that the Homebush Abattoir continues to lose in excess of \$6 million per year and obviously has no future in the years ahead.

Put simply, the butchers themselves believe that the closure of Homebush is unavoidable. They do not believe it will have any effect on meat prices or other operations. Most butchers in Sydney already prefer to buy meat from sources other than Homebush. Surely they would be the first to complain if they were going to go out of business or if prices were going to drive away their customers. Yet, they recognize the need for Homebush to close. Homebush supplies less than 20 per cent of Sydney's meat; in other words, 80 per cent of Sydney's meat comes from elsewhere. Within two hours of Sydney by road transport are nine abattoirs which have surplus capacity three times the output at Homebush. The closure of Homebush abattoir shall have no impact on meat prices. In fairness, I must point out that at this time of the year that there is usually a normal seasonal downturn in the supply of livestock for slaughter. This is particularly so this year following excellent rains in the west of the State. From now on I expect some shortage of livestock, continuing through to early spring. Therefore,

I expect a seasonal variation of red meat prices, but that will have nothing to do with the closure of the Homebush Abattoir.

As honourable members will be aware, in recent days there has been considerable industrial action. Much of this has been spurred on by the remnants of the Labor Government who, when in government, failed abysmally to be either honest or to act constructively towards the workers at Homebush Abattoir. The Hon. J. R. Hallam, the Homebush bell-wether, who led the workers to the slaughter, created the conditions that cost the workers their jobs. This bell-wether is still trying to call them. He has also been ringing his bell to build up false expectations among wholesalers at Homebush and the Homebush retention committee. That committee is headed by Mr Ray Simersall, who has cast himself as the self-styled spokesman for all groups at Homebush. He has been saying that the Government should have turned the works over to a consortium—headed by Mr Simersall. Unfortunately, these proposals are totally out of the question. I make it quite clear that the Government is not willing to construct or allow to be constructed a new abattoir on the Homebush site.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr ARMSTRONG: It would be absurd to lumber the people of Sydney with an abattoir on this site into the twenty-first century. It would be like building a slaughterhouse outside Town Hall station in thirty years' time. There is not enough market demand for a new abattoir; not even the retail butchers want one. Already about 83 per cent of Sydney's meat is slaughtered outside the metropolitan area. Yet, the retention committee and the Hon. J. R. Hallam, the Homebush bell-wether, keep bleating that the Government should open the site to construction of a new abattoir. Since these people cannot listen to reason, I must explain now some of the reasons why the committee's proposals lack credibility. I admit some reluctance to release these details but as the committee and the Hon. J. R. Hallam have persisted, I feel I have no choice. Some weeks ago Mr Simersall, together with a representative of Essington Developments Limited who was introduced as the prospective financial backer for this consortium, visited me. A letter dated 2nd May from Essington Developments states in part—

[Interruption]

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

Mr ARMSTRONG: That letter states:

We would like to avoid a situation where our company has to compete on a competitive tender basis for the site as we enjoy in principle support of the Homebush meat wholesalers.

Put simply, Essington is looking for a sweetheart deal, and the Government will not have a bar of it. It is interesting that the Labor Government, well known for its sweetheart deals and well known for its deals done without public expression or calling for public tenders, has seen fit to align itself again with another sweetheart deal. The motives of the proposal are suggested in the following further extract from the Essington letter:

Freehold tenure with deferred payment during the period of establishment would be ideal, however a 99 year lease on a similar basis would be satisfactory.

Honourable members can imagine what a bonanza it would be for any company to be able to obtain freehold land at Homebush for time immemorial or on a 99 year lease. Can honourable members imagine an abattoir at Homebush in

99 years as part of the central business district of Sydney? Can they imagine the value of that land? Clearly, the promoters of this scheme see the acquisition of the abattoir only as a means to an end. To cap this off, Mr Simersall wrote to me yesterday and said in part:

Contrary to your assertion that you have received no serious proposal regarding Homebush, we refer you to the letter of May 2 from J. P. Fleming, Manager, Essington Ventures. We suggest this is a firm proposal.

A firm proposal? The consortium confirms that it is a proposal I should consider seriously. In response to requests on several occasions Mr Simersall said that he had never inspected the works but would be happy to invest millions in it. Why? He starts in the night with wild eyes at the prospect of a 99-year lease on land virtually adjacent to Sydney Harbour. The committee asked that the Government renew the licence on Homebush abattoir for another two years to allow another abattoir to be built. Unfortunately, this, too, is out of the question. The Government is not about to override the New South Wales Meat Industry Authority's professional judgment about safety of the workers and safety of the meat supply in Sydney—

[*Interruption*]

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

Mr ARMSTRONG: —in order to advantage any group of entrepreneurs. The committee repeatedly described the abattoir licence as a piece of paper. It mentioned that the previous Government had been willing to treat licences in this way when dealing with entrepreneurs, including Mr Simersall. The committee had the cheek to think that I would do this. The Government will not approve licences on that basis. The Hon. J. R. Hallam has been asking why the Government will not let Mr Simersall's consortium build a new works. I pose this question: would the former Minister build another slaughterhouse virtually on Sydney Harbour for our grandchildren? Would he extend the licence for the existing works and reject the advice—

[*Interruption*]

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

Mr ARMSTRONG: —about safety and the quality of Sydney's meat? Would he enter a sweetheart deal with developers? From recent statements, obviously the answer is, yes. Why have the Homebush bell-wether and his associates been cast adrift by the people of New South Wales, together with the pollution they have caused? The committee and the Homebush bell-wether have been up to more mischief. They have been using the workers and the wholesalers at Homebush for their own politically spurious purposes. There is no longer a market demand for the services of the abattoir at Homebush.

The Hon. J. R. Hallam and his associates have merely been playing on the men's distress. They have encouraged false expectations in them for their own cheap political and economic purposes. The men have not only been marching in a lost cause but also have been duped into marching in interests not their own purely for political, spurious reasons. The men know that the abattoir must close and they have been given a fair deal. Many of those who marched today have been blackmailed into marching by union bosses.

[*Interruption*]

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

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Fairfield to order for the second time.

Mr ARMSTRONG: The honourable member should settle down. He must have a vested interest.

[*Interruption*]

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

Mr ARMSTRONG: The Public Service Association, I am told, informed the management of the abattoir that the office workers at Homebush abattoir would not process pay for anyone who did not march today. A PSA organizer told the management at Homebush abattoir that the pay would not be processed for workers who did not march. This is outrageous. These men and their families are relying heavily on redundancy packages. Furthermore, I am aware that the delegates of some unions at Homebush have told their members that those who did not participate in today's march would be blackballed. That means that their tickets would be withdrawn. What a farewell gift that would be. The Government, for its part, has taken every possible step to ensure that the men at Homebush get a fair deal. Unlike the former Labor Government that used them as political pawns, the Government has made arrangements for officers of the Commonwealth Employment Service to make a special survey of job opportunities for the men at Homebush and to visit the works.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Fairfield to order for the second time.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Fairfield to order for the third time.

Mr ARMSTRONG: Seminars are being conducted for management on redundancy termination benefits in the workers' best interests. The New South Wales Meat Industry Authority is surveying all other State abattoirs in the State with a view to advising the men of every conceivable job opportunity. Arrangements are being made to put them in contact with superannuation funds and investment schemes so that they can make the best use of their benefits. I have said already that I am examining exposure by workers at Homebush to zoonotic disease, and I expect to make an announcement on that soon. I might say that the former Minister ignored—

[*Interruption*]

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

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Rockdale to order for the second time.

Mr ARMSTRONG: The honourable member for Rockdale is like Homebush; he is finished; he has gone.

[*Interruption*]

Mr SPEAKER: Order! The Minister has the call. He will finish his statement much quicker if members remain silent.

Mr ARMSTRONG: In all of this the Government has acted with the utmost responsibility. The steps it has taken were inevitable but they have been handled sensitively and fairly. The time has come to stop using the workers of Homebush to play other people's games. I urge the House, the media and the people of New South Wales to put the issue in its proper perspective. It is enough that the men should be led to lose their jobs by the Homebush bellwether. Let us not rob them of their self-respect.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Blacktown to order for the second time.

Mr ARMSTRONG: The honourable member will get his chance. He should wait. One of the most spurious stories that has been peddled by members of the Opposition is that it will cost more to bring meat to Sydney from country abattoirs. Let us put that story right. Yesterday morning—and the Government's figures are up to date—Finemores Transport Pty Limited of Wagga Wagga, one of the largest transporters of meat and livestock in New South Wales, gave the following quotation: To transport four decks of 550 live lambs from Wagga Wagga to Sydney would cost \$1,030; to transport the same 550 lambs chilled would cost \$800—a clear saving of \$230, which would be passed on to the consumers as a result of slaughtering sheep in country areas. Further, 550 chilled lambs would fill only half a refrigerated van, so for \$1,600, 1 000 chilled lambs could be transported, twice the number that could be transported live. Clearly, the former Government has been playing cheap politics. Today's newspapers report that yesterday the Hon. J. R. Hallam, the former Minister for Agriculture, said that he chose to ignore the Chance report recommendations, though he agreed that the present abattoir site should have been bulldozed and that the looming elections had also made the decision more difficult. Those are the Hon. J. R. Hallam's words, not mine.

Mr CARR: The Opposition hopes that the Minister will go outside and tell thousands of workers and representatives of small business the facts as he sees them. The courage he has shown is very much confined to this Chamber. He has overlooked the opportunity we had in this State to create a small but efficient private sector facility on the Homebush site that would have met—

[*Interruption*]

Mr SPEAKER: Order! I call the Minister for Agriculture and Rural Affairs to order.

Mr CARR:—the requirements of economic efficiency—

[*Interruption*]

Mr SPEAKER: Order! I call the Premier, Treasurer and Minister for Ethnic Affairs to order.

Mr CARR: —and sustain those small businesses that have been driven to demonstrate in the street outside the Parliament today—120 small businesses and their 2 000 employees—who are making the point that the Government

again has shown its arrogance and its lack of humanity and, in addition to that—

[*Interruption*]

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

Mr CARR:—its total failure to forge an innovative and effective solution to the problems that the outdated facility at Homebush presented. The challenge that faced the Government was that of creating a private sector consortium to manage a modern, world-class, albeit small, facility. There is economic argument about the cost implications of what the Government has done, but at least two economic studies challenge the figures the Minister has just quoted in the House about the economic advantage of slaughtering at country facilities and transporting the meat to Sydney. There is economic debate about that, and those arguments deserve to be explored further. This Government has pulled out of action a whole infrastructure; it has killed off 120 small businesses. The Minister ought to leave the Chamber now and go outside to explain his case to the people, representatives of small business and employees who are making their feelings felt about this outside the Parliament. The Minister might argue that he has a mandate for his action. He has no mandate to refer to a “consortium”, just as he has no mandate to refer on radio station 2GB to the “proliferation” of national parks. He may have a mandate to do something about the Homebush abattoir facility, but he has no mandate to slaughter the English language.

QUESTIONS WITHOUT NOTICE

COUNCIL TENDERING PROCESSES

Mr CARR: Will the Minister for Local Government and Minister for Planning confirm that on 20th May he announced inquiries into the tendering processes of a number of New South Wales councils, including Narrabri council? Is the Minister aware that on 23rd May the Deputy Premier, Minister for State Development and Minister for Public Works criticized that initiative on radio station 2VM Moree? Has the Deputy Premier had discussions with the Minister on this matter? Will the Minister tell the House when the investigations are due to commence?

[*Interruption*]

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

Mr HAY: The Leader of the Opposition said that I made an announcement that there would be an inquiry into tendering procedures. He is, again, quite wrong. I made no announcement to that effect at all. The Department of Local Government has drawn up new guidelines as a result of the Ombudsman's inquiry into the tendering process at Narrabri council. Members of the Opposition should hang their heads in shame again at the way they use their jackboots on local government.

[*Interruption*]

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

[*Interruption*]

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

Mr HAY: I received a request—

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Ashfield to order for the second time.

Mr HAY: —to speak to people who had allegations to make about Narrabri council. Unlike the former Government, which would have turned its back on such people, I gave them the opportunity to come to talk with me. They made allegations, and I asked them to provide information, if they could, to substantiate them. That is where the matter rests at present.

STATE RAIL AUTHORITY

Mr SMILES: Will the Minister for Transport advise the House of the results of the New South Wales Commission of Audit inquiry into the State Rail Authority?

[*Interruption*]

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

Mr BAIRD: I thank the honourable member for his question and his continued interest in public transport. He has shown far more interest than the group opposite ever showed in that area. In the past three weeks we have had three sets of advice. The first was from the State Rail Authority itself about its finances; second, we had advice from PA Consulting Services following its review of the working practices and management of the SRA; and, finally, we have had a report from independent auditors which not only confirms the previous advice but also points out new features of the authority's financial performance.

The New South Wales Commission of Audit was appointed by the Premier. It is headed by Mr Charles Curran, the Chairman of the Greater Union group, and includes in its membership Mr Jim Dominguez of Dominguez Barry Samuel Montagu investment bank. Even the honourable members for Heffron would approve of that organization. The commission brings together some of the best minds in the financial sector. The preliminary report of the commission has surprised me, and, believe me, I am not easily surprised, having learned what had been going on in the SRA under the previous administration. The commission has reported that the true figure for the total liabilities of the SRA—it should be borne in mind that this figure comes from an independent audit review group—should be placed at \$6 billion by accepted accounting standards. This figure is far worse than anyone expected. It makes a total mockery of the previous Government's claim that the transport deficit was coming under control through a reduced revenue supplement. Those claims were a total nonsense.

[*Interruption*]

Mr SPEAKER: Order! I call the Minister for Education and Youth Affairs to order.

Mr BAIRD: The former Government should be totally ashamed of the state in which it has left the finances of the SRA. The final report of the Commission of Audit will be delivered on 31st July. It will indicate a number of major policy options and operational improvements aimed at reducing the taxpayers' contribution to the SRA which at present stands at \$3 million a day. The commission's first report, following the inquiry conducted by Coopers and Lybrand, paints a dark picture of the authority's finances. It has found that the SRA's debt liabilities, including lease obligations, totalled some \$4.3 billion as at 30th June, 1987. That figure is expected to rise to \$4.5 billion by 30th June. Such an increase is consistent with the SRA's figures; and it is a total disgrace.

The audit has further uncovered—this has not been raised by anyone so far, and certainly not by the previous Government—the further hidden liabilities of the railways. As at 30th June, 1987, the SRA had an unfunded employee benefit liability of \$1.7 billion. This figure will rise to \$1.8 billion by 30th June this year. Only \$50 million of this amount is included in the SRA's accounts. After allowing for these adjustments, the total liabilities are estimated to be \$6.1 billion for June 1987 and \$6.4 billion for June 1988. This compares with the accounts actually shown in the SRA's published balance sheet of \$2.9 billion and \$3.2 billion respectively.

The previous Government basically engaged in creative accounting, as it aimed at deluding the people of New South Wales about the true figures that underline the disgraceful state of the SRA's finances. The consultants have also assessed that on present policies the total contribution from consolidated revenue for the year ended June 1988 will be \$985 million—not the \$300 million that was claimed by the previous Minister—and \$1.1 billion for the year ending June 1989. In the time it takes me to deliver this speech the SRA will have lost \$20,000.

[*Interruption*]

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

Mr BAIRD: The commissioner will present a final report on 30th July summarizing the problems of management that have allowed this situation to continue. The commission has said that the final report will highlight the massive inefficiency in manpower usage within the SRA. It will highlight the SRA's inadequate management information systems; its failure to develop corporate strategies, which is in line with the comments made in the report by PA Consulting Services, the total lack of direction of the SRA, its inappropriate services and pricing policies, again commented on by PA Consulting Services, and its inordinately low labour productivity. At present consultants are at work looking at areas of potential throughout the authority. A lesser government would sink into despair at being confronted with the sorts of figures I have revealed today. The group opposite simply shut its eyes to the problem and rolled out the Tangara train, trying to fool the people of New South Wales into thinking that it had the situation under control. Our eyes are very much open to the situation. We want to ensure that the public of New South Wales now sees the problem as it exists. We have a long, hard journey ahead of us. As Minister, I will be faced with very tough decisions in the days, weeks and months ahead. A debt of \$6 billion casts a dark shadow on the future of this State's finances and the SRA.

JERRABOMBERRA HEIGHTS ESTATE

Mrs CROSIO: Did the Minister for Environment and Assistant Minister for Transport, following a meeting in his office on 26th April with the developer Alex Brinkmeyer, the Minister for Local Government and Minister for Planning and the honourable member for Monaro, immediately remove an interim conservation order from the development of the Mount Jerrabomberra area, thus allowing that development to proceed forthwith? Is Mr Brinkmeyer, a resident of Canberra, the president of the Queanbeyan branch of the Liberal Party? Did the Minister's action pre-empt the outcome of a study by the Minister's department on this matter?

Mr T. J. MOORE: It is with great pleasure that I point out to the honourable member for Smithfield that such matters fall under the administration of my colleague the Minister for Local Government and Minister for Planning. I have had no such meeting with that gentleman in my office at any time.

NEW SOUTH WALES TREASURY CORPORATION

Mr TURNER: Will the Premier, Treasurer and Minister for Ethnic Affairs advise the House of the decisions that have been made in respect of the New South Wales Treasury Corporation and financial management?

Mr GREINER: The honourable member for Myall Lakes got the right person and it is the right question; honourable members can be sure that it will be the right answer. Upon taking over the position of Treasurer, I carefully reviewed the activities of the New South Wales Treasury Corporation. It is fair to say that I have been impressed by its performance. The corporation's management and staff have achieved excellent results, despite being unreasonably shackled by public service constraints. These constraints have lost the corporation valuable staff and made it difficult to recruit top quality people. The first decision I took in respect of the corporation was to enable it to attract and retain the staff it needs. To its credit, the previous Government and the previous Treasurer went some way in this direction but nowhere near far enough. From now on the corporation will be completely outside public service constraints and will develop employment-remuneration arrangements directed towards contracts and performance sharing. The New South Wales Treasury Corporation is now Australia's eighth largest financial institution, yet it does not have a board to guide its policies and to help the Treasurer hold its performance to account. That is an absurd situation and one which should never have been allowed to continue as long as it did. I have decided to change this situation, and the appropriate legislation will be introduced in the budget session.

The board will have financiers of the highest quality as key members. I am particularly pleased that Mr Ken Allen, managing director and chairman of Shearson Lehman Hutton, and Mr Peter Wilson, chief general manager of Australian Guarantee Corporation Limited, have accepted my invitations to be directors. They will bring to the corporation a wealth of experience in domestic and international financial markets. The board of the corporation will be chaired by the Secretary of the Treasury, Mr Allen. It will also have representatives of the corporation's major clients.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Riverstone to order. I remind the House that many honourable members have already been called to order on two or three occasions. Calls to order prior to question time will count in question time.

Mr GREINER: The chief executive of the corporation will be Mr Jim Watt, who will also be a member of the board. He is a senior assistant secretary in the Treasury. In 1983 he was heavily involved in the establishment of the corporation and has been involved with its development since that time. The corporation will continue to act as the central borrowing authority for State statutory authorities. It will also continue to make its borrowing services available on a voluntary basis to local government councils. However, borrowing is only one aspect of financial management. It is an aspect on which the former Government placed too much emphasis, indeed sole emphasis, with the result that the people of New South Wales are now saddled with a debt of the order of \$26 billion.

In future the Treasury Corporation will take a far more active role in managing the debt—not simply worrying about adding to the debt or rolling over the debt, but managing it. A Treasury function advisory committee is to be established comprised of financial experts from the private and public sectors, and serviced by the corporation. This committee will oversee the liability management activities of all State authorities. Although it has enormous debts, the State also has very significant financial assets. These are also grossly undermanaged. The Treasury function advisory committee will be responsible for improving a situation that is unacceptable to taxpayers who are being denied returns that are available on the assets side of the State balance sheet.

The management of the State's financial portfolios has been a closed shop for far too long. Bringing private sector experts on to the board of the Treasury Corporation and into the advisory committee will help open it up, as we indicated we would do during the election campaign. I am pleased to announce this area will be opened up further by giving the private sector opportunities to manage public sector portfolios under contract.

[Interruption]

Mr GREINER: Is that funny?

Mr Whelan: No. It just looks nasty when you are giving jobs to your mates.

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

Mr GREINER: That comment epitomizes the problem with the Opposition. The honourable member for Ashfield interjected to suggest I was worrying about commissions for mates. That was an utterly inane interjection. Does the shadow treasurer agree with that interjection? Does the Leader of the Opposition agree that one should not issue contracts on a competitive basis for the management of portfolios?

[Interruption]

Mr GREINER: Of course one should do so. The comment has an element of inanity of which even the honourable member for Ashfield should be ashamed.

[Interruption]

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

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Heffron to order for the second time.

Mr GREINER: As I was saying, there will be a further opening up of financial portfolios by giving the private sector opportunities to manage them under contract. Authorities will be required to actively manage their portfolios, either in-house, through the Treasury Corporation, or under contract to approved managers. The multibillion dollar sums involved will stimulate fierce competition. This will spur the performance of both private and public sector managers and they will be monitored closely. The resultant savings and earnings will benefit taxpayers and consumers in New South Wales who are the ones who have to service the debt of \$26 billion. Tomorrow in the financial statement I will quantify the impact of some of the policy changes made by me and by the Treasury Corporation.

The former Government did the right thing in 1983 when it established the Treasury Corporation. Indeed we supported that move at the time, but it did not go far enough. The corporation was saddled with petty restrictions, which hampered its ability to do its job. Its responsibilities were limited to fund raising, with no real charter for the more important aspects of portfolio management. The reforms I am introducing will redress this. They will both allow the corporation and require it to build on its past successes. They will also place greater pressures on it to perform, and will make it more accountable to its clients, to the Treasurer and to the Parliament. The reforms I am introducing are not nearly as headline grabbing as others, but this does not detract from their significance. The potential financial benefits to the people of New South Wales run to hundreds of millions of dollars a year.

NELSON BAY ROAD UPGRADING

Mr MARTIN: I ask the Minister for Transport a question without notice.

[Interruption]

Mr SPEAKER: Order! I call the Chief Secretary and Minister for Tourism to order.

Mr MARTIN: Does the Minister recall the promise of the then Leader of the Opposition on 28th February that "a State Liberal Government would spend millions of dollars upgrading the Nelson Bay Road"? When will this money be allocated and when does the Minister expect the roadworks to commence?

Mr BAIRD: It is interesting that one of the group opposite should ask a question about roads. New South Wales has the worst roads of any State in Australia. The Minister for Education ran a pothole competition, which elicited a wide range of entries from across Australia.

[Interruption]

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

Mr BAIRD: The city area itself carries 43 per cent more cars on arterial roads than do similar roads in any other city in Australia. Travel times are slower and the accident rate is higher. It is hypocritical of this group opposite to be asking questions about roads, because they came in as part of a grand experiment and announced they would put everyone back on to public transport. They cancelled all the freeway plans. However, twelve years later fewer people travelled on public transport than in 1970. The percentage increase each year—

[Interruption]

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

Mr BAIRD: I do not think the honourable member should be making comments, after having heard his wild assertions. The percentage increase in patronage each year was less than the increase in population. The cancellation of the freeway plans spelled total disaster for roads in this State. In country areas and in city areas roads are a major issue. This Government will get it right. I have already stated that the amount collected from the business franchise tax on petrol, of 3.5 cents per litre, will be applied, instead of having various glossy proposals, to areas that require attention—New South Wales roads.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Kiama to order for the second time.

Mr BAIRD: I thank the honourable member for his question. We are reviewing road priorities and the honourable member will be advised of progress in due course.

SYDNEY LOCAL ENVIRONMENT PLAN

Mr CHAPPELL: Is the Minister for Local Government and Minister for Planning aware that the Quay Hole Committee took action in the Land and Environment Court against the former Minister for Planning and Environment seeking declarations that the Minister failed to comply with the Environmental Planning and Assessment Act in the making of Sydney local environment plan number 32? Is the Minister further aware that the court ruled against the committee and ordered it to pay the Minister's costs? Have these been paid?

Mr HAY: Yes, it is true that the Quay Hole Committee took in the Land and Environment Court action at the direction of a former Minister. However, Mr Johnson of the committee eventually withdrew the proceedings. He was ordered to pay costs incurred by the Minister. The committee thereafter agreed to pay half the costs, which were some \$1,750 by April 1986. This payment was not made and the department filed a bill of costs which the court taxed at \$4,438.50. The bill was served on Mr Johnson, who subsequently wrote to the former Minister seeking a waiver of all costs payable by him. In view of the relatively small amount of money involved and the hardships raised—members of that committee include schoolchildren, pensioners, unemployed, and the committee has no funds of any consequence—I have decided to waive the costs owed by Mr Johnson on behalf of the Quay Hole Committee, which is a community based committee concerned about potentially unsympathetic development at Circular Quay.

[Interruption]

Mr SPEAKER: Order! I call the Minister for Environment and Assistant Minister for Transport to order.

Mr HAY: Although the former Minister refused to waive such cost, I would not force such a group into potential bankruptcy. The Government does not condone frivolous litigation. However, I would not cause the group, which was expressing its real concern, to face a legal situation such as that originally proposed by the non-gracious Leader of the Opposition.

COUNCIL OF THE CITY OF SYDNEY

Ms MOORE: I ask a question without notice of the Minister for Local Government and Minister for Planning. Prior to the elections the Premier, then Leader of the Opposition, on several occasions made a public commitment to restore a democratically elected council of the city of Sydney. When does the Government intend to honour that commitment? What form will the future council take? Will there be public consultation on this matter before a decision is made?

Ms Nori: On a point of order. I submit that the question is out of order as it is substantially the same as question No. 64 on the *Questions and Answers* paper, a question in my name.

Mr SPEAKER: Order! I uphold the point of order. There is sufficient similarity between question No. 64 in *Questions and Answers* and the question asked by the honourable member for Bligh to compel me to rule the question out of order.

[Interruption]

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

GOVERNMENT CLEANING CONTRACTS

Mr FERGUSON: I address a question without notice to the Minister for Administrative Services and Assistant Minister for Transport. Does the Minister recall the written assurance given by the Premier, when the Leader of the Opposition, to all school ancillary staff and cleaners that their jobs would be guaranteed under a coalition government, and the promise of the coalition Opposition made on 17th March that "your job is secure under the Liberals; no government employee will lose his or her job"? In view of the Minister's overhaul of cleaning services staff levels, does he still honour that promise? Further, will he maintain the historic employment preference for widows and deserted wives?

Mr SINGLETON: The honourable member raises a most important matter related to the management of this State. A problem has grown up over a number of years under the former Labor Party Government of this State. The honourable member ought to know—and surely does know—that work practices that have been built into all facets of government employment in this State are costing the taxpayers millions and millions of dollars. A survey conducted by his Government determined that some \$70 million could be saved by updating work practices and improving cleaning methods for government property.

[Interruption]

Mr SPEAKER: Order! I call the Minister for Education to order for the second time.

Mr SINGLETON: The Government is most concerned about people who need jobs and about the widows and the other people he spoke about.

[Interruption]

Mr SPEAKER: Order! I call the Minister for Education to order for the third time.

Mr SINGLETON: I assure them that the Government will honour the Premier's commitment but also intends to ensure that the taxpayers of this State receive proper returns for the dollars they invest in the Government of New South Wales.

NATIONAL PARK FOR WYRRABALONG

Mr HARTCHER: My question without notice is directed to the Minister for Environment and Assistant Minister for Transport. Can the Minister advise the House what action is being taken to establish a national park at Wyrabalong on the New South Wales Central Coast?

Mr T. J. MOORE: It is with great pleasure that I advise the honourable member for Gosford and his colleague the honourable member for The Entrance that the Government already has commenced the formal processes to establish the Wyrabalong national park on the New South Wales Central Coast, which will preserve one of only two non-estuarine stands of coastal mangroves in this State. The region has important scenic and environmental values, and I look forward to its formal dedication in the near future.

RENTAL SUBSIDIES

Mr BECKROGE: I address a question without notice to the Minister for Administrative Services and Assistant Minister for Transport. Is it a fact that the Minister intends cutting rent subsidies for teachers, hospital staff and police officers in isolated parts of New South Wales? What discussions has the Minister had with the Ministers responsible for education, health and police on the impact of this measure? What measures will the Government be taking to compensate for the loss of teachers, hospital staff and police in country areas?

Mr SINGLETON: Like a number of honourable members on the Opposition side, the honourable member for Broken Hill keeps getting the story wrong. The honourable member referred to discussions that I have had and based his question on newspaper reports about those discussions. There was a time when questions based on newspaper reports were basically ruled out of order. That was not so many years ago. Many on the Opposition benches have not been in this place long—and will not remain here long. Those Labor Party members who occupied the frontbenches took a lot of their mates down the tube on 19th March, and will take a lot of them down the tube in 1992. That is an absolute fact. Many matters relating to property, accommodation and even ministerial suites are being re-assessed by my department. I resile from none of the difficulties that that department has in redressing problems that have grown up over a period of 12 years from the inefficient and ineffective Government that lived on guff and rot.

[Interruption]

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

Mr SINGLETON: The honourable member for Broken Hill was elected to this place by the skin of his teeth. All the matters raised by him are being addressed. I assure the honourable member that the Government will deal compassionately with those who are required to go to distant places and serve in areas where the best of facilities are not available. The Government will address those problems. In due course, the Parliament and the people of New South Wales will be advised on the results.

SALE OF GOVERNMENT PROPERTY

Mr D. L. PAGE: I direct a question without notice to the Minister for Administrative Services and Assistant Minister for Transport. Does the Minister have any concerns about the processes that have been employed within the New South Wales administration for the disposal of surplus property holdings? Does the Minister have plans that will ensure a higher return to the taxpayers of New South Wales from future government land transactions?

Mr SINGLETON: The honourable member for Ballina asks a most important question. I congratulate him on winning the seat of Ballina—a seat that the Labor Party thought it had a chance of winning. But the people of Ballina, a very intelligent group of people, elected this fine young man to represent them.

[*Interruption*]

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

Mr SINGLETON: The grandfather of the honourable member for Ballina served this nation for 40 years in the national Parliament and introduced measures such as the tuberculosis eradication program, which rid Australia of tuberculosis in a very few years. He served as Prime Minister of Australia. It is a great thing that his grandson should now be a member of this mother of Parliaments in Australia.

[*Interruption*]

Mr SPEAKER: Order!

Mr SINGLETON: It is impossible to estimate how much money has been lost to the public purse through the negligence of the former Government in the disposal of surplus government landholdings. I have been a Minister for less than eighty days, and a number of matters have been brought to my attention. If allowed to proceed, those matters would have resulted in the loss of tens of millions of dollars. At this time I have no evidence to suggest dishonesty, but there is plenty of evidence of outright negligence and incompetence. The former Government established a property management unit within the Premier's Department, then failed to allow that unit to properly supervise and co-ordinate other departments. Among the cases I am currently dealing with is one instance in which a matter had not been finalized over a number of years and this, expert advice suggests, could result in an additional return of well over \$50 million to the public purse. This matter is still current, and I am pursuing it with vigour.

Another instance involved land being offered for sale without zoning and access approval being finalized. This was a major transaction and is being reviewed by the property management unit. The Premier has asked me to review another instance in which a government authority released land to a private company about five years ago. It now seems that the Government will have to regain that land at possibly up to five times the original price. The Government at that time should have known that that land would have been required for public use in the not too distant future. Obviously an urgent need exists in New South Wales for a strong central supervisory and reviewing process when disposal of government assets is involved. The Premier has directed the Department of Administrative Services to fill that role. Over the next four years it will have central responsibility for raising \$1 billion through economies and the sale of assets.

To achieve this the department will be looking closely at rezoning, access roads, consolidation of adjacent land parcels, legal documentation where appropriate and the preparation of development packages. The resources the department will use include employment of contract staff for a pre-determined period to achieve a specific task; the appointment of consultants possessing the necessary commercial skills to present the most viable marketable package for significant properties; utilizing the established network of government resources in the planning, legal and valuation fields to facilitate the disposal of property; utilizing a pre-selected board of consultants' services, and planning legal, valuation and other matters wherever necessary.

I feel sorry for the developers who have been caught up in the hopeless mismanagement of the former Government. What is happening is just part of a rapid change in the State whereby the Government hopes to effect major savings to taxpayers in the short term. I had noted in the press that some group of people, faceless people, calling themselves the round table—I do not know whether they are square pegs in round holes—are threatening me about what I am doing. I make it clear that I do not scare easily. I am not for sale and I cannot be bought. I make it equally clear to all and sundry that I am very easy to deal with. I am accessible, I can be talked to and I am willing to listen to anything, provided the taxpayers of New South Wales get the proper result.

AREA HEALTH BOARDS

Mr WALSH: My question without notice is directed to the Minister for Health and Minister for Arts. Is the Minister aware that protest meetings have been held in Maitland, Kurri Kurri and Cessnock over the possible amalgamation of area health boards? Will he inform me and the House what his intentions are regarding area health boards in the Hunter region?

Mr COLLINS: It is true that the structure of area health boards is under review. It is certainly no secret that members on this side of the House have held a view for at least the past couple of years, and certainly since the passage of the area health services legislation through Parliament in 1986, that the co-existence of regional offices of the Department of Health and area health boards simply adds another layer of bureaucracy, another set of administrative costs, to the already overburdened health system. Granting some merits in the area health services system introduced by the previous Government, I think any fair-minded critic of the area health board system would acknowledge that some duplication exists. It is an impediment that should have been addressed when the legislation was initially introduced. The Government is addressing that issue now.

Five regional offices of the New South Wales Department of Health and 23 area health boards overlap. This adds another layer of bureaucracy, another hurdle or obstacle to get over in the decision-making process of the health system. It is important that we integrate regional offices and area health boards where they overlap, streamline the administrative system and reduce administrative costs. I assure the House that no job losses will be involved in this reorganization which I expect to announce during June. I shall be happy to make the honourable member for Maitland and all honourable members aware of the full detail of that reorganization in the near future.

SOUTH COAST AMBULANCE SERVICES

Mr ANDREWS: I ask a question without notice of the Minister for Health and Minister for Arts. What emergency measures have been implemented to maintain ambulance services to the communities of Stanwell Park and Coalcliff and other small townships and the northern suburbs of Wollongong affected by the collapse of Lawrence Hargrave Drive between Coalcliff and Clifton?

Mr COLLINS: I commend the honourable member for Heathcote for his interest in his constituents' health needs. As honourable members will be aware, on 30th April, as a result of heavy rain, sections of Lawrence Hargrave Drive near Clifton collapsed into the ocean, making the roadway impassable to traffic. Honourable members will know this area as one of the most scenically beautiful stretches of New South Wales coastline, yet it is also the site of a recent tragedy which cost the lives of a young mother and her child. The Department of Main Roads allows access to emergency vehicles, including ambulances, to travel north beyond the traffic barriers at Scarborough. Thus all inhabited areas from Wollongong to Clifton are accessible by road ambulance. The northern townships of Coalcliff, Stanwell Park, Stanwell Tops and Otford may be reached from the south by using the old Princes Highway to Helensburgh and backtracking to residences in those locations. However, the more appropriate method is to despatch an ambulance from the Helensburgh station, north of the road collapse.

The ambulance service has also made arrangements with the National Safety Council rescue helicopter, based at Albion Park near Wollongong, to fly paramedics into any isolated area in an emergency. In summary, the honourable member can be assured that the collapse of the section of Lawrence Hargrave Drive has not disrupted ambulance operations. As I have indicated, ambulance access is gained from the south to Clifton and from the north to Coalcliff. In addition, a helicopter rescue service and paramedics can attend any isolated area in an emergency.

NEPEAN RIVER BRIDGE

Mr A. S. AQUILINA: Does the Minister for Transport recall the claim, on 19th January, 1988, of the new member for Penrith that "I have in writing from Nick Greiner and John Dowd that another bridge will be built across the Nepean River at Penrith"? Has the Minister been advised by his department that a third crossing is not necessary? Will this be another broken election promise?

Mr BAIRD: The former member for Penrith said long and loud there was no need for such a crossing. It is interesting to see what happened to him. I assure the honourable member, as I said in answer to a previous question,

that the Government is reviewing its roadfunding priorities, and its priorities overall. One thing is sure: Penrith will be far better served by roads and public transport than it ever was under the previous Minister for Health.

GOLDEN DODDER

Mr ROBERTS: My question without notice is to the Minister for Agriculture and Rural Affairs. Will the Minister outline the steps the Government has taken to eradicate the noxious weed known as golden dodder, which is showing a dramatic increase in the Hunter Valley and other parts of New South Wales?

Mr ARMSTRONG: I am aware of the long and abiding interest the honourable member for Cessnock has had in this important problem of golden dodder. The honourable member for Upper Hunter, too, is concerned about golden dodder. This State has a lot of problems at the moment but some have been overcome this morning. There is a bit of a furore out in Macquarie Street at the moment. The former Minister for Agriculture has just received an awful spray from the abattoir workers for saying, according to the papers this morning, that Homebush abattoir should be bulldozed. I notice that the Leader of the Opposition was not out in Macquarie Street for very long. He probably was sprayed well, too.

Mr Knowles: No; he was cheered.

Mr ARMSTRONG: He came back into the House like a rabbit scampering down its burrow.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Macquarie Fields to order for the second time.

Mr ARMSTRONG: Golden dodder was first recorded in New South Wales in 1913. Over the years the plant growth has fluctuated widely depending on seasonal conditions. Major infestations have generally occurred around Lake Brewster, towards the lower end of the Lachlan River, around Forbes on the Lachlan River, Manilla on the Namoi River and at Lake Victoria near the South Australian border. But, more importantly, recently there has been a rapid escalation in the growth of golden dodder in the Hunter Valley. A statewide survey was carried out in 1984, but little infestation was then reported in the Hunter Valley. The major infestations at that time were at Lake Brewster and Towyal State forest. They were treated, and continue to be treated, by the Department of Water Resources and the Forestry Commission. Both of these organizations have a respective interest in this problem.

A special policy on dodder control was issued to all local government councils, which are the responsible authorities for enforcing noxious plant control. That policy set out suggested control strategies and control plans. With the increasing problem in the Hunter Valley, officers of the Department of Agriculture and Fisheries have been assisting local government authorities with publicity about the weed and measures for its control. All honourable members would agree that it is most important when there is a problem such as golden dodder that the community be adequately educated through the local newspaper media and local producer organizations so that it is able to recognize the harm noxious weeds can do to the environment—

[*interruption*]

Mr SPEAKER: Order! There is too much audible conversation in the Chamber.

Mr ARMSTRONG: —and to the productivity of a region. Most infestations of dodder in the Hunter Valley occur on private land and landholders therefore have responsibility for its control. However, local government appears reluctant to enforce control in most instances. In order to help overcome the problem, the Department of Agriculture and Fisheries has instigated discussions with local government and other authorities in the area and is in the process of planning a special campaign for next summer for the control of dodder in the area. I am much in debt to the honourable member for Cessnock, who raised the question, because it gives me the opportunity to say that the Department of Agriculture and Fisheries in a most efficient manner and with its usual foresight proposes to institute the campaign to try to control or eliminate dodder within the Hunter Valley and the other areas of infestation. A planning meeting has been arranged for 22nd June at the Tamworth Agricultural Research Centre to carry out that process. The Government is concerned about the problem, and through the Department of Agriculture and Fisheries and local councils is making a major effort to control the weed next summer.

Unlike its predecessors, who kept the funding for the eradication of weeds on public land static for the past seven years, at \$2.5 million this Government will adequately, properly and responsibly address the problem of weeds on public lands in New South Wales. The Government is not willing to stand by any longer and see one of our best resources—that is land—ravaged by weeds. The former Government was totally irresponsible in the way it allowed weeds to flourish in the State, particularly after the 1981–82 drought. It did not recognize, or was not informed adequately by the former Minister for Agriculture of the devastation that occurred. The Government will address it in realistic terms.

INDEPENDENT COMMISSION AGAINST CORRUPTION BILL

Bill read a third time.

Mr UNSWORTH (Rockdale) [11.45]: I lead for the Opposition on the Industrial Arbitration (Amendment) Bill.

Mr SPEAKER: Order! The honourable member is quite out of order. I thought he was seeking the call for some other purpose. That bill has not been called on.

SUSPENSION OF STANDING ORDERS

Mr DOWD (Lane Cove), Attorney General [11.46]: I move:

That so much of the standing orders be suspended as would preclude the following bills, notice of which was given this day for tomorrow, being brought in and proceeded with up to and including the Minister's second reading speech:

- Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill
- Forestry (Amendment) Bill
- Public Sector Management Bill
- Miscellaneous Acts (Public Sector Management) Amendment Bill

Other than those bills, that will leave one bill to be introduced tomorrow, but that will lie on the table. Standing orders will be suspended to permit honourable members in both Houses to have the opportunity to look at the proposed legislation a day earlier.

Motion for suspension of standing orders agreed to.

SUSPENSION OF STANDING ORDERS

Mr DOWD (Lane Cove), Attorney General [11.47]: I move:

That so much of the standing orders be suspended as would preclude the resumption of the adjourned debate on the following bills:

- Summary Offences Bill
- Justices (Sentencing) Amendment Bill
- Parliamentary Committees Enabling Bill
- Essential Services Bill
- Public Hospitals (Visiting Practitioners) Amendment Bill
- Area Health Services (Visiting Practitioners) Amendment Bill
- Children (Detention Centres) Amendment Bill
- Public Finance and Audit (Amendment) Bill
- Film Industry Bill
- Prisons (Amendment) Bill
- Transport Appeal Boards (Amendment) Bill

I can inform the House that, having dealt with the bills the subject of the previous motion, it is intended that the House will deal first with those matters that remained on the notice paper from yesterday in order to give a little more time, particularly to the Independent members, for consideration of the Summary Offences Bill. The Government will proceed with the remaining bills approximately in order, but leave the Summary Offences Bill until later in the day to allow a little further time. I inform Opposition members particularly that if there is any problem with a particular bill and they wish it to be placed further down the list to allow them more time, as best I can I shall accommodate them.

I wish to repeat how much I appreciate the assistance provided by the Leader of the Opposition and the shadow leader of the House to the Government in a fairly heavy program. In the past I have informed honourable members that the Parliamentary Counsel is available to honourable members who are leading on bills to assist in the drafting of amendments. Some honourable members have already availed themselves of that facility. The Government wants as much as possible to allow amendments that may go to another place to be as elegant as possible.

Mr J. J. AQUILINA (Blacktown) [11.49]: The Opposition expresses some concern about the manner in which bills are being introduced into the House, their number, and the time being made available to the Opposition to prepare adequately its response on many matters of great import to the State. I speak not only on behalf of the Opposition but also on behalf of other members of this Parliament, particularly some of the newer members, who have been somewhat mesmerized by the standing orders and sessional orders and the incredible volume of legislation that has been introduced in this, the first session of the new Parliament. They have expressed concern at not being given an adequate opportunity to prepare a case to present to the Parliament.

Today amendments to the Summary Offences Act are to be debated. That is one of the most talked about items of legislation in the history of this State and is of grave concern to every citizen of this State. Yet honourable members are being given one day to prepare a case in response to that

legislation. A similar practice is being adopted in relation to other historic pieces of legislation, such as the Independent Commission Against Corruption Bill and many others. The Essential Services Bill, which will be debated later today, is a matter of grave importance to hundreds of thousands of people in this State, as it affects their daily lives. Yet honourable members are offered just one day to prepare their contributions to the debate on that legislation.

Yesterday during the debate on the Independent Commission Against Corruption Bill the Premier made the point that the Government was keen to ensure that legislation worked. He said how pleased he was that positive amendments were being put forward which the Government saw fit to accept on that occasion. How is the Opposition or any member of this House meant to propose meaningful amendments, put forward meaningful propositions and prepare a meaningful case if they are allowed only one day to do so? I could remind the Leader of the House and those on the Government benches of many speeches made over many years in which the Leader of the House has made similar statements time and again. Obviously the Opposition is keen to get on with the business of government and to ensure that we are not accused of thwarting the Government in carrying out its mandate and implementing its legislative program.

Everyone reaches the limit of his or her endurance. For two consecutive days honourable members will probably be required to debate legislation until 2 a.m. Today the parliamentary sitting is to be lengthened from 10.30 a.m. until possibly 2 a.m. tomorrow. The same situation could be repeated tomorrow. Also, the number of days of sitting is being increased. We are expected to deal with approximately 40 items of legislation this week alone. Despite the claims of honourable members on the Government side, if they were to examine the statistics of the past few years, they would be lucky to find a week in which this sort of situation has arisen, both in terms of the bulk of legislation introduced and in the time allowed to debate it.

The Opposition is keen to get on with the legislative program. We acknowledge the efforts of the Leader of the House to accommodate the Opposition in many ways. Today, for example, he has moved the Summary Offences Bill from No. 1 on the business program to No. 6 on the program to allow honourable members a few extra hours at least to prepare for that debate. Clearly a few extra hours is insufficient. I warn the Government that Opposition members and other members of this House have reached the limits of their endurance. I sincerely hope that the Government does not present us with any further surprises tomorrow in the way of weighty legislation being introduced and expect the House to debate it later that day or on the morrow.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [11.54]: Memories are short. The Leader of the House is endeavouring to deal with a busy legislative program in a co-operative and humane fashion. There are those of us on this side of the House who can remember the Parliament being recalled for a special sitting to deal with petrol tax legislation. On that occasion, over a period of about 12 hours, the House divided 120 times, which included 60 gag divisions caused by the rabble opposite. That occurred simply because they were not game to sit for a second day and expose themselves to a second question time.

When I was a new and junior member of this House I witnessed my colleagues being compelled to debate legislation introduced without notice and with no co-operation being given by the former Government. The honourable member leading for the Liberal Party in the debate did not even have available

to him a copy of the bill being debated. On one occasion when the former Government handed the late John Maddison a copy of the bill, the gag was moved immediately. We were faced with having to debate legislation without having a copy of it. I recall that in 1985 major reforms—I use the words reforms in the sort of italicized version in the way in which this mob of political charlatans opposite use it—were introduced to the Workers' Compensation Act which dramatically changed the system. They altered the rights of injured workers and disadvantaged injured workers in this State. About 150 pages of legislation were rammed down the legislative throat of this Parliament, and we were allowed four hours to deal with it. On this occasion the rabble opposite are at least getting a fair deal in respect of the legislative program of this Government, as it honours its election promises. That is a distinct change from the appalling standards that they set in government, and they ought to have the decency to admit it.

Mr HATTON (South Coast) [11.56]: We have now heard an excellent set of arguments from both sides of the House for major reform of the way in which important legislation is dealt with. I hope that in the spirit of what has been said that is exactly what will happen. It is not happening at present, but it must happen. That is my first point. Second, I acknowledge what happened last night and I praise the Premier for that. I refer to the Government's willingness to consider Opposition amendments. I praise the Leader of the House for what he has said—and I acknowledge that co-operation and expertise will be offered to the Opposition in framing amendments to legislation. But that does not go far enough in terms of the way in which legislation affects one's constituents and the people of New South Wales.

Everyone realizes that there is a lot of hypocrisy in this place as regards the way in which legislation is dealt with. It is acknowledged that in the first few weeks of this new Parliament there have been pressures. The Parliament will be in recess for some months; Ministers will have the opportunity to get on top of their portfolios. The Government ought to be able to put in train a legislative program of which it can give plenty of notice. In that circumstance we will not experience the usual log jam at the drafting stage, which causes problems, and a log jam will not occur in dealing with the legislation in the House.

There will be time for the Government to consider the establishment of a legislation committee. Complex and important items of legislation would be able to be referred to that all-party committee for examination and detailed report back to the Parliament. Private members' bills should also be able to be dealt with by such a committee. That committee could suggest amendments and would provide a process by which a private member could put a bill before the House in the interests of the people of the State. In my opinion it is not right that the Government of this State, which has won an election with less than 50 per cent of the votes, should have complete control over the legislation program. It has a right to govern; it has no right to dictatorship.

Parliament should ensure that there is an opportunity for Opposition members and Independent members to take the initiative through private members' motions. A committee system would provide a mechanism whereby those private members' motions could be analysed to determine their strengths and weaknesses. Such a committee would report back to Parliament, similar to the system operating in Canada. Eventually the private member's bill would be introduced into the House in a form that could be debated sensibly. I put those suggestions to the Leader of the House. I ask him in all sincerity to consider

during the recess the introduction of those sorts of reforms so that we do have a new broom in this State.

Mr W. T. J. MURRAY (Barwon), Deputy Premier, Minister for State Development and Minister for Public Works [11.59]: Indeed, memories are short. It was not long ago that the present Opposition decided that it would limit the rights of the leaders of political parties to speak in the House. In fact, I recall well that when I attempted to lead for the former Opposition on legislation I was gagged before I had uttered a word. Before the Opposition sheds tears of blood about being given 12 hours or a full 24 hours' notice of legislation being introduced into the House, it ought to remember that not so many months ago it was responsible for creating the circumstance in this House of totally destroying the principles underlying the operations of government in this State.

Mr J. H. Murray: Is the Minister intending to talk on the Wilderness Act?

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

Mr W. T. J. MURRAY: The honourable member for Drummoyne does not reply to ministerial statements because he does not have the ability to do so. He should not talk about making short speeches. When the honourable member has the ability to make a speech, he can then make those comments. Until that time he should recognize what happens in the Parliament. The Labor Party prevented honourable members from speaking in this House and it can have little complaint now about being given 24 hours' notice of an impending debate.

Mr WHELAN (Ashfield) [12.2]: I imagine the present Government has the right to vent its spleen as to why the Parliament did not, prior to 19th March, work the way it wanted. The Opposition has accepted the decision of the jury of 19th March. From this distant position we would like to see a system of real co-operation in the Parliament. The honourable member for South Coast alluded to the incorporation of a committee system. That does not mean a special committee will meet for months at a time. Let me take by way of example amendments to the Summary Offences Act: a parliamentary committee with legal officers of the relevant government departments and the Parliamentary Counsel would provide a draft bill that the Government would consider. If it was acceptable, it could be introduced and the Government could finally use its numbers to crunch it through. It boils down to the fact that the Government has the numbers. It does not have to give notice; it does not have to be contrite; it does not have to be concessional. However, it would permit better debate and give honourable members the opportunity to represent their constituents more effectively.

At 1 o'clock this morning honourable members were treated to the spectacle of the honourable member for Sutherland making his maiden speech. What a shameful introduction to the parliamentary process, that an honourable member should make his maiden speech at that time. It was an excellent speech and I congratulate him. However, yesterday it was made clear how the Government wishes the Parliament to operate. During the committee debate on the Independent Commission Against Corruption Bill, amendments were moved. After explanation and further details the Opposition found that under the spotlight its amendments were not in the same domain as it believed them to be, or did not have the intended legislative effect. They were withdrawn. The Premier acknowledged that that committee stage was the best in which he had

been involved in discussion on a bill in this Parliament. The Opposition is concerned about the dissemination of information to constituents and the understanding of legislation before the House.

I agree with the comments of the honourable member for South Coast who advocated some form of committee system on bills. It may be something that could be examined by you, Mr Speaker, when you look at the question of *sub judice* and other matters to which you have alluded. We should start thinking about establishing a formal committee system of the Parliament that can meet on short notice and deliberate. In this way the committee could make its decision but the Government would have the numbers on the committee and could make its own decision.

The amendments to the Summary Offences Act are now before the Parliament. The Opposition is ready to debate them. We are familiar with the legislation and have been since it was first amended. In the 1970's the Act was amended extensively during the term of office of the Askin Government. Further amendments were introduced in 1979 by the former Attorney General. Later amendments were moved by Attorney General Sheahan. Though the Opposition is ready to debate the measures now, an Independent member of Parliament, intending to make her first speech in this House, asked for more time to which the Attorney General readily agreed. I applaud him for doing so. However, when we get to more complex pieces of legislation with legal intricacies that people do not understand—and backbenchers do not understand the ramifications to themselves, the Parliament or to their electorates—then we are entitled to have greater access to the learned experts who advise the Government. The committee system to which I have referred would assist in that regard.

Mr DOWD (Lane Cove), Attorney General [12.5], in reply: I am disappointed that I should hear from the honourable member for Blacktown the suggestion that there may be more surprises in the legislative program. If there are, they will be a surprise to me as they are to him.

Mr Whelan: That has happened before.

Mr DOWD: Yes, I include that qualification. I have left Cabinet meetings to ring through programs, as I did yesterday. Yesterday I was so helpful that I even gave the Opposition some abbreviated information on the Summary Offences Act. The Government is not attempting to show how much better it is in its administration than was the former Government. There are no more surprises. At times in this Parliament we have had to debate 113 bills in three weeks, not at the beginning of the term of office of a new government immediately after an election, but well into the session. In 1987 we were treated to the spectacle of having Ministers' second reading speeches tabled, which is totally unacceptable. The honourable member for Ashfield has referred to the fact that an Independent member, the honourable member for Bligh, sought more time. I tell the Opposition now that if it wants more time in respect of any of the bills the subject of this motion, they have it. The Opposition can be here Friday of this week and Monday, Tuesday, Wednesday, Thursday and Friday of next week if it wishes. I assure honourable members that my diary is clear for that purpose. I do not say it lightly. If the Opposition wishes, we will sit next week.

Let there be no mistake, the Opposition has had information given to it as soon as I have been able to do so. If there are any problems with matters being adjourned until later today, I will assist. If honourable members wish debate on bills to be adjourned until tomorrow, or if any Independent member wants additional time, those bills can be debated tomorrow. If honourable

members wish it to be adjourned until Friday, it may be debated on Friday. I am trying to find time on Friday to permit a grievance debate. Honourable members will remember that instead of cancelling the Opposition's private members' afternoon last week, as the former Government did on several occasions, I indicated to the Opposition that I would try to avoid that situation. I would have liked those two hours spent last Thursday on private members' motions to deal with legislation. The Government had no control over the tragic circumstances that lost us one day last week. To say we are sitting four days this week to make up that one day is most unfortunate and I do not believe it should have been said.

With two exceptions, the last time a government accepted an amendment in a debate in this House was thirteen years ago. I moved an amendment to legislation introduced by the Government. The Government was not terribly impressed that I did so but, having moved the amendment, it was accepted by the Government. I did it on another occasion also. I did not realize Government backbenchers were not supposed to move amendments to Government legislation, but I did so. It was accepted. Last night the Premier set a stamp on this Parliament by saying that when suggestions were put forward both in Committee and in the House, they would be looked at and if considered to be appropriate, would be accepted. The Opposition should acknowledge that this Government conducts a different Parliament.

Instead of complaining about the Government's dealing with matters today, let members of the Opposition intimate which legislation they would seek to have deferred until next week. There is silence. Let us not have any more nonsense about this. I will accommodate any request by the Opposition to defer matters. Legislation has to go to the other place; we want to give them as much time as possible to prepare for debate on those matters. The Government brought in all these matters this morning, with the exception of the matters that it intends to deal with shortly. The honourable member for Bligh today asked for more time. As a new member, she is entitled to that. I inform the House, as the honourable member for Ashfield complained, that the honourable member for Bligh asked for assistance last week and got it.

Mr SPEAKER: Order! The Minister's time for speaking has expired.

Motion for suspension of standings orders agreed to.

BILLS RETURNED

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

- Higher Education Bill
- Miscellaneous Acts (Higher Education) Amendment Bill
- National Parks (Special Provisions) Bill
- Recreation Vehicles (Amendment) Bill

The following bill was returned from the Legislative Council with an amendment:

- Education and Public Instruction (Amendment) Bill

COMMITTEE DOCUMENTS

Motion by **Mr Dowd** agreed to:

That certain documents relating to the proceedings of committees appointed during the Forty-eighth Parliament be referred to any appropriate committee that may be appointed during the currency of the present Parliament.

JOINT STANDING COMMITTEE UPON ROAD SAFETY

Motion by Mr Dowd agreed to:

That should the House stand adjourned and the Joint Standing Committee upon Road Safety agree to any reports before the House resumes sitting—

- (1) the committee have leave to send the report, minutes of proceedings and evidence taken before them to the Clerk of the House;
- (2) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the order of the House; and
- (3) the documents shall be laid upon the table of the House at its next sitting.

NOISE CONTROL ACT: DISALLOWANCE OF REGULATION

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [12.13]: I move:

That this House disallows the amendment to the Noise Control Regulation 1975 made under the Noise Control Act 1975, as set forth in Government Gazette No. 56 of 18 March 1988.

The regulation in respect of which I move disallowance relates basically to what is known as the hail cannon regulation. As the final symphonic gesture of the 1812 Overture of the Leader of the Opposition before the demise of his ministerial career on 19th March the regulation was gazetted on 18th March. It has the effect of banning future purchases and installation of hail cannons in fruit growing areas of New South Wales. In effect, it will severely curtail by additional regulation the operation of existing devices.

Mr Speaker, as you will be well aware from activities in your own electorate of Hawkesbury, there is uncertainty about the hail cannon. At best, if we were a jury in a Scottish criminal trial, our verdict would have to be not proven rather than either guilty or innocent. A number of these devices have been installed in fruitgrowing areas throughout New South Wales, but particularly in the electorates of my colleagues the honourable member for Bathurst, the honourable member for Burrinjuck, the honourable member for Orange, possibly the honourable member for Blue Mountains, and in your electorate of Hawkesbury.

There is serious concern about the regulation and control of the level of noise that these devices emit and the disturbance they cause in local communities. This disallowance is moved not because the Government does not care about noise problems in those communities but because it believes the noise problems can be addressed adequately by existing provisions available to local councils under the Noise Control Act. Local councils are able, under section 40 of the Noise Control Act, to issue orders setting out the times and frequency of operations of hail cannons, and are able to control the locations where they can be used having regard to times and frequency of operation, in order to seek to overcome problems in the community caused by the operation of these devices, particularly late at night.

The devices do emit frequent and loud noises, occasioning disturbance and disruption in local communities. About 20 of them have been installed in New South Wales—in Orange, Batlow and Glenorie and in the Shires of Cabonne and Hawkesbury. I understand they have been installed in the electorate of my colleague the honourable member for Bathurst. The Government believes there is need for a further period of evaluation before taking a dramatic step such as the death-bed repentance by the former

Government when the present Leader of the Opposition introduced this regulation. It is the contention of the Government that the State Pollution Control Commission will continue to monitor the activities of these devices and the problems occasioned by them, as well as the effectiveness or otherwise of orders made under section 40 of the Noise Control Act. For those reasons the Government believes there should be, as it were, a stay of proceedings on the regulation, and I therefore move for its disallowance.

Mr ROGAN (East Hills) [12.17]: I appreciate the dilemma outlined by the Minister in addressing this question. I now have the same dilemma, having read some material on the hail cannon. There is not much technical information on the device. However, I have read about how the cannon operates. From that reading, it is obvious that the device causes concern and problems for neighbours in close proximity to the properties on which it is used. The State Pollution Control Commission, which is under the direction of the Minister, thought so. It would not have prepared this regulation unless it believed there was concern about the device. It would seem the cannon is fuelled by acetylene gas which is ignited in a cylinder. The cannon fires a shock wave through a funnel-shaped barrel up to 12 000 metres into the atmosphere. The manufacturers of the device say that that has a dewatering effect on clouds in an electrical storm and prevents hail from forming properly. Indeed, the State Pollution Control Commission, as a result of the noise problem, prohibited the sale of the device by placing noise restrictions on it.

I also have a dilemma over the use of this device, because I recognize the problems faced by orchardists in the Orange and Hawkesbury districts. In those areas, at particular times of the year, sudden electrical storms can generate hail, the damage from which can be quite severe to orchards. Only in January this year a report in the *Sydney Morning Herald* referred to an Orange orchardist by the name of Warren Somerville. The article said that Mr Somerville was heartbroken by the realization that he had lost \$200,000 worth of fruit—his entire crop for the year. The article continued:

In the 25 hectares of orchards it has taken his family 60 years to establish, row after row of pears, apples, nectarines, peaches and plums showed signs of hail damage. The fruit was so badly damaged that none of it would be marketable.

I know how I would feel if I were a member of that family, having worked hard and then to see it destroyed by one sudden hailstorm which suddenly appeared and wreaked havoc. My dilemma is that I also am sympathetic to the concern of neighbours, for I am told that these devices can produce noise levels of the order of 120 to 140 decibels at a distance of 100 metres. Health authorities advise that 140 decibels actually causes damage to hearing. I understand that to be effective the cannons need to be fired in quick succession over a period to meet the objective of breaking up the hail and making it virtually form clouds of water.

There has been much debate on the effectiveness of the devices. I suggest to the Minister that he follow the example of authorities elsewhere in the world. When a problem like this arises his department should prepare a white paper so that the efficacy of the devices can be tested. The Commonwealth Scientific and Industrial Research Organization said that from information obtained overseas and its own information there is no evidence to suggest the devices work. There is strong scientific opinion that they do not work. An article in the *Land* newspaper of 22nd January, 1987, reported that the principal noise engineer of the State Pollution Control Commission, Mr Tony Hewett, said:

We have received complaints from residents who live near the orchards and from others who live up to 10 km away because the sound is bounced back from the cloud cover.

The article continued:

CSIRO division of atmospheric research information officer, Willem Bouma, said anti-hail cannons were being sold to desperate people who were anxious to obtain some sort of protection from hail damage.

If I were in their position I would be desperate also and want to obtain any device that might in some way minimize the damage that could be caused to a crop by a hailstorm. As I have told the Minister, I have some doubts about whether the hail cannons are effective but I am guided by the State Pollution Control Commission, which is under the Minister's authority. Obviously the commission felt there was sufficient nuisance or damage being caused to people's hearing to justify the preparation of the regulation that the Minister has now moved to disallow. The regulation is quite technical and obviously a lot of time has been put into its drafting. Balanced against that, one has to consider the plight of people who have orchards. I propose that the Minister's department or the State Pollution Control Commission prepare a white paper for honourable members to consider and that the House then has an informed debate based on good research and documentary evidence as to the effectiveness of the devices and the possible problems to neighbours arising from their use. It might then be possible to determine ways in which these problems can be overcome. The livelihood of orchardists has to be considered as does the health and comfort of those who live adjacent to those properties.

Mr WEST (Orange), Chief Secretary and Minister for Tourism [12.25]: First, I thank my colleague the Minister for Environment for moving the disallowance of this regulation. He has already told honourable members that it was gazetted on the day before the last election. It is interesting that there was no consultation with me as a member representing a constituency in which probably the majority of these hail cannons are used. There was no consultation with the orchardists in the area I represent. Is that open government? The former Government totally ignored the industry and was not prepared to consult with it on a change that would have a major bearing on the future of that industry, which provides many millions of dollars not only to the city of Orange but to the State of New South Wales.

All honourable members are concerned about the effects of the noise produced by hail cannons but they must be consistent. They must weigh the economic advantages to the fruit industry against the effects of the noise of the devices on the people who may be alarmed by it. I acknowledge that it has not been proven that the hail cannons work; on the other hand, it has not been proven that they do not work either. I have heard of one orchardist who was installing a cannon on what appeared to be a relatively fine day. A lone cloud appeared in the sky while the hail cannon was firing. As the cloud came into the range of the hail cannon it actually disappeared. When it moved out of the scope of the cannon again, the cloud reformed. That is the dewatering effect of which the Minister spoke. I know that is not a scientific argument on which to base the future of this equipment. But when huge amounts of money are at risk, not just from the individual orchardist's point of view but from the industry's point of view, we have an obligation to do a more thorough evaluation than has occurred in the past.

The honourable member for East Hills has taken a responsible attitude. However, he referred to the fact that the hail cannon noise reverberates off the clouds. If he had ever been present when hail cannons were going off on a fine day, he would know that the noise echoes around the area. But on a dull day—and that is the only time the hail cannons are used, when there is the potential for hail—the noise is like a dull thud; it does not echo. Honourable members

should be careful to acquaint themselves fully with the problems about which they speak. I know, Mr Speaker, this issue affects your electorate, which is a more closely settled area. Though I have had several objections from residents of the electorate of Orange the number of complaints has been minimal. Over the time that hail cannons have been operating in that region no more than five objectors have raised their concerns with me. People in the electorate say that they do not like the noise, but are willing to balance that against the potential losses faced by individual orchardists.

The honourable member for East Hills in speaking to the motion for disallowance quoted a Mr Somerville from Orange. It would help many honourable members to gain an understanding of the sort of damage a hailstorm can do to visit an orchard after it has been stripped by a hailstorm of the sort we had in January this year and January two years ago. It is frightening. The bark is stripped; the buds are stripped. The fruit is not just damaged; it is actually cut in half. Any fruit that is left on the trees is hit so hard that it rots within a short time. There is no potential for salvage. It is absolutely devastating for the orchardist who has been through the process of spraying, pruning, employing farm workers and carrying out his management program in advance in the lead up to harvesting the crop. His expenditure is incurred up to the point that he is just about to harvest when the crop is damaged by a hailstorm. The only costs he will save in his management program will be not having to pick the fruit and not having to pay for packaging, storage, and transportation. Though that forms a significant part of the cost, he has already expended all his growing inputs.

One might ask why he does not insure against hailstorms. You, Mr Speaker, representing the fruitgrowing area of Hawkesbury are well aware—and I have had discussions on this subject with my colleague the Minister for Environment and Assistant Minister for Transport—that if an insurance scheme could be made available, orchardists would support it. When I was involved in the industry 20 years ago we did insure, but it reached the point where the premiums became so prohibitive it was impossible to continue. The insurance companies jacked up the premiums. Then they started to say, “We will give you hail insurance but we want all your other general insurance as well”. They really started to drag everything in and get everything they could. Then they would say, “If you have a hail damage claim and you sustained 60 per cent damage, we shall take off the first 30 per cent as we think you should not be allowed to claim 60 per cent”. They always discount off the top. If an orchardist sustains a 60 per cent hit, he will get paid only for 30 per cent. What is the point in paying an expensive premium to get that sort of return on insurance? The cost of insurance has become prohibitive.

Maybe the orchardists in this State are desperate, but they are desperate to try to protect their livelihood, their crops. On this occasion the Minister is saying, “Let us have a decent inquiry. Let us talk with the people who are involved in the industry—the operators, the orchardists”. What annoyed me so much about the regulation was the absence of consultation with either the orchardists in my electorate or me as the member representing that constituency. We might say that the Government does not talk to members of the Opposition, but I hope that this Government will try to show that it will operate in a totally different way. Honourable members are elected by their constituents to represent them in this Parliament.

The coalition parties have been elected as the Government, and are extremely happy to form the Government of this State. The Government will recognize that members of Parliament have rights to represent their constituents

in this House. In future I hope that all members of Parliament will take that into account. It is not to the former Government's credit that it ignored totally any consultation on this matter. I commend the Minister for the decision and look forward to the consultation that I know all honourable members will be able to become involved in as the debate proceeds.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [12.33], in reply: I shall reply briefly and thank the honourable member for East Hills for his support and understanding that the position is not proven on a scientific basis and further evaluation is needed. I thank my ministerial colleague the Chief Secretary and Minister for Tourism who, as the honourable member for Orange, represents a significant fruitgrowing area and has had a wealth of experience over many years as an orchardist. I am able to say that at least in the past he has grown superb apples that my family and I have enjoyed. It would be a pleasure to assist him to protect his crop if he were still harvesting in the Orange area rather than in the political arena.

My colleagues the honourable member for Burrinjuck, you, Mr Speaker, in your own electorate of Hawkesbury, the honourable member for Bathurst, and the honourable member for Blue Mountains, who also has a wealth of experience as an orchardist, are all aware of the devastation that can be occasioned to orchardists by hail damage. Though there is no certainty that the machines work, there is certainly a need for further knowledge and experimentation with them. Equally, as my ministerial colleague remarked, there is a need for consultation if changes are to occur that will dramatically alter the operation of an industry, particularly in fragile economic times in rural industries.

I give a commitment on behalf of the Government that no further changes in this area will occur without grower organizations in places like Batlow, Orange, Hartley, the Hawkesbury district, which you, Mr Speaker, represent, and all the parts of Bathurst that are affected, having the opportunity to speak with me about those matters through their local members. There is a clear need, however, to have and to retain an ability to control obnoxious side effects that might be occasioned by these devices. Local councils will retain the power under section 40 of the Noise Control Act to issue orders that set conditions for timing and hours of operation of them. The Government believes that at least while further evolution goes on there is a need for those controls to be available to the local community. It does not believe that the total prohibition of future installations, which is envisaged by the regulations to be disallowed, is appropriate, however.

Motion agreed to.

STATE TRANSPORT (CO-ORDINATION) AMENDMENT BILL TRANSPORT (AMENDMENT) BILL

Bills introduced and read a first time.

Second Reading

Mr BAIRD (Northcott), Minister for Transport [12.37]: I move:

That these bills be now read a second time.

The object of the legislation before the House is to amend the State Transport (Co-ordination) Act and the Transport Act in order to remove restrictions on the issue of licences for the operation of long-distance bus service and tourist and charter services. For decades the Department of Motor Transport, in accordance with the policy of successive governments, has refused to authorize bus services which might compete with an existing passenger service, whether road or rail. In relation to long-distance passenger transport, the purpose of this policy has been to avoid possible competition with the New South Wales Railways. As a result few long-distance coach services have been available to prospective travellers. Long-distance coach services connecting Sydney with Ballina, Port Macquarie, Broken Hill and Cessnock were commenced in the early 1970s—during the time of the last coalition Government. The Wran Government, with its negative policy of suppression of competition with rail, did not license any further similar services.

People with inadequate transport often had interstate and express buses passing close to their homes but it was illegal for them to be carried on those services. Many bus operators were willing to provide long-distance services, but they could not obtain a licence. This was so even at such places as Albury and Tweed Heads, thus residents were forced to cross the border to catch a bus to Sydney. Clearly this was an absurd situation. It was obvious to people how easily their position could be improved. It was just as obvious to tourist organizations that improved transport would assist the development of their areas. The former Labor Government remained fearful of competition with rail. It was only in November 1986 that trials of competitive bus services between Sydney and centres on the North Coast, and between Sydney and Canberra were permitted. In April 1987 a further trial of competitive services was commenced between Sydney and the South Coast. This was a severely limited trial in that the Nowra area was not included. The closest South Coast region having a direct bus service to Sydney was Milton-Ulladulla—a further demonstration of the previous Government's determination to suppress potential competition with the railways.

The Federal Bureau of Transport Economics evaluated the Canberra and North Coast trials and identified significant benefits to the travelling public. The bureau did report some loss of revenue by the State Rail Authority resulting from competition. The bureau also reported, however, that despite the losses in revenue the rail management did not respond to price or service competition. The Government believes that one factor which will result in the State Rail Authority becoming more efficient is the need to compete. The Government will both encourage and allow the SRA management not only to respond to competition but also to take the marketing initiative. In this way rail services will find their true market-determined role in long-distance passenger transport, rather than being propped up by restrictive legislation. This restrictive legislation has acted to the detriment of the people of this State both in relation to transport and the use of public resources. It is clear that the benefits to the travelling public and tourism outweigh any possible loss of revenue to the SRA. An extensive review of the trial long-distance bus services by the Department of Motor Transport found:

The quality of service of intrastate long-distance bus services has been severely curtailed because of the restrictions on competition.

There is no justification for restricting competitive long-distance bus travel on the grounds of safety or comfort.

A competitive industry will assist in the economic development of the State and, in particular, tourism.

Unless exceptional circumstances exist, protection of existing rail and bus services, at the expense of the travelling public and other State interests, cannot justifiably be the basis for policies determining the future direction of the long-distance transport needs of the State.

The trials of competitive services have demonstrated that benefits to the travelling public from greater competition include: lower fares; higher frequencies and a better spread of services; more direct services; and better accessibility to services.

The removal of restrictions on the issue of licences for long-distance bus services is to be accompanied by removal of restrictions on the issue of licences for charter and tourist services, other than those operated wholly within the metropolitan transport district. The main feature of these bills is that the Commissioner for Motor Transport will no longer need to consider prevention of competition or protection of existing services. In future, these matters will be disregarded when he deals with licence applications for services which carry all passengers for distances of 40 kilometres or more, or when used for charter hire or tours which extend beyond the Sydney metropolitan area. This area will be prescribed by regulation for the purposes of this new provision.

In order to offer further freedom for people to travel in this State, the bills provide that passengers will be able to tranship from one long-distance service to another where the total journey is 40 kilometres or more. The change does not affect local bus services, or services which carry passengers on journeys wholly within the metropolitan transport district. This takes in generally the larger Sydney and suburban area. At present a long-distance bus is required to have a licence under the State Transport (Co-ordination) Act, and this requirement will continue. Under the Transport Act as it stands, however, the operator of a long-distance bus service which entered Sydney, Newcastle or Wollongong would be required to obtain a further licence—a service licence. Any usefulness that a service licence might have relates only to local route services in the metropolitan Sydney, Newcastle or Wollongong transport districts. The bills before the House therefore provide that services which do not begin and end in the one transport district may be exempted from the need to have this additional licence.

Another legislative requirement which restricts the licensing of long-distance bus services is the requirement that buses be registered in this State before they are licensed. Many long-distance services which would carry passengers within New South Wales can be operated most economically and effectively as part of an interstate service. Many of the long-distance buses operating in the very successful trials of competitive services were registered in other jurisdictions. Continuation of the requirement that such vehicles be registered in New South Wales before they can be licensed would seriously undermine our efforts to provide the best long-distance passenger transport for the people of this State.

The requirement that all licensed buses be registered in this State has been in the State Transport (Co-ordination) Act since it commenced 57 years ago, when transport arrangements were very different. As I have explained, this restriction is clearly no longer appropriate to long-distance buses. Accordingly, the bills allow a bus which is registered in another jurisdiction to be licensed subject to the safeguards that the Commissioner for Motor Transport is satisfied that the bus is safe and that passengers and other persons are covered for compensation in the case of personal injury in an accident.

The bills require the Commissioner for Motor Transport, if he is not otherwise satisfied that arrangements have been made for the compensation of injured persons, to require that a TransCover contribution be paid before the

bus is licensed. For this purpose, the bills contain a minor amendment to the Transport Accidents Compensation Act. The passage of these bills will fulfill the Government's election pledge to remove unnecessary restrictions on bus services. This will benefit people who wish to travel within New South Wales, the tourist industry and State development generally. I commend the bills.

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

PUBLIC SECTOR MANAGEMENT BILL
MISCELLANEOUS ACTS (PUBLIC SECTOR MANAGEMENT)
AMENDMENT BILL

Bills introduced and read a first time.

Second Reading

Mr GREINER (Ku-ring-gai), Premier, Treasurer and Minister for Ethnic Affairs [12.47]: I move:

That these bills be now read a second time.

The main purpose of these bills is to abolish the Public Service Board and to devolve its functions to department heads and to a proposed public employment industrial relations authority. Department heads will become responsible for many of the day-to-day management functions formerly exercised by the Public Service Board, and the public employment industrial relations authority will take over those functions formerly exercised by the Public Service Board relating to industrial matters.

These bills form part of the Government's long-term strategy for restoring integrity and efficiency in public administration in this State. Twelve years of Labor Government have resulted in a lack of confidence in our public institutions and officials. This was recognized by the former Government when it commissioned David Block to review the functions and operations of the public service. But it was too late. Twelve years of maladministration had taken their toll and the community had made up its mind. The coalition Government was elected with a mandate to clean up the administration of the State, and the bills before the House today represent practical measures which will ensure that the public and the Government receive the standard of service to which they are entitled and, indeed, expect.

Let me make it clear that we are aware that the changes proposed by these bills will not do all that is necessary to bring public administration up to date, to restore integrity and to build into it a continuing responsiveness to the changing demands of the Government and the community. This process will require time and effort. The coalition Government is committed to reducing deterrents to efficiency such as excessive centralization, rigidity and inflexibility. The bills before the House represent only part of a systematic reform which will rejuvenate public administration in New South Wales and restore community confidence in the integrity of that administration.

Other measures which we will be introducing at the appropriate time include a senior executive service in the upper levels of the public sector and changes to the current public sector promotion appeal systems. The Government is not satisfied that the present system is either justified or necessary, and in fact the Government's concerns were recently echoed by Sir William Cole, a former chairman of the Commonwealth Public Service Board. Speaking at the

recent ANZAAS conference in Sydney, Sir William expressed the view that a system which made it difficult to promote or demote public servants without risking costly and time-consuming appeals was a major contributing factor towards inefficiency in the public service. The 1976 Coombs Royal Commission on Australian Government Administration came to a similar conclusion. Both the introduction of a senior executive service and a review of appeal procedures are presently being undertaken by the Office of Public Management within my administration.

Dr Peter Wilenski, in his review of New South Wales Government administration in 1977, recommended that accelerated efforts should be made towards greater department self-management. He concluded that the Public Service Board should develop an advisory role rather than a supervisory role in order for this to be achieved. Unfortunately, in the years since 1979 the board has not been content with the advisory role envisaged for it. Senior managers have still not been given the power to effectively operate their departments. This devolution of power is seen as fundamental to improved efficiency, responsibility and accountability. The Public Service Board, by assuming the role that it has, has tended to derogate from the ability of senior managers to get on with the job of managing. That really is what this legislation is about: it is about allowing the managers to manage.

David Block, in his recent report on New South Wales government administration, was critical of the role which the board has played. He concluded that the board has actively developed a range of policies and guidelines which have impinged on the ability of department heads to carry out their management responsibilities. He found also that the board's isolation from the problems of day-to-day management and its distance from the economic and political constraints on operational areas have led to the questioning of the relevance of many of its functions. The abolition of the board and the return of powers to department heads will reduce this unnecessary interference in the day-to-day operations of departments and will encourage senior management to take greater responsibility for their management decisions.

The bills provide also that I, as Premier, will have responsibility for the overall efficiency and effectiveness of the public service. This will include responsibility for management reviews, which were formerly known as efficiency audits, and for the monitoring of personnel policies and practices. David Block concluded in his review that these were areas where the board had failed to achieve results. The board's isolation from day-to-day management problems led to much of its advice in these areas being either unworkable or irrelevant. I will be assisted in my task by a management council and by the Office of Public Management. The council will be constituted by the Director of the Premier's Office as chairperson, the director of the Cabinet office, the Secretary of the Treasury, secretary of the Department of Industrial Relations and Employment, a department head, who will be rotated every two years, and a member of the public with experience in management at a senior level.

The Office of Public Management, which will be headed by the Director of the Premier's Office, will provide leadership and co-ordination in programs relating to management assessment and management improvement. It is totally appropriate and necessary that the task of management improvement and responsibility for management improvement be concentrated in the office of the Premier. The Office of Public Management will carry out management reviews, program evaluations, develop management policy and develop and monitor personnel policies and practices and assist the Government in the organization and administration of the public sector.

The Coombs Royal commission identified a number of problems which handicap the effective use of resources in government, which include: the failure to identify clearly the responsibilities of departments and agencies; a failure to assess the adequacy with which these responsibilities are performed; and a failure to provide means for holding them accountable for these responsibilities. The management council and the Office of Public Management will help ensure that all public sector organizations are aware of their responsibilities and are accountable for them. The bills provide also for the creation of the Public Employment Industrial Relations Authority which will take over the industrial relations functions of the former board. The authority's affairs will be managed by the secretary of the Department of Industrial Relations and Employment. The authority will be subject to the direction and control of the Minister but not in connection with matters involving the determination of salaries and conditions of employment and disputes relating to industrial matters.

For the benefit of honourable members I will now explain some of the main features of the bills in greater detail. The Public Sector Management Bill provides for the division of the public service into the special division and into such other divisions, if any, as may be prescribed by regulations under the proposed Act. This is a significant departure from the former Public Service Act which required all employees to be classified by the Public Service Board into one of five separate divisions. The continued existence of the divisions was seen by Dr Wilenski more than a decade ago as an effective barrier to mobility in the public service. Much of the significance of these divisions has been lost in the ensuing years and the continued categorization of employees into divisional structures is seen as an unnecessary anachronism.

It is intended also that department heads should be free to determine their own administrative structures and be empowered to create, abolish and otherwise deal with staff positions within their departments, subject to budgetary and staff number constraints imposed by the Treasury. However, department heads will be required to classify and grade each position only with the approval of the industrial authority. Appointments to positions in the public service will be based on merit and merit alone. Merit is to be determined by reference to abilities, qualifications, experience, standard of work performance and personal qualities and will be the only criterion for appointments to the public service. Seniority will no longer be a relevant factor in promotion decisions.

The functions of the Premier under the proposed Act include that of securing the overall effectiveness and efficiency of the public service. In practice I will carry out these responsibilities with the assistance of the new management council and the Office of Public Management to which I referred earlier. As I have previously indicated, the bill provides also for a corporation to be constituted as the Public Employment Industrial Relations Authority. The secretary of the Department of Industrial Relations and Employment will manage the affairs of this authority. The principal functions of the authority will be to fix salaries and to represent the Crown, as employer, in industrial proceedings. It is considered that these are areas where co-ordination and consistency of approach are necessary and this could not be achieved without some measure of centralized control.

The bill provides also that breaches of discipline by officers other than special division officers will be dealt with by the appropriate department head in accordance with regulations setting out procedures to be adopted in relation to such matters. Under the former Public Service Act these matters were largely dealt with by the Public Service Board. It is considered, however, that this was too often used as an excuse for not dealing with discipline problems.

Department heads, as responsible senior executives, are the most appropriate people to deal with these matters. They will be empowered to impose punishments in respect of breaches of discipline, including a fine, caution, reprimand, demotion or dismissal.

However, I wish to make it clear that existing rights of appeal to the Government and Related Employees Appeal Tribunal in relation to these matters will not be affected. The bill provides also that the Governor-in-Council will be empowered to remove a term appointee from office at any time. However, there will be certain necessary exemptions from these provisions. For example, the provisions will not apply to judicial officers and certain officers who may only be removed following a resolution by Parliament. The provisions will not apply to the commissioner of the proposed Independent Commission Against Corruption, the Ombudsman, the Crown Advocate, the Auditor-General and other term officers holding crucial positions.

Where a term officer is so removed, the person will be entitled to be re-appointed to a position in the public sector, where he previously held such a position, or will be entitled to compensation. The maximum compensation payable will be an amount equivalent to the person's gross salary for one year and the compensation will be assessed by the Statutory and Other Offices Remuneration Tribunal. The positions that these provisions cover are key senior positions vital to the implementation of the Government's policies. People will be appointed to these positions on merit but should not be entitled to a security of tenure which would not necessarily apply if they were to occupy senior positions in the private sector. An obvious example is the current search for a permanent executive head for the State Rail Authority.

In order to permit governments in the future to act in a more flexible and more commercially sensible way, it is necessary to recognize clearly the Crown's traditional power to dispense with the services of persons in key public sector positions. These people will not be able to rest on their laurels. My colleague the Minister for Industrial Relations and I have had consultations with representatives of the Public Service Association and the Professional Officers Association about the legislation before the House. The Government has been happy to discuss the terms of the legislation with these employee representatives and, in fact, has been pleased to take up certain amendments they have suggested and we have invited them to make further submissions on matters of concern to them.

Both associations expressed some concern that the measures in the bills would result in major changes to the conditions of employment of public servants, many of which are enshrined in regulations under the current Act. Let me say that this Government is an open government, unlike its predecessor, and does not seek to clandestinely alter such rights. The unions may be assured that new regulations will not be promulgated without prior consultation and discussion. I wish also to make it clear that it is not intended that the legislation will alter any existing awards and agreements, and specific provision has been made in this respect. These bills reflect the commitment of the Government to systematically review and reform public sector management in the State and to improve the quality of services provided both to the Government and to the community.

An effective partnership between the elected Government and its senior officials is fundamental to effective government. We are aware also of a real need to strike a balance between equitable employment practices and the need to operate efficiently. There must be and there will be greater recognition and

reward for skill and merit in the public sector and there must also be power to penalize failure. Accountability and restoration of community faith in public administration and public institutions in this State were a major component of the coalition's election platform. Not only do we have a clear mandate to pursue this goal, but also we have a strategy for achieving it. These bills form an important—in fact an integral—part of that strategy. I commend the bills.

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

[Mr Speaker left the chair at 1 p.m. The House resumed at 2.15 p.m.]

FORESTRY (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr CAUSLEY (Clarence), Minister for Natural Resources [2.15]: I move:

That this bill be now read a second time.

The purpose of this legislation is to amend the Forestry Act 1916 with specific reference to the financial arrangements relating to the banking and expenditure of forestry revenues. Among other measures, the broad provisions of the Forestry Act establish the Forestry Commission as a commercial undertaking. Notwithstanding the fact that the commission has a charter, which is in greater part commercial, pursuant to section 12 (1) of the Forestry Act, all the revenues of the commission are now paid into the Consolidated Fund, thus placing the commission within the inner budget sector.

Further, section 13 (2) of the Forestry Act at present permits the Forestry Commission to apply only 50 per cent of its revenues to the purposes of the Forestry Act. This is its primary source of finance. Supplementary funding of forest works is by way of the commission's borrowing from the Treasury Corporation, which is in effect a second source of finance approximately equal to the primary source. For the purposes of its non-commercial activities a third stream of funding is by way of the Consolidated Fund. These arrangements have led to unduly complicated accounting procedures and have tended to obscure the viability of the commission's commercial enterprise components. The principal object of the bill is to put the commercial components of the Forestry Commission's operations within the outer budget sector so as to permit the commission to operate substantially on its own revenues from 1st July, 1988. It is proposed that funding of the Forestry Commission's non-commercial activities will still be recognized by a line item in the inner budget sector.

A consequence of the amending provisions I now introduce will be that ministerial approval will no longer be necessary, based on evidence as to soils, climates, etcetera, in respect of expenditure on afforestation where exotic species of timber are to be grown. This is an old provision pre-dating the vast experience of the past five decades. Repeal is consistent with an enhancement of the commission's commercial charter and is based upon the fact that the commission now has great experience in matters relating to the growing of species of timber originating from countries overseas. I turn now to the dividend provisions of the new section 14A to be inserted in the Act. This section provides that the commission shall pay into the Consolidated Fund a dividend out of net surplus in any financial year. The dividend, if any, will be determined

after consultation between the Minister and the Treasurer and will only be paid subject to maintenance of adequate solvency margins by the commission. I commend the bill.

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

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [2.19]: I move:

That this bill be now read a second time.

The bill seeks to address the chronic underfunding of the coal and oil shale mine workers superannuation scheme, which is an industry-wide scheme established by statute to provide superannuation cover for all coalmine workers in New South Wales. The scheme is wholly financed by contributions of coalmine workers and colliery proprietors on a 1 to 3 ratio. Contributions and benefits in this somewhat egalitarian scheme are structured on the mechanical unit rate, or MUR, which is equivalent to a coalminer's basic weekly award wage. All contributors make the same contribution to the fund and receive the same benefit relative to service, regardless of status or actual salary. The scheme is administered by the Coal and Oil Shale Mine Workers Superannuation Tribunal, comprising equal numbers of union and proprietor representatives, under the chairmanship of the secretary of the New South Wales Superannuation Office. Though the Government provides the administrative staff for the scheme through the New South Wales Superannuation Office, I emphasise that the Government's only role is to facilitate the scheme's administration. The Government does not provide any subsidy or funding guarantees to the scheme and cannot be asked to bail it out should it get into financial difficulty.

The financial viability of the scheme, which commenced in 1941 as a pension scheme funded by employers on a pay-as-you-go basis, has been a cause of concern to the industry since its inception. In 1978 the scheme was amended to provide lump sum benefits. At that time it was intended that the scheme should become fully funded by the payment of a special employer levy of 5.5 per cent of the MUR over a 10 year period. However, due to the combined effects of salary inflation, an unacceptably high incidence of ill health retirement, and a substantial reduction in contributor numbers, the expectation of full funding within 10 years has not eventuated and the unfunded liability has continued to grow, roughly in line with inflation, from \$326 million in 1978 to \$611 million by June 1987—on costings undertaken by the Government Actuary over this period. During the same period, the assets of the fund increased to only \$63 million by April 1988, which is not even sufficient to cover the total employee contributed equity in the scheme. Thus, despite the continued payment of the special employer contribution of 5.5 per cent of mechanical unit rate, the funding of the scheme continues to be only marginally better than the pay-as-you-go basis which existed prior to 1978. Clearly the 1978 changes and the resultant contribution rates have proved to be inappropriate.

I am sure all honourable members will share my concern at the precarious financial state of the fund. Given the current contribution rates and benefit structure, the Government Actuary has estimated that it would have taken a ludicrous 49 years to amortize this huge unfunded liability assuming that the current number of contributors, that is 17 500, remains constant. Even more alarming is the prospect that if the number of contributors falls below 16 000 the total contributions to the scheme, including the employer's special levy, would be insufficient to even meet emerging benefits each year—a recipe for disaster. I am sure that honourable members will agree that something has to be done immediately to address the problem. The situation cannot be allowed to stagger on to financial oblivion—as the previous Government seemed to be prepared to accept. Further action is needed now.

In recognition of this situation, one of my first acts as Minister was to advise the industry that an immediate solution was needed and that it was my intention to introduce legislation to address the problem in the current parliamentary session. This legislation honours that undertaking. The speed of this Government's response stands in contrast to the record of the previous Government, which failed to address the problem throughout its 12-year reign. Though the previous Minister did, belatedly, establish an industry working party in March 1987 under the chairmanship of the secretary of the superannuation office to address the problem, it is a sad fact that under that Minister's direction no real progress was made. It is acknowledged that the deliberations of this working party were proceeding at a difficult time with severe economic and industrial problems besetting the industry. This tended to polarize the views of the parties and militate against finding a negotiated solution. Nevertheless, I feel that the previous Government failed to give the necessary direction to the industry to facilitate a satisfactory solution being found.

This bill contains amendments to the miners' scheme which represent a compromise between the positions taken by the national liaison committee of the Miners' Federation and the New South Wales Coal Association of colliery proprietors. Though it has been past practice that amendment of the scheme would not be undertaken without the full agreement of both parties, in this instance the Government has been forced to act in the interests of the contributors to the miners' scheme to implement changes which secure the financial viability of the scheme and which will allay the fears of the contributors about the security of their superannuation benefits. The basis of the proposal contained in the bill is that full funding of the scheme must be achieved either by increased contributions or by a limitation on benefits or a combination of both over a 23-year period, that is by the year 2011. It is felt that this time frame represents a reasonable compromise given the size of the unfunded liability currently facing the fund.

An additional 1.75 per cent of the mechanical unit rate, that is \$7 per week, will be paid by employees until such time as the scheme becomes fully funded. When combined with the 5.5 per cent of the mechanical unit rate currently being paid by employers, which will continue to be paid until the year 2011, it is anticipated that the unfunded liability will be amortized over the next 23 years, given an anticipated 16 500 contributors. Should this level of funding be considered, on the basis of triennial actuarial valuations, inadequate to achieve full funding by 2011, the Minister will be empowered to vary, by regulation, either rates of special contribution of employers and employees or lump sum benefit limits, or both, to achieve full funding.

To address the unacceptably high cost of invalidity benefit claims on the fund, two new disability benefits will be introduced: a total and permanent incapacity benefit which will provide benefits to mineworkers who are unable to undertake any remunerative occupation as a result of an injury incurred while engaged in the coalmining industry; and a partial and permanent incapacity benefit which will provide benefits to mineworkers who are unable to continue working in the coalmining industry as a result of injury, but who could find employment in other industries. These benefits replace the previous single benefit for disabled mineworkers which provided a benefit based on actual service and prospective service to age 60. The total and permanent incapacity benefit will provide a benefit based on actual service and prospective service to age 55 which is the early retirement age in the scheme. This is in line with the practice in both private and public sector superannuation schemes and prevents members who wish to retire early from selecting against the scheme by applying for a disability benefit. The partial and permanent incapacity benefit will provide a benefit based on actual service only. This is also in line with the type of benefits provided in the new public sector superannuation schemes in New South Wales and a number of private sector schemes. The benefit will allow more rational assessment of benefit entitlement for mineworkers who have suffered a disability which prevents their remaining in the coalmining industry, but which would not prevent their engaging in work in other industries.

It is intended that the introduction of these changes to invalidity benefits will have a substantial impact on the unfunded liability of the scheme by removing the potential for mineworkers to leave the industry with full benefit entitlements to age 60 and then seek remunerative employment in another industry. It is proposed also to make some minor improvements in the areas of death benefits and eligibility for retirement and resignation benefits. Further, it is proposed that scheme membership will be compulsory for all mineworkers, including women. Previously women have effectively had the option of not joining the miners' superannuation scheme. Their membership will now be compulsory as it is for men. Death benefits for spouses will be improved to provide for a minimum payment based on 240 months service or actual service if it is greater. This benefit will be extended to the widower of a deceased mineworker as well as to the widow as at present. The definition of spouse will also be extended to include *de facto* spouses as in the new New South Wales public sector schemes. The benefit which is paid to the estate of a deceased mineworker who has no dependants will now be based on actual service in the industry rather than the present refund of contributions with bank interest. I have given the national liaison committee of the unions an undertaking that the question of further increases to spouses' benefits in the case of mine fatalities will be considered as part of a general review of workers' compensation which will be undertaken at my request over coming months.

Mineworkers who are engaged in the industry when they retire at age 60 can be denied a retirement benefit because they fail to satisfy an arbitrary rule regarding continuous service in the industry for 10 years prior to retirement. These mineworkers will now be able to collect a retirement benefit based on their actual service in the industry in the period immediately before retirement. In the past there have been situations in which contributors having left the coalmining industry have been denied a refund of their contributions because they have not met requirements regarding length of service, or because they have failed to request a refund within 12 months of exit from the scheme. These inequities will be removed with this legislation.

Also in regard to the refund of contributions, the scheme will in future provide a rate of interest which is determined having regard to the earning rates of the fund, instead of the comparatively very low Commonwealth Savings Bank interest rates currently in use. The changes I have outlined have been devised to provide the structure to ensure the full funding of the miners' superannuation scheme over a 23-year period, and to satisfy the legislative requirements of the Commonwealth's anti-discrimination legislation and the Insurance and Superannuation Commission regulations. They have been devised through a process of consultation with all of the various parties involved, and it has been accepted by the Government that their implementation is necessary for the establishment of the scheme on a sound financial footing.

The proposals are also expected to facilitate the finalization of negotiations between the parties in the industry for the introduction of a separate accumulation style scheme. This scheme, to be established by trust deed, will accommodate the \$14 a week productivity allowance, previously awarded by the Coal Industry Tribunal in response to the 3 per cent productivity issue. I stress that there is no cost to the Government in implementing the changes proposed in the bill. Finally it should be noted that, following the federal Treasurer's economic statement of 25th May, 1988, the impact of proposed changes to taxation treatment of superannuation funds is still being assessed. These changes will necessitate a complete review of the coal industry scheme, along with all public sector schemes, and may require substantial changes to the benefit and contribution structure of the scheme in the future. I commend the bill.

Debate adjourned on motion of **Mr Unsworth**.

INDUSTRIAL ARBITRATION (AMENDMENT) BILL

Second Reading

Debate resumed from 31st May.

Mr UNSWORTH (Rockdale) [2.35]: I lead for the Opposition in this debate on the Industrial Arbitration (Amendment) Bill. The bill contains four principal provisions. The Opposition accepts the validity of a number of those provisions. The Minister said it was intended to repeal the provisions of section 88B, that section having become obsolete. The Opposition has no objection to that. The Minister further seeks to repeal the provisions of section 88FA, and to this the Opposition has serious objections to which I will later refer.

The bill further proposes that the President of the Industrial Commission should have statutory power to consult with the heads of other arbitral tribunals, both federal and State. The Opposition recognizes the validity of that proposition. There is already statutory provision which enables the president to confer with the president of the federal tribunal for the purpose of ensuring co-ordination between determinations of the State Industrial Commission and the Conciliation and Arbitration Commission. The result of an extension of this procedure would be to enable the President of the State Industrial Commission to confer with the presidents or chairmen of tribunals in the other States. Again, we accept the validity of that proposal and believe it will bring about a greater degree of co-ordination in the setting of salaries for classifications of employees in the various States whose conditions of employment are determined by the States' tribunals. The fourth proposal would give the President of the Industrial Commission a greater degree of flexibility when determining the composition of full benches of the Industrial Commission. The existing provision requires

that in some matters the commission must be comprised of judicial members and a conciliation commissioner and, in other matters, there must be a non-judicial member and a conciliation commissioner. The effect of the proposal will be to enable the President of the Industrial Commission to exercise absolute discretion in determining the structure or composition of the full bench.

In this regard I raise with the Minister a couple of points. In effect, the provision will eliminate the requirement for the use of non-judicial members of the commission. There are two such persons, Deputy President Varnum and Deputy President McMahon. In discussions, the President of the Industrial Commission has made the point to me, and no doubt to the Minister as well, that with Deputy President Varnum exercising most of his responsibilities in the Hunter region it is not always possible to have him come to the Sydney metropolitan area to participate in sittings of the full bench. That leaves only Deputy President McMahon available to sit as a member of a full bench. I point out that there were three non-judicial members of the commission. We had Deputy President Wells, formerly the senior conciliation commissioner. He held that office for many years and met the required criteria for appointment to the post of deputy president, though unfortunately rather late in his career.

It seems to me that some of the difficulties in comprising full benches have been brought about by virtue of the fact that there are insufficient deputy presidents. I might say—and the word around town is—that there will not be any more difficulties. It has been suggested that the two vacancies to be filled in the Industrial Commission, the vacancies created by the retirement of His Honour Mr Justice Liddy and Deputy President Wells, will be filled by judicial members, if that has not already been done by Cabinet. I am not aware of what the Minister and the Attorney General may have determined in this regard.

If that is the case, it is a pity. The wealth of experience provided by the presence of deputy presidents as members of the Industrial Commission, which is not necessarily obtained by people who have come up through the traditions of the professions of solicitor or barrister, would be lost to the industrial determination process. I say that as one who has appeared before the Industrial Commission for more than a quarter of a century and at a time of full pomp and circumstance when one was confronted at every proceeding that one attended—even at a compulsory conference—with wigged and gowned judges. They created an environment in which the average worker attending the proceedings as a union delegate or as a witness in the proceedings was totally confused. Many workers thought they were being brought there to be tried for murder rather than to assist in the resolution of an industrial dispute.

Mr Kerr: Is the honourable member serious?

Mr UNSWORTH: A young fellow like the honourable member would not know much about that, but that was the situation that applied in the Industrial Commission back in the 1960s. It is to the credit of the former President of the Industrial Commission, the Hon. Sir Alexander Beattie, that he dispensed with robing in the commission and, as a result, created a more informal situation that was conducive to the environment necessary to resolve industrial disputes. For many years the Australian Conciliation and Arbitration Commission has benefited from the appointment of people who had that lay experience. Many deputy presidents of the commission who have served over the years have provided a wealth of knowledge and the benefit of other disciplines. I am talking about such people as Professor Joe Isaac, who served for many years as a member of the commission, Deputy President Riordan, who was a Minister in the Commonwealth Government and served with distinction

in the New South Wales public service, and others who have come from the trade union movement who have had the necessary experience to serve as deputy presidents in the Commonwealth area.

If honourable members look at the composition of the Commonwealth commission, they will see that it still has a number of legally qualified deputy presidents—people such as the President himself, the Hon. Barry Maddern, Mr Justice Ludeke, who came from New South Wales, and others—so that there is a mix of experience. It will be a pity if the Government fails to understand the benefit of that and takes refuge in the amendment that will make it much easier to compose full benches. There will be no requirement to have a non-judicial member on the bench and the full bench may be composed of one conciliation commissioner and two other members of the commission.

I say no more than that but merely suggest to the Minister, as he would be aware, that the decision to appoint the members of the commission is not necessarily his decision; it is a Cabinet decision, but the recommendations come from the Attorney General. In those circumstances, he should be mindful of the responsibility of the Minister for Industrial Relations to ensure that the system is properly staffed with people who understand the nature of industrial relations and the way in which various disputes can be resolved. From my experience over the years with a number of what I might term unfortunate appointments to the commission from the law who had no—

Mr Fahey: From both sides at times. There turned out to be some surprises.

Mr UNSWORTH: But I am going back into the past. I am talking about appointments of people to the commission in the 1950s who had little industrial experience but who served on the bench and did little to contribute to the resolution of industrial disputes in the State. That is the point I make. I turn now to the question that concerns the Opposition, and that is the repeal of section 88FA. I heard the Minister speaking in a news insert on an Australian Broadcasting Corporation radio station this morning in which he suggested that the repeal of section 88FA would mean a reduction in the cost of home building. Had the ABC quoted him as saying that I could have presumed he had been misquoted. Having heard the Minister himself make that statement, however, it was clear that he believes the existence of section 88FA, which has after all, only been a provision of the Act since 1985 and has only been applied to tile layers, somehow contributes to the cost of house construction. That is absolute nonsense. If the Minister genuinely believes that, he is misleading himself, or officers of the Department of Industrial Relations have misled him.

I turn to the speech the Minister made when introducing the bill. Many matters in his second reading speech are not correct. If he believes them to be correct, he should do his own research because they are patently not correct. The Minister in introducing the bill said that section 88FA of the Industrial Arbitration Act regulates matters that are normally the subject of private negotiation between the parties. That is certainly so. Over the years a practice has developed where negotiations have taken place involving various employer organizations, the Master Builders Association of New South Wales in particular, and unions in the building industry, to regulate the minimum contract rate for certain work. The genesis of that occurred many years ago, back in the 1950s, and involved builders who built for the Housing Commission. They sought to have a uniform basis on which they could tender for the jobs they were seeking to obtain so that there could be some equity in the tendering process. That, of course, is nothing new. It is the subject of a well-established agreement.

I have been provided with some correspondence that refers to that practice by people in the building industry who are concerned at what the Minister and the Government are seeking to do. They are concerned that rather than creating circumstances where there might be a reduction or a stabilization of home building costs, the government could well create circumstances that would lead to instability and the demise of more project builders. Three project building companies failed in the past three or four weeks. The Minister for Housing should be concerned about that. However, the situation that could arise as a result of that consequential instability is one that the Opposition should warn against. The Building Workers Industrial Union, with whom I have consulted on this matter, provided me with some correspondence to which I should like to refer. A company called Mouawad Constructions Pty Limited of Smithfield refers to the Department of Housing BWIU book rates. The letter says:

These rates have been in operation for over 20 years now and I have found them to be very satisfactory. Our company believes it has been a suitable working system.

It keeps the builder in line as regards to the correct rates for which he allows in his tender. It keeps all parties concerned honest.

That is something honourable members hear much about from members on the Government benches. Another organization, Bona Builders Pty Limited of Riverwood, in referring to book rates said:

These rates have been established for over the last 2 decades, and have found them to be very satisfactory. In recent times they have not been updated. Our company believes it has been a good system based three categories.

1. It makes the builder allow the correct rates in his tender. Thus preventing him from being unfair to sub-contractors.

2. It makes the sub-contractor keep to his price quoted and not walking away from his obligations as the price will be known by unions and contractors alike. There should be no reasons why he cannot make money on the rates, as it was set by all interested parties.

3. It is used to keep both parties honest and legal, which is in the long term protects the principal or the public in general.

That letter is signed by Mr Wilcock, who is the managing director of the company. The general manager of another organization, Kildonan Holdings, a building contracting company from Minto, had this to say:

My Company has been actively engaged in construction work for the Department of Housing for a number of years. During this period I have been involved, as a representative of the Department's builders, in setting minimum rates for various types of labour employed as subcontractors. These minimum rates have been set in consultation with the B.W.I.U. and have been upgraded on a yearly or two yearly basis and considering movements in the CPI and other award movements.

I have always found the rates to be reasonable and the contractors engaged have always known the minimum amount that they would get paid for a certain function.

The agreed rates have assisted in compilation of Tenders and where only subject to alteration due to market conditions.

It is my opinion that uniform minimum rates if introduced throughout the industry would lead to a stability in sub contract prices.

They are three of the letters that have been received by the union, indicating concern at the prospect of the rates that have been negotiated in the past not continuing to be available. I make the point because the Minister seems to believe—this is implicit in his second reading speech—that somehow every contractor should allow the market to set the price. If that were allowed to happen, prices would be driven down. I suppose if one believes in the unfettered

free market philosophy, theoretically one might see some merit in what is suggested. But if one acknowledges that major changes have taken place in the building industry over the past three decades, particularly in the housing industry, one would know that three decades ago a builder employed his own labour.

The subcontract system of today did not operate; people were employed on a time rate of pay basis; their rates were set out in awards. Of course, that situation still prevails today in some instances. But the contract system has enabled a breakaway from that situation. It has enabled various classes of labour to become specialized. People are now specializing in frame erection, roof construction, floor laying, window fixing, and so on. All of the specialties have established themselves on a subcontract basis. But the people in those specialties are no less entitled to a fair remuneration than a person working for the award rate; they are no less entitled than a person who is covered by an award and who receives remuneration on a weekly basis. That being the situation, it is reasonable and equitable that some mechanism be provided whereby there can be a floor structure for contract rates.

This situation arose as a result of one decision of the Industrial Commission flowing from the operation of section 88FA, a section which I pointed out earlier was introduced as recently as 1985. A case brought before Mr Justice Liddy on 19th June, 1986, in matter No. 262 of 1986, established certain hourly and piece rates as payable to vinyl floor laying subcontractors. The Floor Covering Association of New South Wales was very happy with Mr Justice Liddy's decision covering that class of employee. I shall quote from a letter from the Floor Covering Association of New South Wales, which was written only yesterday, in respect of section 88FA. This letter was addressed not to the Building Workers Industrial Union but to the Premier. It is addressed to Mr Nick Greiner, Premier of New South Wales, Parliament House, Macquarie Street, Sydney, and is dated 31st May. The letter reads:

Section 88FA

The commercial sector of the Floor Covering industry has been regulated since 1.1.82, some six years now, by virtue of an industrial agreement between the Floor Covering Association of New South Wales and Building Workers Industrial Union.

During this period disputes have been very few, in fact, by building industry standards, virtually nil with relations between employers, subcontractors and the union being maintained at a high standard.

The minimum rates agreement has stabilised pricing the labour component of contract and tender works with our members competing on an equal basis.

The Association, however, still receive complaints from members about operators who undercut on labour costs and thereby deny reputable long term companies work.

We believe that minimum rates legislation is necessary and desirable and should have a general effect across our industry. We believe that rather than s. 88FA being immediately repealed, that there should be tripartite talks between the Government, Employers and Union into this whole question.

The livelihood of many stable, reputable and long term employers could be at stake if the law of the jungle is to become the code of our industry and others.

Yours faithfully,

Derek Douglas,

Secretary, Floor Covering Association

This letter is interesting because it was not solicited by the union or by the Labor Opposition; it is an unsolicited letter to the Premier from an association of subcontractors in which it expressed concern that the Government, because

of its ideological bent, because it is trying to pander to the New Right in the industrial relations scene in Australia—

Mr Phillips: You would know more about the right than we do.

Mr UNSWORTH: The honourable member should not drink too much at lunchtime because it makes his behaviour after lunch bad.

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

Mr UNSWORTH: This correspondence clearly indicates that section 88FA should continue to apply, that that section has a value and that, if properly applied by the Industrial Commission, will provide stability in industry. Let me refer to the Minister's second reading speech, because I think the Minister's understanding of section 88FA, industrial relations generally and the building industry in particular is somewhat deficient. I do not know whether the Minister bothered to read the second reading speech before he delivered it in the House; I do not know whether he bothered to check some of his antecedents. However, the Minister said:

... section 88FA has been a means for trade unions in the building industry to seek to control subcontractors and builders in a manner outside the properly accepted role of a trade union.

That is arrant nonsense. The principles contained in that section are no different from the principles contained in section 88F, which have been used by the transport unions and the transport companies for years to establish—

Mr Caterson: With some disastrous results.

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

Mr UNSWORTH: The honourable member should talk to some of the transport companies. All the transport companies are happy to have a basis on which they can regulate contracts between themselves and subcontractors. Today virtually the whole transport industry is operating on a subcontract basis. The Minister clearly could not understand the nature of section 88 or the Industrial Arbitration Act or he would not have mouthed those statements in the Parliament. I shall read the best part of the Minister's speech last, but he went on to say:

The repeal of section 88FA will help to restore the reality of what the market-place—

Honourable members on the Government side will not be smiling in a minute—

[Interruption]

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

Mr UNSWORTH: The Minister continued:

—can afford to pay for work performed under those contracts for services. It will give the parties to such contracts the freedom to negotiate their own terms and conditions without an unrelated uniform rate being arbitrarily imposed.

The contractors and some of the project homebuilders are happy with the provisions of section 88FA and what it proposed. It proposed a basis of regulation and stability in the industry—regulation which would enable some uniformity in the tendering process. The largest home building company, Masterman Homes, has indicated its support for this proposal. The Minister

believes that by allowing the law of the jungle to take over, he will somehow bring down building costs. I suggest he speak with his colleague in the Cabinet the Minister for Housing to acquire some understanding of building cost structures. I have been provided with figures that show that of the average home purchaser's monthly mortgage payment the interest component is 66.3 per cent; the land component is 11.1 per cent; an amount of 9.4 per cent represents the building materials component of the cost of the housing unit; and 5.5 per cent represents profit. The wages component of the total cost of housing acquisition is 4.7 per cent.

Mr Caterson: That is drawing a longbow.

Mr UNSWORTH: They are the figures and the honourable member may produce his own figures. The labour component of a housing acquisition is quite small when taken as a proportion of the total. If tradesmen worked without pay on building construction, prices would not be reduced to the order stated this morning by the Minister on ABC radio. I am concerned by a reference in the Minister's second reading speech to matters before the Industrial Commission which would be extinguished by the passage of this legislation. They are proceedings involving an application by the Building Workers Industrial Union in what we might term the bricklayers' case. That was a matter brought before His Honour Mr Justice Cahill more than twelve months ago. His Honour delivered a decision in December 1986 in which he said that as a threshold point the union had the right and the ability, using the provisions of section 88FA, to seek to have determined as a general rule, minimum contract rates. I shall quote from His Honour's decision in matter No. 876 of 1986, handed down on 12th December, 1986, in the building industry contract bricklayers' determination. At page 9 His Honour said:

My view of the general meaning of the legislation is reinforced by reference to the second reading speech of the Minister when the Industrial Arbitration (Further Amendment) Bill was debated in Parliament. Because of alleged ambiguities as to the meaning of the section I considered it appropriate to consult the speech in order to ascertain whether reference therein to the mischief which the Bill was designed to rectify might throw light on the question of interpretation argued by the parties. The first two paragraphs of the speech, which are hereunder reproduced, make clear that a purpose of the introduction of the Bill was to overcome the perceived problem of the inability of the Commission to make general rulings pursuant to its "unfair contract" powers under s. 88F by giving it such a power, at least in the area of establishing minimum standards of remuneration for contract work in the building industry.

These are the key words of His Honour Mr Justice Cahill:

In my view, the new legislation effectively achieves that objective.

That was the thrust of His Honour's decision. On the final page of his judgment His Honour said:

The question at this stage is whether, because of perceived inadequacies, the Notice of Motion is, in effect a nullity and for that reason should be dismissed. In my opinion, the respondents' submissions fall short of establishing that proposition and, accordingly, the present Notice of Motion will remain as the vehicle by which the union's application for an order under the section may be considered and determined.

In other words His Honour had heard the threshold argument and accepted that the union had, utilizing provisions of section 88FA, the opportunity to seek to have a general rule established in respect of contract rates for bricklayers. In his second reading speech the Minister said:

In the matter of *The Housing Industry Association of New South Wales and Ors*, the Industrial Commission in Court Session held that a ruling under section 88FA cannot

have general application by way of setting minimum standards. Consequently, the Commission's interpretation of section 88FA has limited the scope of the section.

That is what the Minister said in his speech and it is obviously what the Minister believes. If he believes that, he must stand by what he has told the Parliament. I took the precaution of reading the judgment of the Industrial Commission in Court Session. Though the Minister is an honourable man and one who would not intentionally mislead the Parliament, he has obviously relied on material given to him by officers of his department, perhaps without checking or taking the trouble to read the judgment. Honourable members will hear from the Minister in reply whether, in preparing for the debate, he took the trouble to obtain copies of the judgments of the Industrial Commission to assure himself that what he was telling the Parliament was correct. Any responsible Minister would do that. A Minister who did not wish to be accused of misleading the Parliament would do that.

I shall now read from the judgment of the Industrial Commission, in matter No. 150 of 1987, handed down on 17th December, 1987. The judgment was delivered by the President, His Honour Mr Justice Fisher, Mr Justice Watson, and Deputy-President Wells. I discussed this matter with the President of the Industrial Commission, who told me the court had upheld the decision of Mr Justice Cahill. That is why I was mystified when I read the second reading speech of the Minister. At page 15 of the judgment the court said:

Whatever type of situation is dealt with, there is, in our view, (as found by his Honour), no reason why, (in the examination of a contract or contracts to determine whether or not the criteria specified in s.88FA is satisfied as a basis for the making of an order), reference cannot be made to work performed under past as well as present contracts . . .

A preliminary stage only has been reached in relation to the present application. The views we have expressed are not to be taken, therefore, as pre-empting contingencies not revealed by what has been discussed either before us or before his Honour.

In these circumstances, although making the foregoing comments and qualifications, we propose to go no further, by way of order, than to indicate that we dismiss the appeal to the extent that a ruling as to jurisdiction is sought which seeks to confine any order under s.88FA to specific existing contracts or which seeks to prevent reference being made, in dealing with applications under the section, to past contracts.

The Full Bench of the Industrial Commission upheld the decision of Mr Justice Cahill and the contention that the union could seek before the Industrial Commission, utilizing the provisions of section 88FA, to have general rulings made in respect of classes of contract work. The Minister contended that the Industrial Commission—and this is what he said in his speech—held that a ruling under section 88FA cannot have general application by way of setting minimum standards. In other words the Minister has misled the Parliament. The Minister has come to this House and relied on a speech prepared for him by his department suggesting that section 88FA is of no consequence because it has been struck down by the Industrial Commission in Court Session. That is absolute nonsense.

The provisions of sections 88F and 88FA as they apply to the building industry are important. They contain a number of prerequisites to a determination by the Industrial Commission in respect of orders that the commission would make on questions brought before it. In the judgments of the Industrial Commission these matters are thoroughly canvassed. It is not correct, as the Minister would suggest, that section 88FA has been a means for trade unions in the building industry to seek to control subcontractors and builders in a manner outside the properly accepted role of a trade union.

What is the properly accepted role of a trade union, in the mind of the new Minister for Industrial Relations? I doubt that the new Minister for Industrial Relations has ever been in a trade union other than the Law Society—which is some sort of a trade union. He would not know much about trade unions. I have read that he comes from a working-class family; no doubt his forebears were associated with the trade union movement. Good luck to them. Trade unions have a legitimate role to play in Australian society, as they have in all western societies. Even in Poland trade unions have sought to establish a basis on which those behind the iron curtain can seek relief from government oppression. No doubt we will hear a little more about this in some other legislation that will be debated by the House later today dealing with the oppressive actions of the Government in seeking to constrain the rights of trade unions and their role in our society.

Clearly, the trade union movement has a right to make approaches to industrial tribunals. That is all that will happen under the provisions of section 88FA. That section enables trade unions to make application to the Industrial Commission for a determination whether contracts are harsh and unconscionable, and whether the commission should determine that contracts are against the public interest and consequentially bring down determinations or make orders. All that has been canvassed thoroughly in the two judgments of the commission to which I have referred. I suggest the Minister would do well to improve his understanding of industrial relations by reading those judgments in their entirety. Nowhere in those judgments can one find reference to the nonsense found in the Minister's second reading speech which suggests that by utilizing section 88FA the trade unions will control subcontractors in a manner outside the properly accepted role of a trade union.

All the trade unions seek to do is determine fair standards for work; they seek to ensure that those who work as subcontractors are not used as slave labourers and do not find themselves paid a lower rate of remuneration than they would receive if they were working under an award at minimum rates provided for under that award.

Is it the philosophy of the new Government that it wants to create two classes of workers in our society—one that works under a wages system and another that works as slave labour, working at rates set in the jungle, as the market-place is termed. Is that the philosophy of the Government? If it is, the sooner we hear about it, the better; the sooner the trade unions hear about it, the better, because they will then understand on what basis they can establish their relationship with the Government. Labor Council officials have been up here today to meet this nice, smiling, new young Minister for Industrial Relations—

[Interruption]

Mr UNSWORTH: I did not say he was good-looking. The Minister tells the trade union movement what he wants to do; that he wants to have a good relationship with them. This is the old velvet glove treatment. We all know about this. The trade unions of this State have to realize that the Government is a sham. It has been seeking to present a modern face, but really is a Government comprised of arch-conservatives. People were demonstrating outside Parliament today because, by a fiat of the Minister for Agriculture, some 200 to 300 jobs were wiped out and small businesses were demolished.

Mr Schipp: You were going to do that anyway.

Mr DEPUTY-SPEAKER: Order!

Mr UNSWORTH: The Minister for Housing thinks there is something in this for Wagga Wagga. He thinks that if the Government wipes out jobs in Sydney, there might be a few more jobs in Wagga Wagga. What the Minister fails to understand is that these were not just workers. These were small business people; people who had built up equities in their businesses; people who had built up assets associated with their businesses. This nonsense that the Greiner Government walks hand-in-hand with small business will be exploded now that the small business people at Homebush realize that when it suits the avaricious interests of the National Party—which after all is the main player in the Government—jobs will go to the country, be taken away from Sydney.

I have given the Minister ample time to get briefing notes to see how he can wriggle out of this one, because he has misled the Parliament by his failure to fully appreciate the thrust of the legislation that he has brought before the House. This will not be the only time this happens, because on such a simple question as section 88FA the Minister has demonstrated a failure intellectually to come to terms with the problems associated with subcontract work and a failure to come to terms with the responsibilities and role of the Industrial Commission.

The Minister for Industrial Relations and Employment has had plenty of experience sitting around here and being bored to death. If he went to the Industrial Commission and listened to a few cases being put before the commission, he would have a better appreciation of the working processes of the commission. He could also attend a few Conciliation Commission hearings to give himself a better appreciation of what is involved in those matters. It is not the trade unions that are controlling the play under section 88FA; it is the Industrial Commission of New South Wales. The essential services legislation, which the Minister has so much confidence in, enjoys its status because of the Industrial Commission.

Quite clearly, contained in the legislation before this House are a number of proposals that should be adopted by the Parliament. But, equally, some should not. It is the intention of the Opposition to move in committee to delete reference to the repeal of section 88FA. I hope the Minister thinks again about that proposal. Perhaps he should talk to the Employers Federation of New South Wales and not just the Housing Industry Association. That is the trouble: his Government is obsessed with its relationship with the Housing Industry Association. The Minister does not understand that the Housing Industry Association has not had a traditional role in the employer organizational structure. It is basically a Johnny-come-lately in that regard. The Master Builders Association, the Employers Federation and the Federation of Construction Contractors are the organizations that really know what this is all about.

This legislation is a payoff to the reactionaries in the Housing Industry Association who think some benefit will flow from the measure. The Housing Industry Association will find that the big project builders, such as Masterton Homes, will not thank the association for what it is doing—and Masterton Homes is the major builder in New South Wales. Repeal of this section and removal of the opportunity to provide solid underpinning of the contract rate structure will lead to instability. If the Government wants instability, that is all right by the Opposition. That will do those of us on this side of the House no harm, for over the next year or so we aim to demonstrate that the coalition Government is not capable of managing the affairs of New South Wales. It does not understand the issues involved.

Members on the Government side are like a bunch of new schoolboys seeking to plunder the lolly jar; they are knocking over people that they do not like the look of while pandering to the reactionary supporters they have in minute areas of our society. I have been dealing with employers for more than a quarter of a century and understand the attitude of the various employer organizations. I know their views on some of these newcomers, such as the Housing Industry Association. In respect to this issue the Minister and the Government have made a big mistake. In a spirit of compromise, which the Premier exhibited last night, the Minister should agree with the amendments that the Opposition will move in Committee.

Mr PARK (Tamworth) [3.20]: The objects of the Industrial Arbitration (Amendment) Bill are, first, to repeal, with the Opposition's agreement, an obsolete provision, section 88B, which relates to certain bread delivery contracts and matters of that nature; second, to repeal section 88FA, a change the Opposition says it is opposed to, which enables the Industrial Commission to fix minimum remuneration rates for certain contracts; third, to provide increased scope for consultation between the President of the Industrial Commission and the heads of other State and federal industrial tribunals; and, fourth, to provide the President of the Industrial Commission with greater flexibility in determining the composition of the Industrial Commission in Court Session.

The honourable member for Rockdale stated clearly that there was a major disagreement between the Opposition and the Government over the repeal of section 88FA. Perhaps the Opposition's attitude is predictable, as the provisions of the bill will curb the activities of certain trade unions before the New South Wales Industrial Commission. The honourable member suggested that the repeal of section 88FA will result in additional costs, to the building industry in particular. I cannot agree with the honourable member on that point. I do not know of any tangible evidence of excessive controls and regulations leading to lower costs, in the building industry or in any other industry. The honourable member referred to this legislation as bringing in the law of the jungle. Essentially the bill will result in there being fewer controls, fewer regulations and more freedom on the part of employers and employees to sit down and determine their own futures and destinies. The honourable member for Rockdale spoke about the place of trade unions in our society. I recognize that industrial unions have a place in our society—very much so. I represent the large industrial city of Tamworth, which contains the broadest possible range of industrial activity—service industries and manufacturing industries—that one would find anywhere. Few electorates would have the representation of more trade unions than does Tamworth. Consequently, I have had a lot to do over the years with members of the many trade unions represented there.

I reject the suggestion by the honourable member for Rockdale that the Minister for Industrial Relations and Employment has misled the House. I am sure the Minister is capable of giving the lie to that suggestion later but I am sure also he was well aware of the import of his second reading speech before he delivered it. The Minister in his second reading speech said that the basic foundation of the New South Wales industrial relations system should be the relationship between employer and employee. So far as I am concerned that has always been so. Over the years the foundations mentioned have been extended to cover other contractual arrangements between principal and independent contractors. So, it has a broader base now than it used to have.

The Minister said also that the industrial arbitration system should allow parties to a contract for services the freedom to make their own choice as to its terms and conditions. Section 88FA of the Act regulates matters which more appropriately should be the subject of private negotiations. The section goes too far. It allows trade unions to become involved in matters that are more appropriately the concern and responsibility of the New South Wales Industrial Commission. The commission's own interpretation of section 88FA was shown in case No. 150 of 1987, the matter of the Housing Industry Association of New South Wales and Ors. Its scope has been limited from that originally envisaged. The decision has changed the outlook of the section. Further, as the Minister said also, section 88FA has been used by trade unions in the building industry to seek to control builders and subcontractors in a manner way beyond what could reasonably be expected of their charter.

Section 88B, which was referred to me by the honourable member for Rockdale, requires contracts for the delivery of bread and bread rolls entered into before January 1959 to be approved by the Industrial Commission. The Industrial Registrar has no record of any such contracts and the section would appear now to have no relevance. The repeal of sections 88FA and 88B is significant because it will go quite some way towards enabling parties to a contract for service to enjoy the freedom to negotiate their own terms and conditions without undue regulation and interference. The repeal of section 88FA will remove a restriction placed on the market-place. Once again the market-place will determine what it can afford to pay for work performed under a contract for service.

Section 88FA of the Act gives trade unions an industrial police role. The section makes it possible for a member of the Industrial Commission, upon application by a trade union, to establish minimum rates for contract work. The Government believes if a job does not pay what a worker is worth, or what he thinks he can earn elsewhere, the worker should be able to change his working arrangements to remedy his position and improve his earnings without undue hindrance. The Government rejects union power. Repeal of this section will help curb attempts by unions in the building industry to seek to control bona fide subcontractors and builders in a manner outside their properly accepted role. Today most building projects, particularly the large ones, employ the services of numerous subcontractors. In many individual cases subcontractors do more towards the project than the main contractor.

Section 88B is an obsolete provision which should be removed, and the Opposition agrees with that. Section 38L provides that the President of the Industrial Commission may confer with the federal commission on certain matters. Under the new section 38L he will also be able to confer with the heads of other State and Territory industrial tribunals on a broad range of issues. This will help to establish better co-ordination between federal, State and Territory industrial tribunals which has not previously been possible. With regard to section 14 (7A) the Government believes that the composition of the Industrial Commission sitting in Court Session should be left to the President of the Industrial Commission. As the Act now stands, the required composition is too rigid and has led to delays in hearings by the bench. These delays have occurred largely because a non-judicial member of the commission must be part of the commission sitting in Court Session for every hearing. Also a conciliation commissioner must be part of every hearing unless the question to be decided is substantially a judicial one. For the commission sitting in Court Session to deal expeditiously with cases it is necessary for the President to have discretion and flexibility as to the composition of the bench.

The honourable member for Rockdale suggested that the bill will virtually mean a phasing out of non-judicial members. I do not know whether that will or will not happen, but if it does I want to say that there is no reflection by the Government on the character of those two gentlemen. I have known Mr McMahon for many years. He used to be a member in another place. Also I have had quite a lot to do with Mr Varnum in Newcastle. They were both genuine men, dedicated to the work that they did. But, they were bound by the Acts and laws under which they operated. The new section 14 (7A) will give the President discretionary powers which will lead to greater flexibility. This legislation will also help to free up the industrial arbitration system of this State and give employers, employees and subcontractors greater opportunity to run their own affairs and determine their own destinies. For those reasons I support the bill.

Mr FERGUSON (Granville) [3.33]: I support some sections of the legislation, particularly those measures that seek to expedite hearings before the Industrial Commission. We are all aware of the ridiculous wastes that occur with various pieces of legislation, and I join with the honourable member for Rockdale in hoping that the Minister gives serious consideration to an increase in the number of deputy presidents who have other than a legal background. He referred to some of the deputy presidents in the federal sphere. We could add Deputy President Marsh who, regardless of what side of the political fence we might be on, does have competence in the sphere of industrial relations. We could refer to Deputy President Keogh, who came from the department, and there are a number of other people. I agree with the honourable member for Rockdale that it is an unfortunate reality that many people who may have legal degrees have little expertise in the practicalities of solving industrial disputes, and often their contributions prolong unnecessary situations. Similarly, I agree with the measure whereby increased power is given for consultation with other authorities.

In regard to section 88FA the Opposition maintains firm opposition. It was ironic that only last night the honourable member for Sutherland delivered his maiden speech with ringing references to traditional liberalism. And, we found the former member for Earlwood, Sir Eric Willis, comfortably ensconced in the parliamentary dining room. The kernel of this legislation is to be found in the speech of the Premier, who referred to industrial relations, new directions for New South Wales. That is where this legislation stems from. It represents a retreat by the Liberal Party-National Party coalition from the centre ground of industrial relations. It represents complete control by the New Right, by the ideologies of the Housing Industry Association. The Minister shakes his head. I shall refer to comments made by Sir Eric Willis when in 1966 he introduced the very vital legislation which cemented the intervention of the Industrial Commission in the subcontracting system. The speech made by the Premier included such Orwellian new-speak references as, "Subcontractors should negotiate their rate of service; ensure industrial relations direction does not favour one party; we should open the system from its club-like atmosphere". A nice ringing phrase but the bottom line is represented by the capitulation of this Government to a confrontationist approach to industrial relations in this State. In his speech the Premier said:

Through the Freedom of Association Bill mentioned earlier, we will remove any compulsion for subcontractors to become members of any industrial organization, and we will repeal sections 88F and 88FA of the Industrial Arbitration Act and Labor's other Anti-freedom industrial legislation.

The reference to section 88F is most interesting as, in the 1966 amendment to this legislation, there was introduced for the first time the fact that those people underpaid under 88F did not have to go to the Supreme Court, but could go to the Industrial Commission. The Minister and his colleagues opposite well understand that is the kernel of section 88FA itself. I turn to the comments of Sir Eric Willis, which reveal how far the Liberal Party is retreating from realistic industrial relations in this State. On 17th November, 1966, he said:

The Government fully supports the purpose sought to be achieved by the section as it now stands, but considers that the existing provisions do not go far enough.

That Liberal Party Minister said that the Labor Party legislation was not firm enough in protecting those employees who were underpaid through the subcontracting system. He had been the Minister for Industrial Relations for some time. He had knowledge of the industry and a bit of experience. He further went on to comment:

In other words, even after he has obtained his answer from the Industrial Commission he may have to go to the Supreme Court of New South Wales to obtain the financial settlement that he seeks. In the light of experience of the operation of the section the Government now considers that provision should be made for a final determination of the rights of the parties to any such agreement which is brought under review.

He certainly extended the previous Labor Government's legislation of 1959 and started the process down the trail to the point that we have now reached. It is perhaps indicative of the way in which this legislation, in the first weeks of this new Parliament, very clearly comes not from a wide group in the industry, not from the massive building companies but from a small select New Right think tank operation within the Housing Industry Association. When we look at the speeches made at the time the legislation was introduced in 1985, there was a peremptory contribution from the main speaker for the Opposition, Mr Collins, and in a summary of the 1985 industrial legislation, that guru of industrial relations on the opposition side, the honourable member for Gordon, summarized the important measures of 1985.

He referred to the Mount Lyell legislation for continued operations of the company and the employment of its employees, the Bread Act in New South Wales, and other world-shattering measures such as the fact that in South Australia the fund established by the long service leave scheme was transferred from the Commissioner of Stamps to the board administering the Long Service Leave (Building Industry) Act. He mentioned all those vital measures but did not even refer to the legislation that today has to be abandoned because of the massive problems it is creating in the industry. That shows just where the thrust is coming from for this measure and how much pressure the Minister is under. If honourable members refer to the 1985 legislation, as the honourable member for Rockdale said is happening now, letters were sent to the Minister and to the trade unions by building companies that were happy with the situation.

When honourable members hear the rhetoric from those on the Government benches about the way in which the unions lack democracy and their members have no individual rights, the proposed legislation is a clear indictment of the way in which companies in the building industry have been sent to coventry by the main leadership groups and employer associations. Masterton Homes (NSW) Pty Limited, whose letters were quoted in this Parliament in 1985, was ostracized by the major building group for months afterwards because it dared to defy the ideological line that was then dictated. That is the pattern again today. In the short time that has been allowed companies in the industry to take some cognizance of what is happening, letters have been sent by them already saying that they do not agree with the people

who for ideological reasons are dictating to the Minister that the proposed legislation must be introduced.

The honourable member for Rockdale has revealed the minor degree to which housing labour costs contribute to building costs. That is the sham behind which the Government will hide the main reason why controls over the industry have to be loosened up with such devastating effect on the cost of housing. The Minister well knows that the actual figure is about 4.5 per cent to 4.7 per cent of total housing costs for the person buying a house. The impact of the proposed legislation, as the honourable member for Rockdale said, even if the builders worked for nothing, will be absolutely minimal. Reference was made to the disturbing way in which the Minister has either misread the judgment in matter 150 of 1987 or has been ill-advised. I hope it is a matter of ill-advice rather than an indication of the ability of suburban solicitors. In its judgment the Industrial Commission in court session made the point:

That it should achieve little more than what is already encompassed by s. 88F would appear to be a manifestly absurd result in the light of what was said in the second reading speech as quoted in the judgment under appeal.

The commission said that section 88FA (5) and section 88FA (6):

... are provisions which are not consistent with the restricted approach of the appellants, that only identifiable existing contracts and parties related to those contracts can be affected.

It went on to say:

It follows from the foregoing that the construction contended for by the appellants cannot be supported. Although the section can and does relate to identifiable existing contracts, its scope is not so narrowly confined.

The whole thrust of that decision was that if general awards are not to be set down it is that in everything but name. Certainly, if an individual contractor is found not to be harsh or onerous it would probably be paying rates close to the agreement, anyway, and might not be caught up. But basically the court was saying that after the union overcomes the hurdles under the Act then Mr Justice Cahill was correct in deciding that he could make a general award for the industry. That threshold decision, on the advice I have received from Queen's Counsel and other legal practitioners who perhaps have had a closer involvement with the decision than the Minister for Industrial Relations and Employment, represented a decisive defeat for employers attempting to get a restrictive analysis of the impact of the Act. In a brief performance, the honourable member for Willoughby in the 1985 debate made the rather incredible comment, "If a job does not pay what an employee is worth or what he thinks he can earn elsewhere, he should be able to change employers without hindrance to remedy his position and improve his earnings".

If your name is Ian Kortlang, and you can control the way standards are set for your future employment and have a decisive say in the rates of pay that will apply, that might be true. There are books on other esoteric examples such as glassblowers in nineteenth century France in areas distant from competing employers or workers where the individual employee might have had some decisive say over setting his wages, but does any honourable member honestly believe today that a person faced with spiralling rent payments, the recently announced proposed increase in electricity rates, the reality of car registration and increased school bus fares, can just leave his job and walk in and negotiate on an equal par with employers? That is a preposterous proposition. It is the cover for what the reality is in this measure—the attempt by the Government and those people who are running the show for it to free

up the market further in wages, to reduce wages further. It is interesting to note that there is a major problem about a lack of skilled employees in the industry.

The Minister well knows that that shortage has been created by the diminished wages that people are paid even after years spent in trades. People have left the industry because of the problem that the proposed legislation will try to tackle. They can probably earn more working on the night shift at James Hardie or running a taxi round town than they could get in the building industry. The reason the Government is pushing the bill through is because of the reality of the way in which the subcontracting system is being used as a subterfuge to undermine wages. That is shown by the continued increase in the number of people professing to be self-employed or employers increasing to 13.96 per cent in the last census in New South Wales from 12.5 per cent in 1981. That is symptomatic of the increasing pressure on people to define themselves in the building industry, the cleaning contracting industry, the security industry and a variety of other spheres—transport—to deem themselves self-employed or subcontractors, or whatever phrase might be used for the employer's advantage. Similarly, when I rang the Building Services Corporation last week I learned that since this measure was last before the Parliament the number of builders' licences in this State has increased from about 30 000 to 40 000. That is indicative of the fact that the practice has spread throughout the industry. Much to the concern of the Minister, despite what he said in this Parliament, the commission has clearly decided on a wide reading of the legislation.

It has decided that the Building Workers Industrial Union, which for three years or so has fought a variety of legal measures and spent thousands of dollars trying to effect the legislation, is at last having some success. That is not a comfortable situation for the Housing Industry Association, a group which, as the honourable member for Rockdale said, has had limited experience in the industrial relations sphere, a group that is not representative of the building industry in any manner whatsoever. Though the Government is so concerned about the cost of housing to newly married people, and young couples, perhaps the Minister should put more emphasis on the \$1.5 million that the Housing Industry Association received last year from the Building Services Corporation for training, the majority of which is going into managerial training. The majority of that money is not being used to tackle the crucial shortage of skilled tradesmen but probably for industrial relations advice. That is the type of managerial expenditure it is probably being devoted to.

The introduction of a variety of rules in the industrial relations sphere has necessitated the introduction of legislation in this field. The Minister is not defending the right of individuals to negotiate reasonable rates of pay; he is defending practices such as those performed under section 88F. Actions such as that involving Wilson Parking and the Miscellaneous Workers Union have been taken to the Privy Council. That involved pensioners 65 and 70 years of age being compelled to sign contracts engineered, constructed and typed by the management. Those contracts provided for pay rates of less than one-sixth of the award rate.

In conclusion, the existing legislation is necessary. It represents a reasonable attempt by the unions to ensure that people can achieve a decent standard of living. It provides an opportunity to those employers who have been involved in a grievance dating back, not to 1982 or 1983 but to the 1960s and 1970s, to change industrial agreements that have existed in a number of fields. The majority of employers are happy that that change is being effected. I have experienced the grave dangers that exist in the contract cleaning industry where

companies have been able to undercut the price of other companies and promise to do the job more quickly, using fewer employees. This legislation will provide protection not only for workers in that field but also for legitimate employers who have a responsible industrial relations attitude.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [3.52], in reply: I thank the honourable member for Rockdale, the honourable member for Tamworth and the honourable member for Granville for their contributions to this debate. I acknowledge that the debate has polarized the obvious philosophical differences between the Government and the Opposition. However, thankfully, there is some common ground. It is acknowledged that section 88B, which is to be amended by this bill and which amendment is one of the four major changes to be effected by the bill, is simply out of date and ought to be removed from the statute. In fact, it is constructive to get rid of many provisions that are simply clogging up many of our statutes. It is acknowledged also that the President of the Industrial Commission should have the right to consult with chairmen of similar tribunals in other States, as it is extremely difficult for New South Wales to operate in isolation without giving consideration to movements in a given industry in other parts of Australia. After all, we are all Australians.

I turn to the composition of the Industrial Commission in Court Session. I take on board the long history of the honourable member for Rockdale in the industrial relations field, of which he has reminded me and other honourable members so often. He told us of his experience in the Industrial Commission and told us of the areas in which certain procedures work and do not work. It is interesting to note, however, that at some point during the time that he was a practitioner in that field the pomp and ceremony in the courts were removed in that the commissioners ceased wearing wigs and gowns. An attempt was made to break down the barriers in the interests of conciliation and consultation, which I acknowledge must be part and parcel of the workings of the commission if the interests of the parties are to be upheld. It is always my sincere hope that agreement can be reached through that consultative process—conciliation rather than arbitration.

That move away from formality in the Industrial Commission can be contrasted with the recent changes in the Family Court of Australia. I acknowledge that the Family Court, being a federal court, generates a great deal of emotion on the part of the participants over the issues being decided. One could argue that many of the matters that come before the Industrial Commission are steeped in emotion, for the hard-won gains over generations in a given industry are in dispute or perhaps even in jeopardy. We now seek to return to anonymity, to hide behind, as it were, the wigs and gowns, unfortunately, in the interests of the protection of those who ultimately must make determinations in that jurisdiction. It is not my intention to make play of this point, but it is interesting to note that the situation that the honourable member for Rockdale explained was constructive and beneficial in the Industrial Commission is now being reversed.

I acknowledge that in recent times non-judicial members of the court and the commission have made a considerable contribution to that jurisdiction. No matter how hard one tries to apply the criteria for the appointment of a person to the commission, one does not know for some time whether that person is a success or otherwise. In recent times appointments have been made from the employers' and the employees' side in varying numbers. The comment has often been made to me that those appointees who were former

representatives of employers have not helped the employers and, vice versa, those who have had a wealth of experience in the union movement have frequently been the most harsh in making decisions against the unions. I do not know what the perfect answer is. Unless we are endowed with the wisdom of Solomon when making these sorts of decisions, we shall never achieve that perfect answer.

By and large the present situation of the Industrial Commission in Court Session constituting itself to hold hearings, particularly on appeals without its being restricted to being constituted by three specific persons, is a matter of practicality. As I am sure the honourable member for Rockdale and the honourable member for Granville would acknowledge, it has been almost impossible for that court to operate in an efficient manner since the retirement of Deputy President Wells, with Deputy President Varnum ensconced in Newcastle with plenty to do—the reports that I received are that he is doing a pretty good job, by and large—and with Deputy President McMahon on six months' leave.

Mr Unsworth: The court is two members short now.

Mr FAHEY: The honourable member for Rockdale points out to me that the court is two members short, following recent retirements. I acknowledge that. That matter is in hand; it is being considered. As the honourable member has rightly pointed out, it is for the Attorney General to appoint persons to those positions. I am sure that the honourable member realizes that the Attorney General is not likely to make those appointments before consulting with me and before the entire Cabinet decides who those appointees should be. Cabinet has not made a decision at this time. Discussions are taking place between the Attorney General and me. No doubt the outcome of those discussions will be made known in due course. I am very conscious of the fact that it is always necessary to maintain a practical approach to the court and the commission.

The ideological differences between the Government and the Opposition came very much to the forefront in our consideration of section 88FA. The honourable member for Rockdale proceeded to give me a gentle lecture about my inexperience. He was not too hard on me; I suppose I should be grateful for that. It is time that we accepted the reality that the Government happens to comprise the Liberal Party-National Party coalition, that it received its mandate on the basis of statements that were clearly made—statements that were made after a great deal of thought was given to them, and statements that were clearly conveyed to the electorate. The honourable member for Granville referred to one such statement made by the Premier in August last year. That statement received a degree of news media coverage. There can be no doubt that the people of the State were made fully aware of the industrial relations policy of the coalition, and the mandate was given by the people when the Government was voted into office.

If the honourable member for Rockdale or the honourable member for Granville wish to debate the issue, it is irrelevant that I have limited experience. The Government has a mandate. The sooner the Opposition recognizes that there is no such thing as a perfect industrial relations system in the State, the better. At the same time I recognize that no matter how good this Government is—and I suspect we will do better than the former Government in the sense of fairness and justice and the application of the rule of law in industrial relations—we have no hope of achieving a perfect industrial relations system, although it will be improved. The honourable member for Rockdale selectively extracted various sections from two cases—

Mr Unsworth: The Minister quoted them.

Mr FAHEY: I quoted them. I assure the honourable member for Rockdale that I read them before coming to the House today. The selective interpretation placed on those cases by the honourable member for Rockdale and the honourable member for Granville perhaps suited their arguments, although it was not done convincingly, and it did not cover the cases in full. For the purposes of explanation I shall take honourable members to the appeal heard by the Industrial Commission in Court Session, matter No. 150 of 1987. I shall refer specifically to the last paragraph on page 13, and to page 14. I do not propose to read copious sections of the judgment but I shall paraphrase it.

The issue before the court was whether the commission had power under section 88FA of the Industrial Arbitration Act to make orders of a general nature. According to the court, a ruling under section 88FA must, in view of the preconditions set out in subsection (4) of that section, be referable to an existing or anticipated contract and can therefore not have general application by way of setting minimum standards for similar contracts not envisaged at the time of the ruling. The question was considered at length under the Interpretation Act as to the intent of the Parliament when section 88FA was introduced—

Mr Unsworth: They examined the Minister's second reading speech.

Mr FAHEY: As the honourable member for Rockdale has reminded me, the court examined the Minister's second reading speech, and in particular that part relating to section 34 of the Interpretation Act. Although it appears that Parliament intended the commission to have the power to make general rulings, the commission's decision is final. In both cases to which the honourable member for Rockdale referred the use of section 88FA by the BWIU can be seen as an attempt to fast track the establishment of a quasi-award arrangement for floor laying and bricklaying work. Today we have heard a passionate plea for protectionism to allow a union to determine the rates applicable for independent people. We have heard a number of arguments suggesting that it is in the interests of workers, independent or otherwise, members of unions or otherwise, to lose their freedom to go to the market-place to determine their own rates.

The honourable member for Rockdale referred to a statement I made on an ABC radio program this morning that this section has caused a considerable increase in home building costs. The Master Builders Association, which obviously has no appeal to the honourable member for Rockdale because he does not regard it as representative of the building industry in this State, has stated clearly that considerable additional cost has been added to home building by the application of section 88FA. That is the experience of the operation of the section. We have heard that for some 20 years the BWIU has established its rates. One would argue why there was a need in 1985 to introduce this section if the system had operated as well as contended by the honourable member for Rockdale.

The honourable member for Granville said that both union and employer associations are happy with the operation of the section. If that is so, why have floor layers and bricklayers tested this section before the Industrial Commission? This argument has focused on ideological differences between the Government and the Opposition. There is a clear and compelling reason why free market forces should operate in the building industry, why contractors who are independent businessmen should not be controlled in their manner of work, and why home buyers in this State should receive the benefit of fair competition

on rates that might apply. The impact on the building industry provides the rationale behind the removal of section 88FA.

The Government has no objection to the players in the building industry reaching agreement on rates. If they can reach agreement without duress or any other form of pressure being brought to bear, and do it openly and in a way that satisfies both sides, this Government will not interfere with them. That has occurred and I am sure it will again. The Government is concerned with the use of legislation to enshrine arrangements that are not in the best interests of the consumer, because ultimately it affects the consumer. For those reasons the suggestion that the Government should consider the amendment to the bill for the removal of reference to section 88FA is rejected. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Mr UNSWORTH (Rockdale) [4.10]: I move:

That at page 3, all words on lines 30 and 31 be omitted.

The purpose of moving the amendment is to delete from the bill the provision relating to the repeal of section 88FA. The Opposition does so because of its strong belief that section 88FA will be beneficial to the housing and building industries. I am genuinely concerned, as are honourable members on this side of the House, to hear the philosophical stand adopted by the Minister in his reply to the second reading debate. If the Minister really believes what he said, that is a matter of concern.

It occurs to me that the Minister for Industrial Relations in the State of New South Wales should be committed to support of the processes of conciliation and arbitration. From what he said, the Minister accepts the process of conciliation; he accepts the practice, adopted over many years, of subcontractors and groups of builders entering into agreements. I instanced the contractors who tender for Department of Housing work. I drew attention to other industries, such as the floor laying industry, where that practice has existed. The Minister accepts the process of conciliation, but does not accept that in some circumstances it may be necessary, in the public interest, to arbitrate. After all, that is the current provision of section 88FA.

Certain tests have to be met under section 88FA. An applicant—which can be the secretary of a union—must place before the Industrial Commission evidence warranting the commission—not the union, not a respondent or party which may be one of the organizations—to determine that the criteria are being met, that contracts are harsh and unconscionable, and that it is in the public interest that an order be made. Clearly, those were the matters debated before His Honour Mr Justice Cahill, who accepted the validity of the intent of the Government of that day in introducing that section back in 1985. Of course, the commission upheld that intent. The Minister cannot finesse around that decision. I need no higher authority than the President of the Industrial Commission, who said that the Industrial Commission in Court Session upheld the decision of Mr Justice Cahill. The Minister can read that however he likes, and his advisers can pass him all the notes in the world, but the fact is that the Industrial Commission in Court Session upheld Mr Justice Cahill's decision.

The union was on the threshold of moving towards resolving the question of contract bricklayers' rates.

The effect of this provision of the bill will be to quash the decision in that case, to nullify its effect. Then, of course, the parties will be left with the Minister saying that they can negotiate. Of course, the Minister has demonstrated, by the statements he made yesterday and again today, supported by the Premier, that he does not mind industrial negotiations but he does not like strikes. Under the essential services legislation it would be quite competent for the Minister to place before the Governor a minute to suggest that the building industry is an essential industry and that therefore orders could be made against persons in the industry who fail to carry out directions or fail to report for work. The Minister is setting himself up so that he can dictate to industrial parties. He is saying that if they cannot reach agreement, they certainly cannot go on strike.

The strange thing is that under the essential services legislation there can be a direction to the Industrial Commission to determine matters the subject of industrial dispute. But, by including this measure in the amending bill, the Minister seeks to take the Industrial Commission out of the scene and prevent it from exercising its legitimate function as a disputes settling agency. That has been a tradition of the commission since 1892. The Minister would do well to study the history of industrial arbitration in this State, for in 1982 New South Wales had a Royal commission that examined the major strikes that occurred in the 1890s and recommended the setting up of a process for determining industrial dispute involving third parties. In 1988 we have this new Government saying that everything that has been done over the past 90-odd years is wrong and that it will prevent the Industrial Commission from playing any role in determining contract rates.

I do not know whether the Minister spends much time in his electorate office interviewing constituents and discussing with them some of their problems, but it strikes me that one of the big problems today is that many people are involving themselves in contracts for all manner of things—contracts to lease space in shopping centres, contracts to provide services, subcontracts such as we are talking about today—and many of those contracts are harsh or oppressive. The only relief that those people can get is from the Industrial Commission.

Mr Fahey: What about section 88F?

Mr UNSWORTH: That is what worries me. That is what I am coming to. Section 88F was referred to by the Premier in his famous speech.

Mr Fahey: That is not before the Parliament, is it?

Mr UNSWORTH: It is not before the Parliament, but the way the Government brings things before the Parliament—

Mr Fahey: On a point of order. The Committee is dealing with an amendment proposed to lines 30 and 31 on page 3 of the bill. The second reading speeches having been made, honourable members should confine their remarks to the specific issue now before the Chair. Section 88F has nothing to do with the question.

Mr Unsworth: The Minister mentioned section 88F, not I.

Mr Fahey: I did so in response to the honourable member's point. I submit that the honourable member for Rockdale should direct his comments to the question before the Chair.

The CHAIRMAN: Order! The honourable member for Rockdale has strayed from his amendment. Though I am willing to allow considerable flexibility in Committee, I ask the honourable member to return to his amendment, which relates to lines 30 and 31 on page 3 of the bill.

Mr UNSWORTH: Lines 30 and 31 relate to section 88FA and quite clearly deal with the question of harsh and unconscionable contracts. This measure also deals with the question of the public interest. Is the Minister suggesting that the Industrial Commission, in exercising its jurisdiction, does not take into account the public interest? The public interest is paramount in the mind of the Industrial Commission, and always has been. It is arrant nonsense for the Minister to say, as he did in reply to the second reading debate, that the unions are trying to take control of the industry and that this offends the free market philosophy of the new Government. Quite frankly, the thrust of this provision is to prevent the Industrial Commission from carrying out its traditional function.

The Premier went to some trouble to lecture us and tell us that his is an open government, a government of consultation, that it will talk to everybody and discuss any matter. But what consultation occurred involving the Government and the trade unions in respect to section 88FA? None. The Government seems to think it has some mystical mandate to do anything. If the Premier one day thinks of something in passing, he supposes that is part of his mandate and the Opposition somehow cannot complain about that. I invite the Minister's attention to an important speech made earlier this year by his counterpart in the Commonwealth Parliament. Has the Minister read the speech by the federal Minister for Employment and Industrial Relations on the Industrial Relations Bill on 28th April?

Mr Fahey: I have read a summary of it.

Mr UNSWORTH: The Minister should read the speech.

Mr Fahey: I do not know how this is relevant.

Mr UNSWORTH: I will tell the Minister how it is relevant. It is relevant to the procedure the Minister should follow. Minister Willis, talking about the Commonwealth bill, which is an earth-shattering piece of legislation in some senses, said:

Although the legislation introduces some sweeping changes in many of the most important areas of operation of our Federal industrial relations system, it retains the system of conciliation and arbitration as a means by which Australia's industrial relationships are regulated. Retention of the model of conciliation and arbitration is favoured not only by this Government but also by the major parties in the system.

Of course, the Minister spoke earlier in his speech about a joint statement by the Australian Council of Trade Unions, the Confederation of Australian Industry and the Business Council of Australia on restrictive work practices. That was a major recognition by the parties, and the unions in particular, of the need to eliminate restrictive work practices. The Minister said:

... the tripartite report on labour market flexibility, which was developed by the Government, the ACTU and the CAI through the National Labour Consultative Council, demonstrated a remarkable level of consensus in an area which has proved very divisive in many countries.

Mr Fahey: On a point of order. I have allowed the honourable member for Rockdale as much latitude as possible but the House is now being given a summary of a major piece of legislation. It is hardly relevant to lines 30 and

31 on page 3 of the bill. I ask that the honourable member for Rockdale be brought back to matters dealing with his amendment.

Mr Unsworth: On the point of order. I am about to develop my philosophy so as to demonstrate to the Minister for Industrial Relations that his philosophy is incorrect. I am seeking to point out that a counterpart Minister adopts a position in respect of the relationships between employers, unions and government which is missing in the relationship established by the Minister for Industrial Relations in New South Wales. I had finished quoting. Having done that, I was about to develop my philosophy. Really, Mr Chairman, there is no need for you to rule on the point of order.

The CHAIRMAN: Order! That is a matter for the Chair to decide. I ask the honourable member for Rockdale to come to the point. The honourable member has moved an amendment to omit two lines. Unless he demonstrates to the Chair the relevance of the philosophy he is developing and comes quickly to the point, I shall ask him to resume his seat.

Mr UNSWORTH: Clearly the situation is that the repeal of section 88FA is a major piece of legislation in the sense that it will change a developing relationship between subcontractors, employers, builders, and trade unions in the building industry administered by the Industrial Commission. It is a major change. It is a change that occurs at a time when matters are before the court. What will be extinguished is not only the proceedings before the courts, but also the effects of Mr Justice Liddy's determination of 1986. The Minister has made no reference to that. In 1986 the parties were quite happy with the decision of Mr Justice Liddy but that decision will be extinguished by the enactment of this amending bill.

In those circumstances one should have thought that the Minister would see fit not to rely on this magical mandate but to talk to the parties, not only the Housing Industry Association but also the Employers Federation. After all, that federation is responsible for looking after the industrial interests of the Floor Layers Association which is covered by Mr Justice Liddy's decision. One would have thought the Minister would call in the building unions and the Master Builders Association, and would have had the Housing Industry Association there on equal terms, not just as an adviser to the Government, to tell it what was intended. He should do what the federal Minister for Employment and Industrial Relations has done. That is the purpose of my quoting from the Industrial Relations Bill of 1988; to point out there is a right and a wrong way to go about a job.

The Commonwealth Minister, who, like myself, has spent a bit of time in the trade union movement, is carrying out his task to the general satisfaction of all parties—employers, unions and tribunals alike. If the New South Wales Minister for Industrial Relations aspires to that, he should take the trouble to read the federal Minister's speech, learn something from it and put into practice some of the procedures applied by industrial relations Ministers in other States and in the Commonwealth sphere. He should rely not just on the directives handed down from the mount by Premier Greiner who thinks he is some latter-day Moses who makes speeches all round the place, hands out directives and all his Ministers have to jump. I can see that one of them is about to jump now. I can see that, unsatisfied with the way his colleague is handling this matter, the Minister for Environment is squatting in the blocks ready to jump to make a contribution to the debate. When I was Premier I did not think it was necessary for Ministers to come to the assistance of their colleagues. If the Minister for Industrial Relations cannot handle the portfolio he has without the

assistance of people who have had little training in industrial relations but who really have other responsibilities, he should resign. If I were sitting at the table and another Minister wanted to help me in the debate, I would tell him to leave the Chamber.

I do not know what contribution the erstwhile secretary of the industrial relations society of our nation will make to this debate but it will be only academic. His experience in the industrial relations sphere is rather limited. All he has done is to have been a conference groupie who has hung around the industrial relations society's conference, has enjoyed the high life of the industrial relations milieu but has made little contribution to the practical work of industrial relations. I make that point. If the Minister for Environment is about to seek the call, he should be aware that the Opposition knows a little about his activities, nocturnal and otherwise, at these industrial relations conferences, so his contribution to this debate is really not germane to the issue. If he wishes to make a contribution, and if the Minister for Industrial Relations cannot handle the job himself, he should go.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [4.29]: I respond briefly to the invitation by the honourable member for Rockdale to make two points. The first is that I love and care for the institution of Parliament. I came into the Chamber to do some quiet and contemplative work and to listen to debate on a subject in which I have some interest. I have no desire or need to second-guess my colleague the Minister for Industrial Relations who is doing a good, sensible job in his portfolio. The other point I should make is that there is one major difference between the honourable member for Rockdale and Moses; Moses led them out of the wilderness.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [4.30]: The proposed amendment is not acceptable. I shall not repeat, as did the honourable member for Rockdale, many of the statements I made in my second reading speech. The honourable member clearly said that I was concerned about matters coming before the Industrial Commission for determination. Nothing could be further from the truth. I draw the attention of the honourable member to section 88F, which deals with the ability of the commission to investigate complaints by a party to a harsh and unconscionable agreement—something that is unfair or otherwise in the eyes of one of the parties who brings the matter before the court. Conversely, I draw the attention of the honourable member to section 88E which allows the commission to make awards, that is to arbitrate, in the building industry for certain deemed employees who otherwise are contractors. Earlier in the debate the honourable member for Rockdale invited me to explain why I had not included the provisions of section 88F in this bill in some way. I have clearly intimated to all participants in this area of industrial relations that there will be a green paper that will deal with subsection 88F and various other subsections of section 88.

[Interruption]

Mr ACTING-SPEAKER: Order! The honourable member for Granville has already contributed to the debate, but may do so again later, if he seeks the call.

Mr FAHEY: At that point we shall look at various aspects of section 88 and its application. I shall invite the honourable member for Rockdale on that occasion to give me a long, if he wishes, philosophical speech on his view of the various subsections of section 88. The honourable member seems

preoccupied with his beliefs that the Government has a connection with the Housing Industry Association. I place on record that I have met the Executive Director of the Housing Industry Association on one occasion, but that occurred after the election. That was a brief meeting at which discussion was limited to his view that this Government would consult and be accessible for consultation. I mentioned that legislation would be brought before Parliament to abolish section 88FA. That was volunteered by me.

I assure the honourable member for Rockdale that having spent many hours in the past two years with various employer associations—and a number of people in unions too—in an endeavour to learn about industrial relations, I acknowledge that I have much to learn. The honourable member for Rockdale and all other honourable members of this House will have a lot to learn in the future. In that time I did not at any point discuss or receive any advice or request from the Housing Industry Association. I draw the attention of the honourable member for Rockdale to the two cases that have been the subject of debate this afternoon. The matter in 1986 was opposed by the Housing Industry Association, the Master Builders Association, the Employers Federation and four building companies. I suggest that the building industry—subcontractors and employers—opposed that.

The second company involved was a member of the Employers Federation. That organization did not oppose that application but the Master Builders Association, the Chamber of Manufactures and the Retail Traders Association did. I refute the suggestion that the Housing Industry Association is behind the introduction of this measure. If it is, I assure the honourable member that I received no direction from my Premier on this issue. I certainly received no direction from the Housing Industry Association. The decision is based upon discussions with many people in the building industry. A major purpose of the bill, other than to implement machinery matters, is to delete a section of the Industrial Arbitration Act which is impacting ultimately against the consumer. For those reasons the Government rejects the proposed amendment.

Question—That the words stand—put.

The Committee divided.

Ayes, 58

Mr Andrews	Mr Hartcher	Mr Rixon
Mr Arkell	Mr Hatton	Mr Roberts
Mr Armstrong	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Schultz
Mr Berry	Mr Kerr	Mr Singleton
Mr Books	Mr Longley	Mr Small
Mr J. D. Booth	Miss Machin	Mr Smiles
Mr Catterson	Mr Mack	Mr Smith
Mr Causley	Mr Matheson	Mr Souris
Mr Chappell	Mr Merton	Mr Tink
Mr Cochran	Dr Metherell	Mr Turner
Mrs Cohen	Mr T. J. Moore	Mr West
Mr Collins	Ms Moore	Mr White
Mr Cruickshank	Mr W. T. J. Murray	Mr Wotton
Mr Dowd	Mr D. L. Page	Mr Yeomans
Mr Downy	Mr Park	Mr Zammit
Mr Fahey	Mr Peacocke	
Mr Glachan	Mr Petch	<i>Tellers,</i>
Mr Graham	Mr Photios	Mr Beck
Mr Griffiths	Mr Pickard	Mr Phillips

Noes, 42

Ms Allan	Mr Hunter	Mr Paciullo
Mr Amery	Mr Irwin	Mr E. T. Page
Mr A. S. Aquilina	Mr Knight	Mr Price
Mr J. J. Aquilina	Mr Knowles	Mr Primrose
Mr K. G. Booth	Mr Langton	Dr Refshauge
Mr Brereton	Mr Lovelee	Mr Rumble
Mr Carr	Mr McManus	Mr Shedden
Mr Cleary	Mr Markham	Mr Unsworth
Mrs Crosio	Mr Martin	Mr Walsh
Mr Davoren	Mr H. F. Moore	Mr Whelan
Mr Doyle	Mr Moss	
Mr Face	Mr J. H. Murray	
Mr Ferguson	Mr Nagle	<i>Tellers,</i>
Mr Gibson	Mr Newman	Mr Beckroge
Mr Harrison	Ms Nori	Mr Christie

Pair

Mr Greiner

Mr Rogan

Question so resolved in the affirmative.

Amendment negatived.

Schedule agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

BILLS RETURNED

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

Courts Legislation (Acting Judges) Amendment Bill
Darling Harbour Casino (Repeal) Bill
Zoological Parks Board (Amendment) Bill.

HOUSING (VALIDATION OF RESUMPTIONS) BILL

Second Reading

Debate resumed from 26th May.

Mr E. T. PAGE (Waverley) [4.43]: As articulated by the Minister for Housing, in one of his shorter and more concise speeches, the bill will validate resumptions and appropriations made by the New South Wales Land and Housing Corporation under the Housing Act 1976 from 1st January, 1986, with some exceptions. The measure has been brought about by the findings of Mr Justice Lee handed down on 14th April. The resumptions affected property resumed by the Crown from the Crown. There is no doubt that the State Government owns the land in some form. There is some conjecture about the ownership of various interests in boarding houses in the Millers Point area.

His Honour said that the statement of purpose in section 42 of the Act was not a valid notification within the section. Going beyond that, he said that even if that were not the case, it was open to the plaintiffs to seek to establish

that the purpose of the resuming authority was not a lawful purpose authorized by the Housing Act. So a validating bill had to be introduced to ensure that the resumptions that were undertaken by the State in good faith since 1st January, 1986, are now validated. There are, however, two exceptions. One concerns a specific case, and that is the Millers Point area, and the other is a general catch-all clause—"all other resumptions where there are outstanding legal proceedings". I am told there are no other outstanding legal proceedings; so that is purely a machinery clause and does not make much difference.

The Government and the department now have four options. The first is to appeal; the second, to re-resume; the third, to include Millers Point in the proposed legislation; and fourth, legally to do nothing and solve the tenancy problems by other means. I am informed that the legal advice is that an appeal should not proceed. I am happy to accept that that is good advice. As nothing was said about the matter in the Minister's second reading speech, apparently no move has been made to reinstitute resumption procedures to take into account the points raised by Mr Justice Lee. Obviously the Minister has dismissed the option of including the Millers Point property in the proposed legislation. That is the most reasonable course. I shall move an amendment to exclude subclause (3) of clause 3, lines 15 to 22, from the bill.

As I said, the fourth option is to do nothing and negotiate with the proprietors. It seems reasonable to allow Millers Point to be covered by the proposed legislation. There is no argument about ownership of the property; no one can say, as has been said in cases such as that of Mr Yates at Darling Harbour, that their land is being stolen from them. If the land is resumed and the question of ownership is simplified, anyone who has a claim against the department because they have an interest in businesses or a tenancy in the area can then present their case to the appropriate court. Compensation can be readily determined by the court and the matter would then be finalized. That seems to be the most successful course to follow.

In view of the fact that the Minister has made no other statement, it appears that he intends to do nothing legally. Presumably he will wish to negotiate separately with those people who feel they have an interest, to try to come to some arrangement. I doubt that he will be very successful in that endeavour. Obviously the people in the area have developed some support for the Liberal Party. I gather that at the last elections they ran an independent candidate against the present honourable member for McKell, Sandra Nori. The Minister probably feels that he can come to some arrangement with these people which will be in his interests and those of his department. However, I believe also that in view of the fact that those people have been fairly difficult to get on with to date, they will be no easier on the Minister. I doubt that his good intentions will advance his case in his negotiations with these people.

The situation needs to be resolved, as at present it appears that there are three classes of tenants in that area. There are Department of Housing tenants who have the usual rights and privileges that are offered by the Department of Housing; there are private tenants who rent their premises from various boarding house proprietors. At present they have no protection either as regards their duration of tenancy or the amount of rent they pay. The third class of tenant is the proprietors. I believe the Minister will have some difficulty in dealing with them.

I am rather intrigued by a description in the judgment of Mr Justice Lee. He clearly indicates that the plaintiff, one Ball—I presume that is Shirley Ball—has remained in the premises as a tenant carrying on the residential, there

being subtenants and occupants in the premises who pay rent or fee to the plaintiff. Presumably the plaintiff mentioned is a boarding-house proprietor. Yet, in a letter sent to me by the Minister on 24th May about his committee of inquiry into homelessness, he mentions that one of the members of that committee is a Mrs Shirley Ball. The Minister does not describe her as a boarding-house proprietor but as a long-term inner city resident with practical knowledge of boarding-houses and low cost rental accommodation. It seems to me to be rather misleading that the judge clearly describes her as being a boarding-house proprietor with a financial interest, whereas the Minister describes her as a resident with practical knowledge of boarding-houses. I hope the Minister in his reply will provide an explanation for the anomaly in those two descriptions; obviously they both cannot be strictly accurate.

The Minister should remove clause 3 from the bill, thereby validating this situation in a fair manner. No one is suggesting that any person in the area who has a claim to compensation should be affected by the removal of that provision. The ownership of a property should be legally clarified. Once that is done, anyone who feels that he or she has a claim against the Government through some financial or business interest could present a case to the appropriate court. The court could then determine just compensation. I believe that any government would be willing to pay the amount determined by the court. I believe also that the amount determined by the court under those circumstances would be far less an impost on the taxpayers of New South Wales than one that was negotiated behind closed doors, especially when the background to the matter is that there was some possible previous involvement between the two parties.

I presume that the various legal authorities are examining the effect that this judgment will have on other departments. It may well be that this judgment has affected resumption proceedings by other Ministers and other departments. Even though it is not mentioned in the Minister's second reading speech, I presume he would have alerted his colleagues to this judgment and that they would be investigating its effect on their departments. From what I have learned about this matter, courts have moved generally to tighten up resumption proceedings. I have no philosophical objection to that situation. Any government body that wished to resume my property or that of anyone else would need to have very valid reasons for doing so. Those reasons need to be spelt out so that there is no confusion. Properties should not be resumed on the basis of some unknown bureaucrat's general perception that at some stage such action might be in the interests of the department and or the Government; they might not always be the same. What Mr Justice Lee said in his judgment makes sense: the department should carry out resumptions in a proper and deliberate manner so that there can be no argument about why resumption is taking place. However, there must be valid reasons for the resumption. Before I move the proposed amendment at the Committee stage, I hope that the Minister will reply to the points that I have raised.

Mr MOSS (Canterbury) [4.56]: As the honourable member for Waverley pointed out, the Opposition does not oppose this bill in its entirety. Nonetheless, we are concerned that the main purpose of the bill may not be to validate resumptions that have already taken place but simply to insert clause 3 into law so that recognition can be given to the Millers Point tenants who are living in government owned property managed by the Department of Housing. The Minister in his second reading speech went to some lengths to point to the judgment that had been handed down in respect of Millers Point. The court ruled that the previous resumption proceedings were invalid.

The Minister pointed out also that all previous decisions should be validated. But the Government is excluding from that decision the Millers Point area. By that action the Government is saying that it is all right legally to resume property and subsequently to validate that action; but because the people in Millers Point were smarter than the others and decided to take on the Government in the courts, possibly because they were more articulate than the others and argued successfully against the Government in the courts, the Government is going soft on them but hard on the others. That does not seem to be fair. The legislation should have been drafted in such a way that all resumption proceedings were validated, as the honourable member for Waverley mentioned, rather than legislating only in respect of those who in fact were responsible for challenging the Government's decision—the Millers Point residents.

A further option would have been to appeal against the decision of Mr Justice Lee. If the Government wanted to take on the Millers Point tenants, another option would have been to recommence resumption proceedings in the courts but from a different approach. In other words, the Government could have recommenced proceedings having in mind Mr Justice Lee's ruling. It could have recommenced those proceedings with a specific statement of purpose of resumption, for that is what the ruling was all about. Mr Justice Lee felt that the resumption was invalid because at the time the Government did not have a specific statement of purpose for resumption.

The Government has ignored the options I put forward, as has the honourable member for Waverley. In doing so it has excluded the tenants at Millers Point from the provisions of the legislation, so that the Government might negotiate with those tenants. Of the properties at Millers Point only 26 are leased outright by the Department of Housing. No fewer than 34 boarding-houses are controlled by head tenants; in other words, they are sublet and those who are subletting the premises will not be served with resumption notices. I suppose it is human nature that the head tenants would not want the Government to legislate to validate the resumption of their properties. The head tenants would want the best deal they could get.

I do not believe the same head tenants would want the Government to appeal or to recommence court proceedings, because once the matter was before a court the truth might come out. We might find that there is a lucrative business in subletting government owned property at Millers Point. Of the head tenants most, if not all, are not the original head tenants. Over the years the Government has been the loser as tenancy rights have been bought from former head tenants with no payment to the Department of Housing or to the Maritime Services Board. The Government continues to collect a pittance in rent on the properties and at the same time the head tenants pocket the bulk of the rent that is collected. For those reasons clause 3 is opposed by the Opposition.

The Opposition is amazed at the stand taken by the Government on this matter. If the bill is passed with this clause intact it would appear that head tenants have a mysterious hold over the Government. I do not know if the head tenants at Millers Point are Liberal supporters or good friends of Liberal supporters. One does not have to be a private eye to sniff out a rat in this proposal. Those who try to force the Opposition to accept this measure are those who will be let off under this bill. If the Government does not see reason, if clause 3 stands and if compensation is granted to evicted head tenants, I hope the Government will give due consideration to the high profits that have been derived by the head tenants in subletting government owned property in assessing their compensation. The Opposition therefore opposes clause 3, which

seeks to support those who have forced the Government to introduce the legislation.

Mr SCHIPP (Wagga Wagga), Minister for Housing [5.3], in reply: I thank the honourable member for Waverley and the honourable member for Canterbury for their partial support for the legislation. It was unfortunate that they did not have more background material to overcome a blind spot that resulted in their carrying on a vendetta against the head tenants at Millers Point. The honourable members would not have made the derogatory remarks that they did had they understood the background of these people and how they were driven out by the Labor Party as a result of nonsense put forward by the former Minister for Housing.

Mr E. T. Page: On a point of order. I made no derogatory remarks about anyone. In my speech I cast not aspersions on the individual. I mentioned only facts I had before me and I cast no aspersion on anyone.

Mr SPEAKER: Order! There is no point or order.

Mr SCHIPP: I leave it to the judgment of those who read *Hansard* to see what honourable members had to say. The people can decide whether the honourable members were not pointing fairly and squarely at these people at Millers Point and virtually saying that if anyone dares to take the Government on and win a point at law, they will become the victims of a further vendetta carried on by members of the Labor Party. The Government does not operate in that manner. Millers Point was the first public housing community in Australia and has continued to be operated in that manner. When the former Minister tried to take it over he wrecked the community and denied housing opportunities to low-income earners who were the subject of the inquiry mentioned by the honourable member for Waverley.

The lady in question is Mrs Shirley Ball. She is the same person who took an action referred to in the judgment of Mr Justice Lee. She has been a boarding-house proprietor all her life. She grew up in boarding-houses and has written a book on the subject, entitled *Mamma's Boarding House*. She has experience in this field and I was pleased she accepted my invitation to serve on the committee. When the report is presented honourable members will find that her contribution has been of great assistance to Mr Max Raine and to the department itself in identifying areas of neglect in inner city housing. The former Labor Government had 12 years to do something about the problem. The Government will not accept an amendment along the lines proposed.

The bill will not validate resumptions in Millers Point as the Government does not accept that the resumptions were necessary, and title could have been obtained through completion of the purchase contract with the Maritime Services Board. We do not believe there is a necessity to include that matter in the legislation. The bill covers title to property and not tenants' rights. Although the honourable member for Waverley said that no legal actions were pending, one must have a clause to cover that situation, if the matter arises. Nothing is gained by including that aspect in the amendment, even if the honourable member wanted to carry on against the people at Millers Point.

Justice Lee ruled on one aspect only. He was not required to deal with the other two matters that were before him. As a courtesy to those involved in the case, and for the benefit of counsel, he made some observations in his judgment. A further evaluation of His Honour's judgment will be undertaken by the Attorney General's office. The Government believes that this legislation

is fair, just and reasonable. I do not believe the people at Millers Point have a gun at my head and I believe we will come to a sensible arrangement.

Mr E. T. Page: And publicize it?

Mr SCHIPP: It will be publicized. The issue has already received a great deal of publicity. It has been dealt with publicly, unlike the actions of the former Minister who failed to visit the area. Had he gone to Millers Point and spoken to the tenants he might have realized that his proposals were wrecking the community. I have been to Millers Point on many occasions. I believe I can resolve the issues to the benefit of not only the Government, which owns the property there, but also those who live there. The Government does not believe that focussing on this issue has assisted the debate; it detracted from the debate. As I stated in my second reading speech, prior to 1st January, 1986, it was accepted that the stated purpose for resumption was to comply with the provisions of the Housing Act 1912. It was repeated by the former Labor Government in later legislation, and was stated by Mr Justice Lee to be not a sufficiently stated purpose. I support the statements made by members of the Opposition that it is incumbent on the Government to spell out the reasons for resumption. If the legislation is not used for its stated purpose, other proceedings may follow.

The Government wants to deal fairly and squarely with all these issues. It does not want to resume land willy-nilly, as some past governments have done. The Government wants it to be known that if it is necessary to acquire land, it would rather deal with affected landowners on a straightforward commercial basis rather than have to resort to resumptions. The less resuming the Government does, the better off the community is. This Government is correcting anomalies of the past. It is doing nothing underhanded, as might have been implied by some remarks made by the two Opposition members who spoke in this debate. This is a proper, sensible and legal provision to correct a flaw in existing legislation. I hope that the Opposition accepts the measure at face value. It should forget its hang-ups about Millers Point, let the Government overcome the problems and house people down there. Those derelict properties have remained untenanted for many years because of the inaction and lacklustre performance of the former Minister, whom the Opposition supported until 19th March.

Motion agreed to.

Bill read a second time.

In Committee

Clause 3

Mr E. T. PAGE (Waverley) [5.12]: I move:

That at page 2, all words on lines 15 to 22 be omitted.

Contrary to what the Minister has said, I have no vendetta. I know only some of the history of the area. It comes down to the question of choosing one of two ways to handle the matter. The Government suggests one way, and the Opposition another. The Minister said that there would be no more legal proceedings *per se*, that some sort of land transfer between the Maritime Services Board and the Department of Housing will rationalize legal ownership of the property. Then the Minister or the department will negotiate compensation with those who feel they have some right to it under tenancy agreements. I gather that that has not been the legal option in the past. Though

it sounds odd to a lay person, the Crown often resumes from itself to ensure that, once proceedings are concluded, there is no further doubt about the ownership of the land and therefore no further claims in respect of it.

I believe the resumption proposals in this bill result from legal advice based on precedent. The Government has come unstuck in the way it has gone about this matter. The advantage is that once ownership is validated, anyone who has a claim or believes he has a claim can take advantage of normal legal procedures in the courts, present a case and seek their entitlements emanating from the actions of the Government. An independent person, without hang-ups, vendettas or involvement in the matters in the Millers Point area, can then make a judgement on the question of compensation. The Minister is saying that the Government has decided it will not adopt that process, that it will go against past legal advice and try to rationalize ownership through negotiation, exchange of letters and probably consideration between the two departments, and ultimately negotiate separately with those who believe they have an interest. That process will be far less satisfactory and will take much longer. Those who will be negotiating will be the very parties that have had difficulty conducting negotiations in the past. That is not a satisfactory way to resolve these problems.

The Minister has said that many places at Millers Point are empty. I do not know whether that is so. If it is, his actions will ensure that those premises will be vacant much longer and will not be able to be used by those on departmental waiting lists. The best and most definitive way of handling the problem would be to adopt the Opposition's amendment. It would validate the resumptions. Those who then believe they have a right to compensation by the Government for present or past actions of government can approach the courts, present their evidence and seek judgments in their favour for the full amount of their entitlements.

Mr SCHIPP (Wagga Wagga), Minister for Housing [5.16]: It is not a matter of compensation. The Government seeks to resolve the title question. Title can be gained by completing current contracts with the Maritime Services Board, obviating the necessity to resume land or include the Millers Point area in the provisions of the bill. If the Millers Point people were excluded from the validating Act, they would be back in the position they were in immediately prior to resumption. That is fair. If the honourable member for Waverley had read the Ombudsman's report he would not have had so much to say about compensation, because the Ombudsman's ruling was weighted heavily against the department and the way this whole matter was handled. It is muddying the waters to talk about the tenancy rights of those people rather than their title. All I am saying is that title can be fixed up by simple transfer and continuing the contracts between the Maritime Services Board and the Land and Housing Corporation. The Crown, of course, resumes from itself simply to facilitate the issue of Torrens title in a consolidated form. That is not necessary in this instance as title was able to be transferred by the Maritime Services Board to the Department of Housing. These two issues are chalk and cheese; the Government is not talking about compensation; it will reinstate people to their former positions. It will not be a matter of a massive compensation payment. Compensation has very little to do with this legislation. The Government will reject the amendment.

Mr E. T. PAGE (Waverley) [5.17]: Apparently we have in the debate a new element in the aim of the Minister. Apparently he is not concerned about compensation or negotiation. He wants to validate and entrench the claims of the people at Millers Point. That is what the Minister said. He will allow them to continue in their current situation. That will continue what has been a

running sore. The proof of that will come out. If the Opposition amendment is accepted, the resumptions would be validated, in a matter of some months compensation would be determined, and that would be the end of the matter. If the Government persists with its provision, we will see how long it takes the Minister to resolve this problem. We will soon learn whether he is left with residual problems.

The Minister is saying that he is not interested in the department's acquiring the full rights to this particular property but is prepared to allow those people to continue in what is arguably an unsatisfactory situation as far as the control of tenancies is concerned. That will allow to continue a problem that has plagued the Government for some time. If there is to be a continuation of people controlling residential premises, that should be on terms dictated by the Government, not on terms dictated by the people who have a long-term and entrenched financial interest in the area. If the Government persists with allowing that position to continue, it would be better to draw the line and allow the affected people to claim compensation. After that issue is resolved the Government could, if it wishes, allow those people to run boarding-houses for the Government, allow that arrangement to proceed to finality, thus enabling the Government at all times to remain in control. Obviously the Minister for Housing does not have the fortitude to resolve this matter. The Minister may believe that he can negotiate out of a somewhat ticklish situation. However, that will not be so. In the next session of Parliament, or the one following, the Minister will be introducing further legislation to alleviate a problem that could be resolved now if he accepted the Opposition's amendment.

Mr SCHIPP (Wagga Wagga), Minister for Housing [5.20] The honourable member for Waverley is building a strawman argument. What the Government arranges with the Millers Point people has nothing to do with this legislation. The legislation is correcting an anomaly that arose out of action taken by Mrs Ball and which left the Government vulnerable in respect of some resumptions. This legislation will correct that anomaly. The resumptions have been completed and compensation has been paid to all the people entitled to it. The honourable member for Waverley conceded that no legal action was outstanding in relation to any resumption. The Government is making a correction that is sensible, sound, feasible and in accordance with legal advice. I will not be sidetracked by other arguments. The Government will deal with Millers Point. The House should deal with this legislation at the moment.

Question—That the words stand—put.

The Committee divided.

Ayes, 59

Mr Andrews	Mr Griffiths	Mr Pickard
Mr Arkell	Mr Hartcher	Mr Rixon
Mr Armstrong	Mr Hatton	Mr Roberts
Mr Baird	Mr Hay	Mr Schipp
Mr Berry	Mr Jeffery	Mr Schultz
Mr Books	Mr Keegan	Mr Singleton
Mr J. D. Booth	Mr Kerr	Mr Small
Mr Caterson	Mr Longley	Mr Smiles
Mr Causley	Miss Machin	Mr Smith
Mr Chappell	Mr Matheson	Mr Souris
Mr Cochran	Mr Merton	Mr Tink
Mrs Cohen	Dr Metherell	Mr Turner
Mr Collins	Mr T. J. Moore	Mr West
Mr Cruickshank	Ms Moore	Mr White
Mr Dowd	Mr W. T. J. Murray	Mr Wotton
Mr Downy	Mr D. L. Page	Mr Yeomans
Mr Fahey	Mr Park	Mr Zammit
Miss Fraser	Mr Peacocke	<i>Tellers,</i>
Mr Glachan	Mr Petch	Mr Beck
Mr Graham	Mr Photios	Mr Phillips

Noes, 42

Ms Allan	Mr Hunter	Mr Paciullo
Mr Amery	Mr Irwin	Mr E. T. Page
Mr A. S. Aquilina	Mr Knight	Mr Price
Mr J. J. Aquilina	Mr Knowles	Mr Primrose
Mr K. G. Booth	Mr Langton	Dr Refshauge
Mr Brereton	Mr Lovelee	Mr Rumble
Mr Carr	Mr McManus	Mr Shedden
Mr Cleary	Mr Mack	Mr Unsworth
Mrs Crosio	Mr Markham	Mr Walsh
Mr Davoren	Mr Martin	Mr Whelan
Mr Doyle	Mr H. F. Moore	
Mr Face	Mr Moss	
Mr Ferguson	Mr J. H. Murray	<i>Tellers,</i>
Mr Gibson	Mr Nagle	Mr Beckroge
Mr Harrison	Mr Newman	Mr Christie

Pair

Mr Greiner

Mr Rogan

Question so resolved in the affirmative.

Amendment negatived.

Schedule agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

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

PRIVATE MEMBERS' STATEMENTS

PORT HACKING RIVER SILTATION

Mr KERR (Cronulla) [5.30]: I raise a matter of importance to my electorate, to the Sydney area and to Australia—the siltation of the Port Hacking River. Honourable members will be familiar with the beauty of the Port Hacking River. It is one of the most beautiful, if not the most beautiful, waterways in Australia. The Minister for Environment and Assistant Minister for Transport is familiar with that waterway and has in fact taken a constant interest in the environment.

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. Honourable members wishing to converse should do so outside the Chamber.

Mr KERR: The problem with Port Hacking River is siltation. The honourable member for Heffron laughs.

Mr T. J. Moore: It is his own bottom of the harbour scheme.

Mr KERR: That is true. As the honourable member for Heffron would know, in the past few years there should have been maintenance dredging to clear the channel. If that had been done, that waterway would have maintained its beauty and in fact be one of the focal points for recreation in the Sydney area, but that was not done. Over the last number of years, and in fact it goes right back over the 12-year term of office of the former unlamented Government, there was a failure to take action to dredge the channel. The channel provides navigation for boats. However, the Maritime Services Board has had to take away markers from the channel. With movement of the sand those markers have become misleading and endanger boats in the area.

There is a ferry service for commuters between Cronulla and Bundeena. I might offer a word of praise in relation to the honourable member for Heffron. When that ferry service was threatened I spoke to the honourable member, in his former capacity as Minister for Public Works and Ports, with a delegation. The former Minister made available \$80,000 to dredge Burraneer Point, and it was done commercially. In fact the person to whom the dredging was tendered out was able to do it for \$60,000, so an extra \$20,000 was available. If the honourable member for Heffron had remained in his former position, he may have made more money available for dredging but, as we all know, the former Premier removed him from office. I suppose greater love hath no man than he who is prepared to lay down the lives of his friends for his political skin.

[Interruption]

Mr SPEAKER: Order!

Mr KERR: I was praising the former Minister. We may have been poles apart in respect of certain results achieved under the former Government, but the former Minister acted with commendable speed and assisted the people of my electorate in relation to that ferry service. However, that ferry service is not threatened by the neglect of the Unsworth Government. An election undertaking was given, and I am sure that will be honoured, but I ask the Government to look seriously at maintenance dredging of Port Hacking River and to let tenders out so that that work is done commercially. This will ensure that safe navigation is restored to the Port Hacking River.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [5.33]: I am happy to advise the honourable member for Cronulla that bodies in my administration, such as the Department of Planning, the State Pollution Control Commission and the National Parks and Wildlife Service, are taking considerable interest in the long-term problems of attachment siltation and the runoff into Port Hacking River through the electorate of our colleague, the honourable member for Heathcote. I am sure that the Minister for Transport and the Minister responsible for ports will respond to him on the issues of maintenance dredging to the channels in Port Hacking River.

JERRABOMBERRA HEIGHTS ESTATE

Mrs CROSIO (Smithfield) [5.35]: Today in the House the Minister for Environment and Assistant Minister for Transport denied that he and his colleague, the Minister for Local Government and Minister for Planning, the member for Monaro and a local developer Mr Alex Brinkmeyer had a meeting before he disallowed a conservation order to expire concerning the Jerrabomberra Heights Estate near Queanbeyan. The *Queanbeyan Age* of 27th April clearly reported on the front page:

"Following a deputation to the Minister for Local Government and Planning, Mr David Hay, the Jerrabomberra Heights Estate development in Queanbeyan will now proceed" Mr Cochran told the Age.

A deputation, which included developer Mr Alex Brinkmeyer and Mr Tony Carey and led by Mr Cochran, met in Sydney with Mr Hay, plus the Minister for Environment, Mr Tim Moore and a departmental officer.

I ask, was the newspaper wrong or has the Minister for Environment misled the House? This is an important question. If one lived in Queanbeyan, one would be aware that Mr Brinkmeyer is president of the Queanbeyan branch of the Liberal Party—I might add that he is a resident of Canberra—a position which he attained a week before he came to that meeting on 26th April. So influential in Liberal Party affairs is this person that on 9th May the Premier of New South Wales opened his land sales office in Queanbeyan; not only did he open that office but at a Liberal Party meeting at Mittagong it was reported, "Premier Nick Greiner has the 'key' to a major development in Queanbeyan". The presentation of the master key to Jerrabomberra Village was made because of the wonderful service that had been provided for Mr Brinkmeyer. I can table that report if the Minister wishes to see it. It features a very clear photograph of the Premier and the developer.

It is widely known, and certainly spoken about at length in the Queanbeyan district, that Mr Brinkmeyer is a major financial contributor to the Liberal Party. In fact it is stated—and I would like to have it confirmed by the Minister—that this developer gave \$150,000 to the Liberal Party candidate to help in winning the seat of Monaro. Of course, he was a little more shrewd than that, and he then gave \$150,000 to the National Party. He had a foot in both camps. I emphasize this is an important matter. The order that was originally placed on this development was made under section 136 of the Heritage Act, which expired on 18th May. The developer commenced bulldozing the site before a report came from the National Parks and Wildlife Service, Commonwealth Scientific and Industrial Research Organization or any other council report regarding the rare and endangered species in that area.

All honourable members know now that a local environmental plan was gazetted on 20th May. They know also, as history tells us, that the Heritage Council considered the proposed housing development on 5th May and then

decided it would take no further action, because the local environmental plan contained an extra clause that spelled out that there had to be consultation with the head of the National Parks and Wildlife Service before any development approval could be given. The headline on the front page of today's *Queanbeyan Age* reads: "Building boom start at new development". I know the developer has two estates at Queanbeyan, and I know that the Premier when opening the land sales office opened an office for the previous estate that had development approval. The developer has been selling off his plans, a development application for which he has not received approval at this stage. The so-called open-door attitude the Government portrays to the Opposition and to the public has not been evident to the Opposition at question time in this House. What has become apparent to the Opposition is that the rich friends of the Government can now get their way even before environmental studies are completed and before a council gives development consent. That demonstrates that the Minister for Environment thinks he can get away with giving less than a full answer to questions asked in the House. One is left to wonder why.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [5.40]: I wish to respond to this disgraceful sleaze from the honourable member for Smithfield. I want to make it abundantly clear that this ratbag of a member should read the order of administration of Acts in this State. If she did, she would discover that the administration of the Heritage Act lies with the Minister for Local Government and Minister for Planning, and not with me. I have visited Mount Jerrabomberra with Mr Brinkmeyer. I have met with environment groups in Queanbeyan who raised with me their concern about the wrinklewort, which is an endangered species of plant growing on Mount Jerrabomberra.

I have advised my colleague the Minister for Local Government and Minister for Planning of my concern about the need to protect the habitat of that plant at Mount Jerrabomberra. The local environment group's representative recently met me in my office in Sydney to present me with a botanical drawing of the wrinklewort to thank me for the endeavours that I had undertaken with the Minister for Local Government and Minister for Planning to ensure that part of the plant's habitat was protected. I make it abundantly clear that this morning—

Mrs Crosio: The Minister denied meeting him.

Mr T. J. MOORE: I did not. If the honourable member read her own facile question and read my answer, she would know precisely what was said. This morning the honourable member asked me "Did you, following a meeting in your office"—that is, my office—"on 26th April with certain people do certain things?" I said, precisely, "I have had no such meeting with that gentleman in my office at any time". That is a precise, clinical and absolutely truthful statement. I have not—

Mrs Crosio: So, the Minister did not meet him?

Mr T. J. MOORE: I have not—I answered the honourable member's question. If she is so facile that she cannot ask the right question of the right Minister, she ought to understand what is done. I have no power under the Heritage Act whatever. I have advised my colleague about the habitat protection matters that are involved. I gave an absolutely, totally, truthful and surgically precise answer to the member's facile, stupid and misdirected question this morning.

MAIN ROADS 141 AND 142

Mr BECK (Murwillumbah) [5.43]: The matter I raise is the upgrading and sealing of main road 142 and main road 141, the replacement of the Rolands Creek Bridge at Uki on main road 142 and the replacement of the low-level bridge at Byangam, also on main road 142. The gravel section of main road 142 is all within the Murwillumbah electorate and the gravel section of main road 141 is partly in the Murwillumbah electorate of the Tweed Shire and the balance in the Lismore electorate in an area of Kyogle Shire. Both bridges are within the Murwillumbah electorate. The expenditure on roads by the former government over the past nine years was insufficient. I am sure tonight honourable members will hear something more positive from the Minister for Administrative Services and Assistant Minister for Transport and the new Greiner-Murray Government.

Over the past nine years \$560,000 was spent on main road 141, but that amount was spread over nine years. An amount of \$1,300,000 was spent on main road 142. An area of gravel of 7.45 kilometres still remains on main road 142, which I am told would cost about \$750,000 to restore to a satisfactory condition; and 3.18 kilometres of main road 141 in the Tweed Shire is still gravel and would cost \$550,000 to replace. Replacement of the Rolands Creek Bridge is estimated to cost \$300,000. I do not yet have any costing on the low level Byangam Bridge, of which I am sure the Minister will be aware, in an area that is constantly flooded. The rains that have fallen in the Tweed Shire on the North Coast in the recent past caused considerable problems with that bridge.

Traffic counts of vehicles using main road 141 and main road 142 were conducted until 1986, after which it seems the former Government was not interested in keeping statistics of vehicle traffic. In the Uki area, which is about 10 kilometres from Murwillumbah, 1 243 cars a day pass Uki on main road 142 from Murwillumbah to Kyogle. I have been told that that figure is increased by local traffic closer to Murwillumbah. The Greiner-Murray Government has announced that considerably more funds will be made available from the \$180 million collected in fuel taxes for roads. I ask the Minister for Administrative Services and Assistant Minister for Transport whether some of that money will be used to upgrade roads on the northeast corner of the State.

The road I refer to is a goat track; it is not fit for the uses to which is should be put—for tourists and local inhabitants to travel back and forth to town. As honourable members will note from the figures I have given, people who operate primary industries—cattle and beef producers and growers of small crops—have major problems. As the local member I have received submissions about the road conditions from the Murwillumbah business corporation, primary producers in the area, the Combined Rural Industries Association, and also a committee formed many years ago to press for upgrading of the road from Murwillumbah to Kyogle—that is, the residents of the south arm of the Tweed River.

Last year the Commissioner for Main Roads, Bernard Fisk, was in the area at the invitation of the Tweed Shire Council. We had a deputation to meet the commissioner but, unfortunately, he drove past and did not see fit to stop. I think that was done under instructions from the former Government. I am sure that the Minister for Administrative Services and Assistant Minister for Transport will always be available to inspect roads such as those I refer to, as he said he would in an answer to a question this morning. He has told me that he will be visiting the area in the near future. I have raised this matter tonight

because it is urgent. We feel that the town of Murwillumbah will have an increased volume of business.

Mr SPEAKER: Order! The honourable member has exhausted his time for speaking.

Mr SINGLETON (Coffs Harbour), Minister for Administrative Services and Assistant Minister for Transport [5.48]: The honourable member for Murwillumbah has raised a serious matter that reflects the thoughts of all members of this Parliament, if they have a mind to reflect with. I know there is no problem in that regard for members on the Government side of the House, but I do have some doubts about those on the other side. The former Government allowed the State's roads to deteriorate and disintegrate in many areas. The maintenance of the greatest asset we have in this State—our road system—will be a priority for this Government. The speed with which the Government reacted during the recent flood crisis throughout the State is indicative of our concern to maintain a proper State road system.

During the entire time that the honourable member for Murwillumbah has represented that marvellous area of New South Wales he has exhibited a strong interest in roads. He lives out of town and his property is serviced by a fairly poor road. The importance of good roads is made obvious to him every time he uses that road. We all know that roads very much determine the living standards and the lifestyle of people who live in country areas of the State. If we do not ensure that their living standards and lifestyle are maintained at a relatively high level, the young people will not remain in the area; they will drift off to the cities, and this great State will be the poorer as a result.

At the request of Government members who represent electorates in the northern part of the State, I shall be inspecting later this month roads in the northeastern area of New South Wales, as well as those in the Tenterfield region of the Northern Tablelands. I intend to carry out a full inspection of the Kyogle to Murwillumbah road to see at firsthand the problems that confront us. The program for the 1988–89 financial year has not yet been finalized. However, adequate funding will be provided to maintain that road at a reasonable standard. The best we can hope to do at this stage is to improve the level of maintenance of the State's road system, because of the funding cuts being forced on the States by the federal Government. The two local councils in the area continue to give priority to improvement works on other main roads in the region. It is not expected that funding for road construction will be made available under the 1988–89 construction program. However, I assure the honourable member that road funds will be allocated on a needs basis and that \$180 million extra of fuel tax moneys will be made available for roadworks.

Mr SPEAKER: Order! The Minister has exhausted his time for speaking.

HOME BUSH ABATTOIR

Mr IRWIN (Fairfield) [5.51]: I wish to bring to the attention of the House a number of disturbing consequences of the closure of the Homebush abattoir announced by the Minister for Agriculture and Rural Affairs on 26th May. In making the announcement and in further statements since then the Minister has failed to give any assurance of the continued viability of the 180 small businesses located at the Homebush site. These small businesses, which are involved in the wholesaling, cartage, distribution—

Mr SPEAKER: Order! I draw the attention of the honourable member for Fairfield to the fact that the purpose of private members' statements is to raise matters that fall more directly within a member's electorate or matters of a very specific electoral nature. I shall allow the honourable member to continue with his remarks on this occasion, but I draw his attention and that of other honourable members to the fact that private members' statements are not to be used to canvass a matter which is obviously of wide and State importance, as is the closure of Homebush abattoir.

Mr IRWIN: With your indulgence, I shall continue. Those small businesses face an uncertain future following the closure of the slaughtering facilities at Homebush. The Minister has served notice that no abattoir operation would be considered within the metropolitan area of Sydney. By adopting that callous and high-handed approach the Minister has pulled the rug out from under the 180 small businesses at Homebush. No mention has been made of compensation for leaseholders at Homebush, and wholesalers have been left to the mercy of country abattoirs to arrange for stock killing. Though the Minister has been silent on the question of the future of small businesses at Homebush, he has been careful to conceal the fact that abattoirs located in his own electorate, at Forbes and Cowra, will be among the principal beneficiaries of the closure of Homebush abattoir.

The real winners will be the interstate and overseas owned conglomerates who are poised to take control of the meat industry in this State. Companies including Adsteam, Elders-IXL and Japanese interests are now in a position to dominate the fresh meat market in New South Wales. These small businesses, which contribute greatly to stability in the market and provide specialty meat products, face the prospect of being squeezed out of the industry altogether. The losers, of course, will be the meat consumers of Sydney. They will no longer have access to high quality fresh meat at their doorstep. The concentration of ownership in the meat industry can result only in higher prices being paid for meat in Sydney. The \$4.6 million losses incurred by the Homebush abattoir pale into insignificance when compared with the higher prices Sydney housewives will pay for their families' meat. Nothing that the Minister has said will assure consumers that they will not pay dearly for the closure of Homebush.

The Minister has also failed to assure meat consumers of the Jewish and Islamic faiths, who are almost entirely dependent on Homebush for the slaughter of animals according to the rituals and requirements of their faith, that they will have a continued supply of meat without exorbitant price premiums being placed on these special meats. Nor can the Minister assure those consumers that during transportation their meat will not be contaminated through contact with pork. In his haste and zeal to achieve his long-cherished ambition to close the Homebush abattoir, the Minister for Agriculture and Rural Affairs has ridden roughshod over the interests of meat workers, small businesses and consumers. His name will live in infamy for the body blow that he has delivered to those who provide the mainstay of this State's meat industry.

Mr SINGLETON (Coffs Harbour), Minister for Administrative Services and Assistant Minister for Transport [5.56]: The honourable member for Fairfield raised a matter that you, Mr Speaker, rightly said is not important to his electorate. Really he has no right to raise it in this debate. The Government is well aware of the situation of the small businesses at Homebush. If ever there was a government supportive of small business, it is this Government. There is no doubt that the honourable member, as a member of an issueless Labor Party, has tried to beat up an issue. He is trying to generate something out of nothing. It is obvious that the honourable member did not want the Minister

to respond to his remarks tonight, as he did not advise the Minister of his intention to speak on the subject. On two occasions the Minister has spoken at length on the supply of meat to Sydney. Today he demonstrated that the meat supplied to Sydney will be very much cheaper when it is slaughtered in country abattoirs. It will arrive in Sydney in a very much better condition than occurs under the present system where livestock is carted long distances over country roads that the former Government left in a shocking condition.

The honourable member spoke also of the supply of meat for members of the Islamic and Jewish faiths. I understand that there are abattoirs in the State that well and truly cater for the needs of all sections of the community, and the Government is well aware of that. The Minister demonstrated clearly today that under the new system the cost of meat will fall. The honourable member is being quite mischievous in raising this matter. He has tried to beat up an issue. He did not advise the Minister of his intention to speak, and it is obvious that he did not want a response from the Minister to his remarks.

TRAFFIC BLACK SPOTS

Mr J. D. BOOTH (Wakehurst) [5.58]: Tonight I raise the problem of traffic black spots and, in particular, the way in which the funding arrangements for this program have affected two particularly dangerous intersections and problem areas in my electorate. The Department of Main Roads and the Traffic Authority of New South Wales have both clearly been suffering from starvation of funding under the previous Labor Government. The raising of this matter used to be almost a routine ritual at meetings of the Warringah shire council's local traffic committee, which I attend on a regular basis. At those meetings the representative of the DMR, doing a thoroughly capable job, would repeatedly say that while the DMR had no objection to a specific program being undertaken in order to improve traffic safety in the area, nevertheless funds were not available. This routine of recitation at those meetings over the past two or three years has reached such a stage that it is now virtually a point of jocular conjecture that it will happen even before the poor fellow gets to enunciate it. About two years ago we went through the stage where funding for these sorts of traffic arrangements was made available only if the matter concerned a direct and immediate threat to safety. The matter progressed to the stage where last year funding was not available even where a threat to safety was directly involved.

Tonight I wish to deal with two specific sites in and around my electorate. The first one—this concerns a problem that was raised with me before the last election—actually involves a stretch of road that is now located slightly outside my electorate following the redistribution. It is situated at the corner of Warringah Road and Alfred Street, Narraweena. There is at that intersection a pedestrian crossing on the six-lane wide Warringah Road. I am sure that the Minister for Transport would be aware of the general view taken by both the DMR and the police that pedestrian crossings over six-lane roads are basically dangerous because, on the one hand, they create a sense of safety for pedestrians but, on the other hand, on that width of road they are quite dangerous in the light of the speed at which traffic travels. This particular crossing is located towards the bottom of a hill. Traffic travelling down Warringah Road tends to move at reasonably high speed. On the couple of occasions that I have inspected the site I have found the situation to be quite alarming. The matter was specifically brought to my attention and has been raised with the council's local traffic committee following an accident that occurred at that site a few months ago. The young girl who works for the local

chemist was knocked down and seriously injured by a vehicle travelling down Warringah Road. So there is a need for traffic lights to be installed at that intersection.

The second site I wish to mention is near the intersection of Pittwater Road and Rickard Road, North Narrabeen, which is an area that was incorporated into my electorate just prior to the last election. Again this site has an accident history. There is no pedestrian crossing at all for a long distance in that area, yet a bus stop is located on the far side of Pittwater Road. At that point the road is more than six lanes wide as there is also a feeder road from the Wakehurst Parkway. Pedestrians must cross the road to get to the bus stop in order to use the bus service. However, no safe method is provided for them to do so. During the election campaign the honourable member for Pittwater and I—this area is situated just on the boundary of our two electorates—operated joint campaign rooms directly opposite this site. Though we operated from our campaign rooms for a one-month period only, during that time there were two serious accidents and a couple of other accidents at that site. In respect of one of them I still have not heard whether the final outcome was a fatality. Last heard of, the woman who was knocked down on the road was still in hospital in a coma.

Those are two typical sites that could have been addressed previously had funding been made available by the former Government to continue the program of eradicating traffic black spots. The sad thing for my electorate, and for electorates around the State, is that funding was starved by the former Government. I look forward to the screws being at least slightly relaxed by the present Government, given its economic stringencies.

Mr BAIRD (Northcott), Minister for Transport [6.3]: I thank the honourable member for Wakehurst for his contribution and for his continued interest in transport. As chairman of the Liberal Party transport policy committee, he has a strong interest in the subject. Funding for the Traffic Authority is a major concern. The authority was starved of funds and that was nothing short of a disgrace. It has performed a vital role with few funds to carry out its function. I was briefed by the head of the authority who outlined the problems in carrying out those functions while there is a freeze on funds. A large proportion of money is used in administrative costs. Over the past few years funding for the authority has decreased in real terms, so that the ability of the authority to address problems such as black spots, the need for roundabouts and traffic lights has been significantly diminished. Funding has been reduced by an outstanding amount and the Government plans to correct the situation. Nothing is more important when considering the subject of roads than that we put strong emphasis on safety improvement. That includes a number of areas, such as identification of black spots and providing funds for the installation of traffic lights and roundabouts which will not only improve traffic flow but also reduce significantly the level of accidents and the number of fatalities. I assure the honourable member that the Government will provide funds to the Traffic Authority at the level it deserved in the past, but which the former Government failed to recognize.

Private members' statements noted.

[Mr Speaker left the chair at 6.5 p.m. The House resumed at 7.30 p.m.]

TOW TRUCK INDUSTRY (REVOCATION OF PROCLAMATION) BILL

Second Reading

Debate resumed from 26th May.

Mr BRERETON (Heffron) [7.30]: On behalf of the Opposition it is my duty to speak in this debate on the Tow Truck Industry (Revocation of Proclamation) Bill and I do so. At the outset I note the quite profound disappointment of the Opposition in the failure of the Government to proceed with the legislation put through this House by the former Minister for Industrial Relations in October 1987. I refresh the memory of those honourable members who were here at that time and advise those honourable members who have come subsequently of the background to that enactment. It came after a controversial series of newspaper articles and criticisms of the tow truck industry. The criticisms were quite widespread and suggested a great deal of malpractice.

Honourable members would remember the many newspaper statements and the headlines that appeared through 1985, 1986 and 1987, indicating the nature of malpractice in the tow truck industry and calling for Government action to provide some framework of control to guarantee that the industry was relieved of the corrupt elements that had been involved in a number of scandalous situations. It is with a sense of wry irony that I note that in this first session of Parliament after the election of the new Government, we have an important piece of legislation dealing with the Independent Commission Against Corruption before the House but at the same time there is legislation to curtail the functions of the Ombudsman, and to put on the back burner, as it were, this important legislation to stamp out corruption in the tow truck industry. That indicates a dual standard of the Government and certainly a good deal of political posturing by it. I remind honourable members of some of those stories that led to the enactment of the legislation in October last year. Honourable members will remember the newspaper report of 9th April, 1985, under the heading "Tow truck violence hits eastern suburbs". The author of the article was Louisa Costa. The article in the *Sydney Morning Herald* read:

A loud bang, hissing and the smell of burning rubber was how Easter Sunday began for a tow truck driver.

According to police, the driver looked out of his cab window and saw another driver waving a rifle at him.

The victim's front right-hand tyre had been punctured by a single bullet.

Also that year an article in the *Sydney Morning Herald* under the heading "Towing war heats up with fire-bombing", by David Monaghan, read:

A tow truck was petrol-bombed near Canterbury just before Christmas and the door of a smash-repair shop in Campsie set alight last week.

There were two more incidents involving malpractice in the tow truck industry. I refer also to a story in the *Sydney Morning Herald* under the heading "Tow truck industry hit by new violence", by David Monaghan, which read:

The owner of a tow truck fire-bombed outside a Liverpool block of flats yesterday says his drivers now fear for their lives.

I shall not go through all these stories, but widespread press comments were made about them and a great deal of concern was expressed. Indeed, who could forget the call made by the Tow Truck Industry Council for a statutory body to be established, with strong disciplinary powers? That recommendation was made back in 1985. In its report to the then Government it indicated:

Violence has become commonplace in the industry: brawls at crash sites, attacks in back alleys where tow hooks, blocks of wood and in several cases shotguns have been used. On August 24 last year, a 23-year-old tow truck offsider, Evangelos Flynogiannis, was shot and killed at Park Road, Wallacia, after a dispute over a tow fee. Two drivers from rival companies in Holroyd and Granville were charged with assault after a roadside fight soon after.

That was a separate incident, but another very damaging incident to this industry. There was a comment from an outer suburban tow truck operator, who said:

People are getting beat up every day, tyres are being blasted in the eastern suburbs and shots are going through windows. Tow trucks are running with no licences, people are being beat up with lumps of timber, sugar is being poured into petrol tanks, it is going on all the time.

It was against this background that there were two separate inquiries by the New South Wales Ombudsman and each of those reports was presented to this Parliament. Two of the Ombudsman's annual reports indicated that there was a real problem in the tow truck industry. That is the background. I point out it was on 29th March, 1987, that the former Opposition spokesman, the present Minister for Transport, accused the Government of dragging its feet. I am sure the Minister will say that the former Government dragged its feet, but the fact is that by October 1987 there was legislation in this Parliament. There were measures dealing with the tow truck industry placed under the closest scrutiny with very stringent controls. All of that was to take effect from 1st August, 1988.

Last week the Parliament was told by the Minister that this situation had been reviewed; it has been decided that there should be a revocation of the proclamation and that the whole thing should be put on hold, as it were, until such time as there was further consultation with those in the tow truck industry. I am sure that the Minister and the new Government have a very genuine desire to consult with the tow truck industry and to explore all of the options so as to put violence and malpractice in this industry behind us and to rid the industry once and for all of those practices. But the fact is that this new Government is putting the matter on the back burner, and allowing a potential situation to occur in which violence could break out at any time. I say, on behalf of the Opposition, that any malpractice that occurs from this day forth will be at the feet of the new Government. It is the new Government that has taken the decision to revoke the proclamation of this legislation and to prevent it taking effect from 1st August. That is a serious step and one that I sincerely hope does not come home to haunt the Minister.

Mr BAIRD (Northcott), Minister for Transport [7.39], in reply: I was interested in the honourable member for Heffron's comments about problems of violence within the tow truck industry, for that is precisely the type of point that the coalition parties were making when in Opposition. All would agree that there have been significant problems in this industry. It has been riddled with serious problems of violence and mafia-style arrangements. The speech I made on the original bill highlights those factors. These problems of violence and so on could have been addressed under existing legislation. No one ever denied that. The Opposition said so during previous debates on this matter. It was said on that occasion that the coalition parties were seeking to delay the Government's measures but that the former Government had taken a brave decision by rushing in its legislation.

The report of the working party on the regulation of tow trucks was completed in June 1983—five years ago. The report of the Tow Truck Advisory Council was completed in February 1985—more than three years ago. In 1985

the Minister for Roads at that time, Mr Brereton, rejected the proposition put forward by the present Minister for Industrial Relations that the Department of Main Roads be responsible for regulating the tow truck industry. So the honourable member for Heffron was the person who said that the coalition was delaying the former Government's proposal while he had the ability to take suggestions on board and handle those matters as part of his portfolio. I have here a letter signed by Mr L. J. Brereton, Minister for Roads, addressed to Mr Unsworth. It declines the opportunity to take any action on this matter. To suggest that this Government is dragging its feet is to deny the fact. This serious problem in the tow truck industry has been hunted from department to department, from the transport ministries to the Department of Industrial Relations.

Mr Whelan: Table the letter.

Mr BAIRD: I make it available to the honourable member for Ashfield. It is no great secret. The former Minister decided that this question was too hard. No one suggests that the solution is easy. That is why the present Government intends to take its time and review matters. It is important to note that, despite being introduced into this House last October, nothing has happened since. It is not as if the Opposition could blame the coalition for rushing this in just before the elections. This was introduced in October. So six months have passed and not a thing has happened—no regulations were drawn up, a council was not formed, and no one was appointed to the council.

The legislation was not put into effect. It was symbolic, and that was it. The person appointed chairman of the corporation, Mr Vince Nash, was frequently seeking action. But Ministers took no real interest in this matter. Apparently they felt they had played their part in having the legislation passed, taking the heat off them. The coalition Opposition asked at the time who would be responsible for the roster proposal under the legislation. Different things were being said in this House and in the other place. Ministers were not sure who would be responsible for that proposal. It was said that a regulation would provide who would be responsible. But no regulation was drawn up. Nothing was developed. The main concern of the coalition parties was that this could be another opportunity for corruption.

The decision on who would get the job of towing away a damaged vehicle was to be left with a policeman or some other officer. This was of considerable concern in the tow truck industry. That industry was concerned about the whole of the legislation. The former Government had half-baked ideas on how the legislation would work. It had not promulgated regulations. One might ask why nothing was put in train. The reason is that that was too hard. It is left to this Government to address the problems. Existing legislation could have been used to tackle the issues of bribery and too many tow truck operators arriving at the scenes of accidents.

Existing legislation could have resolved the issue of the drop fee or intimidation by tow truck operators of persons involved in accidents. Excessive speeding of tow trucks to the point of an accident could have been addressed under existing legislation. What real advantages did the proposed legislation have to offer? The Government is having discussions with the Motor Traders' Association and motor vehicle repairers to hear their ideas on how best to proceed on this matter. The Government is reconvening the interdepartmental committee to examine this whole question. It is not that the Government is unaware of the problem.

Mr Brereton: I hope the Government has better luck than we had.

Mr BAIRD: The honourable member for Heffron wishes the Government better luck than his Government had. We all recognize it would be nonsense to suggest that this is other than a major problem. There is no easy solution. The Government wants to make sure it has a good chance of getting this legislation right. Instead of rushing into this matter, it wants to leave open the promulgation date, have a committee review the matter, and determine the best solution from the points of view of the tow truck industry, the motor vehicle repairers, and the community. In the end the Government hopes to have legislation that will protect the rights of citizens involved in accidents as well as the operators at the scene. Corruption in this industry has existed for far too long.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PARLIAMENTARY COMMITTEES ENABLING BILL

Second Reading

Debate resumed from 26th May.

Mr WHELAN (Ashfield) [7.47]: The Opposition concurs with this important piece of legislation. We wish the committees every success in their deliberations on a variety of matters and look forward to reading their reports when the Parliament resumes in August.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE DRUG CRIME COMMISSION (AMENDMENT) BILL

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

Second Reading

Mr DOWD (Lane Cove), Attorney General [7.48]: I move:

That this bill be now read a second time.

The objects of the bill are to amend the State Drug Crime Commission Act 1985 by the inclusion of directions as to the form of notice of reference of a matter relating to a relevant drug activity from the management committee to the commission. This will provide guidance to the commission and the management committee relevant to future references to the commission. The bill also includes validating provisions for past references and some minor amendments to the wording of section 25 to make the section consistent within itself and consistent with other relevant parts of the Act. The State Drug Crime Commission was established under the State Drug Crime Commission Act 1985. The legislation commenced on 20th January, 1986. The commission has a management committee. It consists of the Minister for Police and Emergency Services, who is the chairman, the Commissioner of Police for New South Wales, the chairman or other nominated member of the National Crime Authority, and the chairman of the commission. Its functions are to refer matters to the commission for investigation, to review and monitor generally the work of the commission, and to approve the dissemination of information outside the commission.

Two of the principal functions of the commission are to investigate matters relating to a relevant drug activity referred to the commission by the management committee, to assemble evidence that would be admissible in the prosecution of a person for a relevant drug offence arising out of any such matters, and to furnish any such evidence to the Director of Public Prosecutions. The commission is a multidisciplinary investigative organization with police officers, accountants, analysts and solicitors, which obtains specific references from its management committee of relevant drug activity. Broadly, this term refers to allegations of serious drug offences where ordinary police methods of investigation are unlikely to be successful. Theft, fraud, vice, extortion, violence, bribery and corruption perpetrated in connection with those serious drug offences may also be investigated.

In the exercise of its functions the commission has the power to hold hearings, summons witnesses and require the production of documents. The commission was given its first reference by the management committee in February 1986. Since then an additional six matters have been referred. One of those references was codenamed "Odin". In relation to that reference a member of the commission summoned a number of witnesses before a hearing of the commission. In the Supreme Court counsel acting for the witnesses unsuccessfully challenged the commission's power to summons the witnesses. However, an appeal to the Court of Appeal was upheld unanimously on the ground that the notice attached to the summons did not constitute a proper reference from the management committee to the commission within the terms of the Act.

To comply with the Act, a section 16 summons must be accompanied by a copy of the notice by which the matter to which the hearing relates was referred to the commission by the management committee. The court held that the notice that was attached to the summonses in these cases did not disclose a "relevant drug activity". Mr Justice McHugh, judge in appeal, was of the view that the object of the requirement for a witness to receive a copy of the notice of reference with the summons was to enable the person summoned to be in a position to make a judgment as to whether that person's interrogation is relevant to a drug activity which the commission has power to investigate. The court found that it was not enough that the relevant drug activity which is referred to the commission can be discovered by recourse to sources outside the terms of the notice. Of the seven references received by the commission from the management committee, a number are in a similar form to the "Odin" reference. In relation to each of those references, the management committee believed that it had given valid references. To enable the management committee to make full and valid references to the commission while ensuring that the security of investigations is maintained, the bill requires certain matters to be included in the notice whilst permitting a reference in the notice to extrinsic material.

Under the provisions of the bill a notice, first, may describe the matter by reference to information given at a meeting of the management committee or other extrinsic material which need not be annexed to the notice; second, must describe the general nature of the circumstances or allegations constituting the relevant drug activity; and third, must set out the general purpose of the investigation. The first provision permits a reference to extrinsic material in the notice whilst excluding access to that material by a person who has been summoned before a hearing of the commission—and has thus received a copy of the notice of reference attached to the summons. The remaining provisions are similar to requirements for notices of references to the National Crime Authority under the National Crime Authority Act 1984. As the State Drug

Crime Commission Act is modelled on the National Crime Authority Act, the introduction of these elements into the State legislation brings it into line with its national counterpart.

The nature of the commission's investigations dictates that those investigations be conducted in secrecy. If a person issued with a summons is, as has been suggested, to be placed in a position where that person can make a judgment as to whether or not that person's interrogation is relevant to a drug activity which the commission has power to investigate, the disclosures necessary would, in some circumstances, greatly reduce the effectiveness of an investigation or, indeed, cause its premature termination. It is important also that the safety, the reputation and the fair trial of persons charged with offences are not prejudiced by any premature disclosure of the nature or scope of the commission's investigations. The need for security in the commission's operations is reflected in numerous provisions of the Act, including sections 13 (9), 16 (3), 21, 29 and 31 (3) and (4).

Having given consideration to the need for security in the commission's operations it is appropriate to balance that need against the requirement that the commission's powers be not unchecked or uncheckable. There are various mechanisms whereby the commission's actions can be checked by appropriate bodies. It is a function of the management committee to review and monitor the work of the commission generally—section 25 (1) (b). The management committee is empowered also to give directions and furnish guidelines to the commission with which it shall comply—section 27. Furthermore, the commission is required to keep the management committee informed of the general conduct of its operations and to comply with any request for information from the management committee—section 30. An annual report must be furnished to the management committee for transmission, with the committee's comments, to the responsible Minister and it is then tabled in each House of Parliament under section 31. That report would thereafter be available for public scrutiny. Relief is available under the Act to those persons who believe that they are entitled to refuse to answer questions or to produce documents when the commission has used its coercive powers. The Supreme Court is, by section 19 of the Act, empowered to review a decision of the commission where a person claims an entitlement to refuse to answer a question, furnish information or produce a document. The present amendments in no way diminish the right of a person to seek relief from the Supreme Court under section 19 against a decision of the commission.

As indicated earlier, a number of the commission's present references are drafted in similar form to the "Odin" reference. The commission has suspended the use of its coercive powers until the position regarding its current references is clarified. The commission had, in good faith, made extensive use of all of its powers. The legislation now before the House seeks to validate the current references, except the "Odin" reference, from the management committee to the commission. There is no intention to validate any action by the commission which might later be claimed to be *ultra vires* the commission's powers except to the extent that any such claim is based upon the validity of the management committee's reference to the commission.

The Act uses different expressions when dealing with what is referred to the commission for investigation and what the commission can investigate. The two main expressions are "relevant drug activity" and "matters relating to a relevant drug activity". The amendments provide consistency to the wording of section 25 and bring the Act into line with the wording of the National Crime Authority Act, 1984. I commend the bill.

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

ESSENTIAL SERVICES BILL

Second Reading

Debate resumed from 31st May.

Mr UNSWORTH (Rockdale) [7.56]: The Government has introduced the Essential Services Bill claiming it will extend the scope of the Energy Administration Bill. In so doing it has extended the coverage and definition of essential services. At the outset it is interesting to review the industries referred to in the bill, industries the Government deems to be essential services and which will come within the scope of the new Act. These are the energy resources industries, which are covered by the Energy Resources Act; the public transportation of people or freight; the provision of firefighting services; hospitals and ambulances; the provision of garbage, sanitary cleaning or sewerage services; supply of water; the manufacture or supply of pharmaceutical products; the operation of any welfare institution or prison and any other industry declared by the Governor to be an essential service industry.

The manner in which the legislation will operate will be based on the Governor-in-Council acting on the Minister declaring a state of emergency and declaring that an industry was an essential service. The operation of regulations will enable the Minister to develop certain punitive actions against unions or persons, and make directions in respect of those people. The legislation has been referred to as draconian, both by trade union spokesmen and by me; the Minister, in his public pronouncements, and the Premier have referred to it as tough legislation with tough sanctions. Reading the Minister's press statement on the announcement of the legislation the Minister seemed to be at some pains to emphasize the sanctions aspect of the proposed legislation. One of the aspects of the pronouncements of the Government I find quite disturbing is the suggestion that the Government has a basis for introducing the legislation because early this year the previous Government applied the provisions of the Energy Administration Act in a dispute involving the oil industry. The Government is sheltering behind that. It claims all that is being done is extending the provision that already exists.

As I said to the Minister for Industrial Relations earlier today, I took the trouble to look behind the existing legislation. I hope the Minister has done likewise. It is interesting to look back some 12 years to the debate in this Parliament when the initial legislation was introduced. The initial legislation was not the Energy Administration Bill, which was the 1987 Act, but the Energy Authority Bill. Incorporated in that bill were provisions dealing with emergency situations in that industry. It is perhaps interesting to ascertain the views of the Opposition at that time. I was intrigued to read the speech of the Leader of the Opposition at that time, Sir Eric Willis. In the debate he opposed the introduction of the legislation and made some illuminating statements. On 3rd November, 1976, he said:

The bill asks for extensive powers, but there is no crisis. Industry is not grinding to a halt. There has not been a great series of strikes, though there have been a few strikes here and there. The economy of the nation has not slowed down. There is not even such a prospect looming. In 1949 the McGirr Government sought emergency powers for a limited period. This Wran Government wants those powers on a permanent basis. It does not want them for a day, a week or a month; it wants them for all time. It wants to be able to invoke these powers whenever it feels like doing so.

Sir Eric Willis then went on to say:

The only saving grace is that in this instance the Minister seeks to have his powers limited to fuel, light and power, or to use another word, energy. There is no reference to the other essential services.

He then said:

One does not need to have a long memory to recall the outcry that occurred in 1973 when the former Premier of this State, Sir Robert Askin, hinted at an emergency powers bill or something of that kind to handle strikes that were occurring in the electricity generating industry.

Sir Eric referred to that situation and said:

Had the former Government gone ahead with that legislation I can imagine that there would have been groups in the street in front of Parliament House with placards and amplifiers, screaming their heads off about the dictatorial tendencies of the Askin Government wanting to control the trade union movement and preventing people from enjoying the right to strike . . .

Then he said:

With no crisis in the oil industry, the electricity industry, the gas industry or in any other industry—certainly a few strikes but nothing of any major consequence or different from what there has been for many years—a Labor government is saying that it wants these dictatorial powers which its members, including the Minister at the table, absolutely reviled when they were hinted at by the Askin Government three years ago.

He concluded by saying:

If he gets this Hitler-like power he will have a form of control that would be welcome, I am sure, to any government in times of major crisis. It would be delightful to be able to trot it out without having to run the gauntlet of passing legislation in the House at the time, and to be able to say that it was passed with approval by the Parliament of the day.

That is exactly what the Government is seeking to do today. The comments of Sir Eric Willis are worth noting because at the time the legislation in respect of the energy industry was introduced, there were no strikes. It was 1976, a period of tranquillity, a period of Labor government; the lights were on. It was not like during the Askin years, when we sat around hurricane lamps because of the inability of that Government to deal with its employees in the electricity industry. It was a period when, after the election of the Wran Government, good relations were established between the trade unions of this State and the Government administration. Sir Eric Willis made the point: what is the purpose of introducing this draconian legislation when there are no problems?

What is the situation today? Has the Minister taken the trouble to look at the statistics relating to industrial disputation? Does the Minister recognize that in the past five years the policies that have been put in place nationally by the Hawke Labor Government, policies which introduced a degree of certainty in the relationships between trade unions and employers, policies which were negotiated freely between employers, the ACTU and the national Government have brought a period of unprecedented industrial tranquillity in this nation. To echo the words of Sir Eric Willis, there are no strikes in public transportation at the present time, there are no strikes in respect of the provision of firefighting services, hospitals, ambulances, the provision of garbage, sanitary, cleansing or sewerage services, the supply of water, the manufacture or supply of pharmaceutical products, the operation of any welfare institution, or any other industry for that matter, which would be covered by the scope of this legislation.

Mr McManus: When are the doctors going back?

Mr UNSWORTH: My colleagues remind me that the only current strike is that involving orthopaedic surgeons. They have been on strike in the public hospital system since 1984 and are still on strike. They will go back to work only when the Government caves in, amends the legislation and removes the coercion clause, allows the doctors to charge what they like, to tell everybody who comes to them for treatment that unless they join a private health fund they will not get treated in a public hospital. If that is not giving in to trade union power—and the trade union I refer to is the Australian Association of Surgeons—I do not know what is. That strike has been in operation for the past four years. Is there any reference in this bill to essential services including the provision of orthopaedic services in the State public hospital system?

Mr Caterson: The doctors are not employees, as the honourable member knows.

Mr UNSWORTH: They are the friends of the Government. This legislation is directed at genuine, decent, honest Australian working men and women. It is intended to subvert and undermine the operation of the industrial relations system. There are some interesting aspects of the legislation which I will ask the Minister to assist us with, when we get to the Committee stage. I am interested to learn how the deregistration provisions of the bill will apply to branches of federal unions. I should be interested to know how they will apply in the case of the Australian Railways Union, which has the majority of members employed in the State public transport system. I talked to the secretary of the Australian Railways Union today. He was relieved to learn that the legislation will not apply to him or his members, because the Act provides no coverage in respect of deregistration, suspension or interference with the union's rules. The Minister well knows that is the situation with all the other unions that are registered federally.

What would be the effect of this sort of legislation if the Government proposed to interfere with the rights of trade unions? Would it interfere with the registration of trade unions and interfere with the rules of trade unions as proposed in the bill? I shall tell the Minister what would happen. I do not know if he has ever heard of section 41 (1) (d) of the Conciliation and Arbitration Act. What would happen is that unions currently registered under the State Act would become federal unions; they would transfer out of the State system and go into the federal system. That is an inevitable process; it has been happening over the years and the process will be speeded up as a result of recent agreements between the ACTU, the federal Government and the national employers, incorporated in the provisions of the Industrial Relations Bill, 1988, which I referred to in an earlier debate today.

I commend to the Minister that he should read the federal Minister's speech to gain some understanding of what is happening federally, where there is a movement towards amalgamations and there will be a movement towards larger unions registered under the federal system. If as a result of the proposed legislation the Minister for Industrial Relations starts to drive unions away from the New South Wales industrial relations system into the federal system, he will change the face of industrial relations in this State. I am a great supporter of the New South Wales industrial relations system. Over the years I have found that when a dispute arises, there is no difficulty in notifying the industrial registrar. I am delighted to see the Industrial Registrar, Mr Buckley, here with us tonight. He is advising the Minister. I know he is acting in another position, but he would be able to tell the Minister that if a union or an employer notifies the industrial registrar of the existence of a dispute before lunch, the matter can be listed before a conciliation commissioner, or a Deputy President, or even

a judge, after lunch and be resolved by knock-off time. That happens on countless occasions because in Phillip Street, Sydney, or at the offices of conciliation commissioners down at Central Railway are people who stand ready, willing and able to resolve disputes on the spot.

We want to preserve that system. We do not want to drive people into the federal system. My experience with that system is that as conciliation commissioners are allocated to an industry, invariably when one is looking for the conciliation commissioner to settle a dispute he is in Gove or Dampier and one has to wait two or three days until he returns to deal with the dispute. In the State system the facility is available and able to be used by those who seek to use it. The Minister should tread warily when embarking on any course that may have the effect—even unintentionally—of driving unions away from the State industrial system.

About half the unions in New South Wales are registered under the State system. They are registered and operate as trade and industrial unions under the Trade Union Act and the Industrial Arbitration Act. The other half are registered under the Commonwealth Conciliation and Arbitration Act and are branches of federal unions. If the Minister through the operation of the proposed legislation seeks to interfere with the rights of unions and unionists by way of deregistration, suspension, interference with union rules, or the carving up of unions, as is implied in the bill, there is only one way for the unions to go, and that is to the federal system and seek refuge in the provisions of the Commonwealth Constitution.

Mr Caterson: The former Government was pushing them there.

Mr UNSWORTH: The honourable member for The Hills was the secretary of a federally registered union.

Mr Caterson: No, I was not.

Mr UNSWORTH: He was the industrial officer, so he knows what I am talking about. The honourable member ought to advise the Minister that that is the inevitable result of these proposals. Leave that aside, for that is a problem the Minister will create for himself. Let us examine the real issue. One of the things that always amused me about the Premier, the former Leader of the Opposition, was that he was always willing to give advice on how to resolve industrial disputes. He did not have much experience in that area but was always giving free advice. From time to time a dispute would arise.

As Premier I was naturally concerned when a dispute impacted on the public interest. The former Minister for Industrial Relations, Mr Hills, and I would confer. We would discuss the dispute with representatives of the affected unions and seek a solution to it. We would refer matters to the arbitration tribunals; because Mr Hills and I both believed that the most appropriate way to resolve a dispute was by the parties coming together to discuss the issues that gave rise to the dispute and, if they could not resolve it, to have the independent arbitration tribunal, the umpire, determine the issue for them. That is the course the former Government followed. But invariably I would hear on the radio on the first day of a dispute the Hon. Nick Greiner, as he now is, say, "The Premier should invoke the emergency legislation".

Mr Caterson: The Government did that before the election.

Mr UNSWORTH: No, I am talking about over a period of time. Like Quick Draw McGraw, the present Premier wanted to fine everyone \$1,000 a day and invoke the draconian powers of the legislation. That was his immediate

response. I always took the view that the method I have outlined was the best way to resolve a dispute. I ignored the free advice given by the former Leader of the Opposition.

Mr Caterson: The honourable member did not ignore it before the election.

Mr UNSWORTH: Before the elections I invoked the legislative provisions. That was the fourth time they had been used since the legislation was introduced in 1976. The honourable member for The Hills would know the reason I invoked them, for he was a range-roving federal official of a trade union and knows that the New South Wales branch of the Transport Workers Union and its members had no dispute with Caltex Oil Company early this year. The branch had completed its discussions with Caltex and with Linfox and its members were happily at work. Then into New South Wales came a John Wayne-type character, the federal secretary of the Transport Workers Union, Ivan Hodson, an old adversary of mine. He did not come to New South Wales to do me a favour; he came in to pull everyone out on strike. After discussions with the officials of the Transport Workers Union it was agreed between them and me and the Labor Council of New South Wales that the easiest way for its members to go back to work and be protected—not from their employer, but from the federal secretary of the union and the federal council of the union—would be if they went back under orders promulgated under the Energy Administration Act.

There was no coercion of the Transport Workers Union members. They were willing to go back to work and happy to receive the orders. If the Minister had been properly briefed, he would know that. I then received a telegram from the federal secretary of the Transport Workers Union saying that he was coming to New South Wales with the full authority of the powers vested in him by the Conciliation and Arbitration Act and if I had him arrested by the New South Wales police, he would claim immunity under the Commonwealth Constitution. I still have the telegram. I thought it was worth hanging on to. His assertion was nonsense. That is what happened, and no orders were issued in respect of the storeman and packers. They went back to work the next day.

That is the true position, as the Minister would know if had been properly briefed by the officers of the department. Mr Hills and officers of the department and Mr Cox and officers of the Energy Authority were present. They know that was the situation. There was no coercion, though the Minister for Industrial Relations and Employment and the Premier have sought to make some capital out of that situation. They have been seeking to hide behind it by introducing this draconian legislation. The words of Sir Eric Willis ring true. He knew what would have happened in 1973 had Sir Robert Askin introduced emergency legislation. Sir Robert Askin knew; that is why he did not introduce the legislation. Back in those days, as the organiser of the Labor Council of New South Wales, I used to deal with the Premier, Sir Robert Askin. He was a lot smarter than the present Premier. He was a Premier who at least knew something about the attitude of working men and women. He was a knockabout Premier. He survived a number of major disputes, including the Atlantean bus dispute that lasted for a month.

I recall the night that I visited Sir Robert Askin in his office at a time when he was considering introducing some major emergency powers. I said, "Mr Premier, do you recall the 1917 strike". He said, "I recall it all right, my father was in it". He acknowledged that that year—I think it might have been 1969—was not the year to relive the 1917 strike in New South Wales. As a result he

did not proceed with introducing those powers; he persevered and allowed the parties to resolve the dispute. That dispute was resolved by the officers of the Labor Council—by my colleague John Ducker who was reviled by the present Government. We resolved that dispute in consultation with the Premier of the day, in the same way as many disputes have been resolved over the years by the trade unions in consultation with the Premier of the day. When I was secretary of the Labor Council there were occasions when disputes were resolved only as a result of my discussions and negotiations with the Premier of the day, Mr Wran. The same situation prevailed during the time that I was Premier. The unions came to me and we resolved a number of major disputes that were of concern to the community. The unions in this State are responsible organizations that represent responsible people.

What credibility will this Premier and this Minister for Industrial Relations have when they start their stewardship of the affairs of New South Wales by introducing this type of legislation? The acting secretary of the Labor Council has been to see me today. He intimated that all the affiliates of the Labor Council will be meeting tomorrow morning and tomorrow night, at which time they will exercise their judgment on this legislation. I can tell the Minister right now that they will not accept this legislation; they will fight it. This legislation offends the principle of free trade unionism. When the Minister has been in the job long enough he might get a trip to Geneva about this time of the year to attend the annual conference of the International Labour Organisation.

Mr Fahey: The next one is in 1994.

Mr UNSWORTH: The Minister will not hold that office in 1994, so he should not worry about attending the conference. If I were the Minister, I would try to organize an earlier trip. If he attends that conference, he will learn something about international trade unionism. He will learn something about the directives of the International Labour Organisation—directives which are used by the trade unions in the western world against trade unions behind the iron curtain, the eastern countries, where there is no freedom. At times we have to listen to the Premier telling us about his oppressed childhood in eastern Europe. He speaks of how he came from eastern Europe and how he now enjoys the freedom of our society. If that is the case, why does he want to put New South Wales unions on a footing with unions in eastern Europe? Why does he want to shackle the trade unions in New South Wales in the same way that Solidarity has been shackled in Poland, as well as the phoney unions from iron curtain countries that one observes attending conferences. I have attended international conferences at Geneva and other places where I have met with these trade union frauds from the eastern countries. They are not genuine trade unionists; they are ciphers of the State; they are conduits of decisions of the State. That is the position in which the Minister wants to put the trade union movement in New South Wales. That is the way in which this legislation will be used.

This legislation is not necessary. It is certainly not necessary on the basis that Sir Eric Willis pointed to in 1976, because no disputation exists in any of the industries to which reference has been made. In fact, the present period of industrial calm is unprecedented. It has been brought about by the maturity of the trade union movement, the responsible attitude taken by employers, and the way in which governments have been able to bring both parties together. That is the course that this Government should be embarking upon. The Minister says that he wants to establish a good relationship with the trade unions, that he wants to bring unions and management together. He said that

he wants to re-establish the State Industrial Relations Advisory Committee. I used to attend meetings of that committee when Max Hewitt was the Minister for Labour in the early 1970s. It is all very jolly for the parties to come together, have a talk and a drink and try to exude bonhomie. But that will not be possible if this sort of legislation is on the statute books. The Government is starting out from behind scratch by trying to introduce this sort of legislation.

The problem as I perceive it is this: the legislation itself is provocative and offensive to the trade unions and to the trade union movement. It will be disruptive because it provides a basis for suspicions and of alienation between the trade unions and the Government. It has a potential for overuse. I made the point that in the twelve years that the provisions of the Energy Administration Act were available for use by the Government they were invoked on four occasions only. The only occasion on which they were used while I was a member of the Government, either as a Minister or as the Premier, was when they were used virtually by agreement with the unions involved. As to the scope of the bill, at times employers, particularly public sector employers and managers in the public sector—we will be talking more about managers when the Public Sector Management Bill is debated—have been known to be rather insensitive and dictatorial. They do not have to make a profit or show a result at the end of the financial year. Sometimes they are quite authoritarian in their relationships with employees. They will be reinforced in the knowledge that if anyone in the State's transport system, in the Water Board or in the electricity undertakings, has the temerity to go on strike, this legislation is available to be invoked.

In those circumstances, administrators and administrations become lazy. They do not really get down to the job of establishing an effective industrial relations environment and solving the problems that exist between management and workers. I started out in life as an apprentice electrician working the State's power-houses. Over the years provisions have been introduced to deal with disputation in the power-houses. During the early 1970s when the blackouts occurred such disputation reached its height. There is still potential for disputes in that industry today, especially in view of the management changes that the Government will be seeking to effect. However they are changes that any Government would seek to effect. The same situation could arise in the transport system, given some of the Government's legislative proposals that will impact upon the State transport system and that will affect the working procedures of its employees. When the Government seeks to introduce those changes, administrators will shelter behind this legislation. If anyone has the temerity to take industrial action, if anyone thinks there is cause for a strike, this legislation will be available for use. I suggest that that availability will sow the seeds of great alienation between the Government and the State's work force.

The Premier and the Minister are always looking for a happy headline. A couple of days ago they introduced and talked about imposing tough penalties, hoping for an editorial that really supported their action. It looks as though they will be a little disappointed. Today's *Daily Mirror* makes this point: "New strike laws need caution". Over the years all News Limited publications, involving the *Daily Telegraph*, the *Australian* and the *Daily Mirror*, have not been all that sympathetic to the trade union movement when it has embarked upon strike action.

It is not hard to get a supportive editorial in the *Daily Telegraph* if tough action is taken involving trade unions; I was conscious of that. It must be a disappointment to the Premier and to the Minister to read today's *Daily Mirror*.

That newspaper says that the Government must remember that not all unions are irresponsible and not all disputes are without justifiable cause. It must be a revelation to the Minister that a publication he would hope would support him would suggest that some disputes have merit. Average working men or women do not take time off work to go on strike and go without pay because they like it, because they are a little tired or because they want to go to the beach. They take time off and become involved in strikes because there is a cause. I have always taken the view that a strike is the last resort, that a strike is a noble cause and that the right to strike is something with which we should not interfere in a democracy.

This legislation seeks to interfere with that right, to prohibit strikes in any services designated as essential services, and in any other area that the Minister can convince the Governor to so proclaim. This Government would have us go back to the bad old days of penal provisions. The Minister might not remember, because he is only a young fellow, but the honourable member for The Hills is old enough to remember the provisions of the State Industrial Arbitration Act—I think it was section 99 and section 100—in force in the 1950s and 1960s. Benevolent employers such as the Broken Hill Proprietary Company Limited would never bother to talk to the unions in the steel industry. If they went out the gate, they went straight to the Industrial Commission.

Mr Caterson: The Act requires it, and the honourable member knows that.

Mr UNSWORTH: That is right. The Act said that strikes were illegal. An employer had only to go before a judge in the Industrial Commission at Queens Square and say that workers at the steel works were on strike, in contravention of section 99, and that penalties should be imposed under section 100; it was automatic. The same provisions applied in the federal legislation under the Conciliation and Arbitration Act. The unions built up a large number of fines and did not pay them. Under that legislation, if fines were not paid the Minister was able to sequester the assets of the unions.

They intended to do that to the tramway union in Victoria, but a fellow by the name of Clarrie O'Shea was smart enough to hide the money in the boot of his car so that the registrar of the court had no access to the funds. The benevolent judge, as he was, Sir John Kerr, said, "We will not have the money; we will have the body". They took Clarrie instead, and locked him up. I remember it distinctly. It was 1969, a year that saw the greatest number of strikes that had ever occurred in Australia and greatest industrial upheaval in the country since the great strikes of 1890, all because John Kerr put Clarrie O'Shea in Pentridge gaol when they could not get the money.

The Prime Minister at the time, John Gorton, was a liberal Liberal. He was an intelligent Liberal, a sort of a poor man's Liberal. He said that enough was enough. I hope I am not taking honourable members back too far in time. From memory I think Billy Snedden was the Minister for Industrial Relations. Billy Snedden and John Gorton said, "This is the end of the penal provisions; the country is on its knees; the country is going to hell in a basket." Since that day no penalties have been imposed, and employers, unions and arbitration tribunals have worked together to resolve industrial disputes. That is the way it should be. The Premier, the Minister and the Government are seeking to take us back to those days of sanctions, when there was no discussion about industrial disputation, and no concern for employees or their rights. That is the direction in which they are travelling.

The heading in the *Daily Mirror* read, "Greiner strikes out at unions". That is what he is doing and he cannot dress it up. He cannot use his nice spokesperson for industrial relations, who is so pleasant in his dealings with the unions. He cannot use him as a foil because the *Daily Mirror* has unmasked the Premier. It will be worth reading what the *Daily Telegraph* says tomorrow. It might be more supportive of the Government. This legislation is an over-reaction. It is unnecessary and provocative. The Opposition opposes the legislation not because it is trying to help the Government of New South Wales—it is beyond our help—but because it is trying to help the people of New South Wales. We want to ensure that the people of New South Wales do not find themselves in the situation in which they found themselves, as did the rest of Australia for that matter, in 1969 when the industrial overreaction occurred.

Do not think there are not people around who would not do what John Kerr did, because they are still there. There are arch-conservatives in the administration. There are arch-conservatives to be found in the judiciary and they would delight in locking up a few trade unionists, and in sequestering the assets of unions. Trade unions have survived over the centuries and will survive this legislation. I venture to suggest that the legislation is really a public relations exercise. It is a smokescreen. The Government is seeking to appear to be tough and to pander to the prejudices of those in the community who support it.

Mark my words: there are many people who are doubtful. There are people who should have supported my Government at the last election, but did not—trade unionists. Trade unionists did not support me for a variety of reasons. Everywhere I go in Rockdale I am disturbed to see on telephone boxes a poster depicting a rifle and the caption "Don't let Barrie Unsworth take your gun". They must have used strong glue because, notwithstanding all the recent rain, they still adhere to the telephone boxes. They do not seem to go away. A number of trade unionists value their rifles and as a result they did not vote for us on that issue alone. Many of them were demonstrating outside the Parliament today. The people who were out there today have been given the sack from the Homebush abattoirs. They are the ones who are starting to wake up—

[Interruption]

Mr SPEAKER: Order!

Mr UNSWORTH: There will be others who, when they realize the impact of this legislation that is directed against them, against their right, against their freedom, and against their ability to enter negotiations with their employer, will stand up for their rights. If the sum total of this legislation is to make New South Wales unions servile and subservient to the Government's dictates, it will fail. That is the thrust of the legislation. The Opposition opposes the legislation and believes it has no merit. The Opposition believes the legislation should not have been introduced.

Over the years I have had a great respect for a member of the Liberal Party called Ian Macphee. Ian Macphee and I went to England together in 1974 when he was employed by the Chamber of Manufactures, just before he was elected to the Commonwealth Parliament. I have respected Ian Macphee as a person and an industrial relations practitioner who knew what he was about. He was a good industrial relations Minister for the Fraser Government in critical times. He was a Minister one could talk to. He understood the trade union movement. As a Minister, he took pride in the fact that his father had been an active trade unionist. In the *Sydney Morning Herald* of 27th April Ian

Macphee was rebuked by Senator Chaney, the shadow minister for industrial relations, because Mr Macphee had had the temerity to say to the *Melbourne Herald*:

Frankly, I am in no doubt that the wages outcome which has been delivered so far by the Government could not have been achieved by a coalition government, even if I had been the industrial relations minister.

What Ian Macphee is saying there is that the only people who are really able to deal with industrial relations issues and trade union movement problems are Labor governments and Labor industrial relations Ministers, and that even a person with all the credentials and qualifications that Ian Macphee had for the job that he exercised was inadequate. If the New South Wales Minister for Industrial Relations is to succeed in his job, he should take note of people such as Ian Macphee. He should try to work with the trade union movement, and not against it. He should try to understand the issues. He should consider not only the impact of disputes on the community but also the causes of those disputes and seek to find mechanisms to obviate them. That is what the federal Labor Government has done. That is how it has been able to reduce the number of industrial disputes. That is what my Government did. That is what the Wran Government did. It saddens me to think that we will enter a new phase of industrial relations in this State, provoked by the ideology of the Greiner Government and reactionary people who advise it. We oppose the bill.

Mr PARK (Tamworth) [8.45]: The Essential Services Bill is concerned with the introduction of emergency measures and procedures similar to those operative in relation to energy, power and fuel supplies under the Energy Administration Act. The bill's coverage relates to all essential services and its provisions allow for a more expansive range of sanctions to ensure observance of the emergency measures. The bill's introduction of contingency emergency powers and procedures is not meant to provoke confrontation with the union movement. Rather, the bill equips the Government with emergency powers of a necessary nature to ensure that public inconvenience in the use of essential services is avoided. The continued provision of the listed essential services requires safeguarding if the normal everyday life of this State is to be maintained.

The proposed emergency powers under part 2 of the bill will be activated by the occurrence of a disruption to an essential service from whatever cause—whether industrial disputation, natural disaster, major equipment breakdown or otherwise. The regulation-making powers and ministerial direction-giving powers are just as wide as allowed for by the former Government in relation to energy disturbances under the Energy Administration Act. They are powers necessary for any government to have available to it for possible use in the face of a crippling disruption to an essential service.

The monetary penalty provision similarly is modelled on the existing energy legislation. The further sanctions embodied in the bill represent this Government's acceptance of the general community belief that unions should not exercise monopoly power in key sectors. The bill allows for a fast-track reference of the industrial dispute which has prompted the emergency situation to the Industrial Commission for due settlement by conciliation and arbitration.

In the first instance, the industrial law sanctions of part 4 of the bill must be seen as directed at achieving a quick return to work of strikers in an essential service industry. Moreover, they are meant as a signal to parties in an industrial dispute that the Government's emergency plans are to be observed in the public interest and that the processes of conciliation and arbitration are to be accepted.

In summary, the emergency powers and range of sanctions contained in this bill relate to a government's proper regulation and control of an essential service in the public interest.

Clause 4 of the bill deals with essential services. The Minister pointed out that activation of the bill's emergency powers is contingent upon there being a disruption to an essential service from whatever cause—that is industrial dispute, natural disaster, major equipment breakdown, and so on. The bill is framed to allow any Minister to take immediate charge of any disruption to an essential service which does not involve industrial dispute but is directly relevant to the Minister's portfolio. Part 4 of the bill deals with industrial law measures to enable the Government to check continued resistance by industrial unions to any adopted emergency plans. In essence, the bill is a means for the Government to utilize emergency measures to ensure avoidance of public inconvenience in the use of essential services as far as is humanly possible. I support the bill.

Mr FERGUSON (Granville) [8.47]: In the early weeks of this Government there was some hope that it would adopt a responsible attitude to the handling of industrial disputes and attempts to resolve those disputes. The reality of its performance was seen in the dispute in the petrol industry involving the Shell Oil Company. Once the coalition parties were in office there was not such quick recourse to heavy-handed activity. They let matters sort themselves out. The Shell dispute was resolved swiftly, without recourse to legislation such as this. There has been an endeavour by the Government to have the disputing parties in the coal industry come together to discuss the issues. I was talking to a trade union official on the weekend. We hear a lot about those dreadful people, the painters and dockers, and their corruption. Attempts are made by some during federal elections to associate the painters and dockers with the Labor Party. For some strange reason, this Government's talk about ceilings on employment will not apply to the ferry industry, where the Federated Ship Painters and Dockers Union covers the employees. The Government has decided that employment ceilings will not apply there. That was a rather opportune way to solve a dispute in a short time.

So there were early indications that the Government would abandon some of its rather dramatic pronouncements made in the months leading up to the March elections. However, the legislation before the House moves back to the Koran of the new Government, Nick Greiner's speech on industrial relations, "Liberal 88". In another debate today I mentioned part of that speech which was in new-speak or nice language, putting things as reassuringly as the Government could. But, not surprisingly, on this particular matter we have the tough talk. In respect of essential services we have talk about monopoly union power, union bosses in essential services, and so on. It is good for public consumption and well appreciated by select ideological groups unrepresentative of the main employee-employer streams.

In a few cases the legislation may accomplish the resolution of disputes. However, there are a variety of reasons why disputes will be resolved. This legislation might be useful against quiescent timber workers in a timberyard somewhere, fairly lowly paid workers with no history of industrial militancy. In a different situation it may provoke a degree of industrial action that had never occurred previously. The Government should appreciate the impact the legislation will have. The Premier stated it was taking a tough stance on industrial relations. Unfortunately, the people of New South Wales will have to face the reality. What is window-dressing might, in the next few months, lead to a series of industrial disputes that might not otherwise have occurred.

As the honourable member for Rockdale stated, the main result of this legislation will be, in all probability, a drift of unions to the federal sphere. The honourable member mentioned delays that have occurred. Honourable members are aware of the technicalities that dominate the federal system. Often disputes that seem so important are dependent on whether someone can arrange a hearing within a few weeks or get back from interstate. The legislation is in contrast to the hopeful signs demonstrated in the Government's early days in office. It is in contrast to the Government's handling of the major industrial dispute it faced, the doctors' dispute. The Government had no problem capitulating totally to their demands. At the moment no disputes indicate the need for this legislation. The legislation has been rejected by former Liberal Ministers and Liberal spokesmen at times when there was far more need for it. The Government has decided that because it sounds all right and might get a few headlines, it will pursue it.

The Opposition expresses grave concern about many aspects of the legislation. There is no need for such draconian measures—three-year registration of unions, encouragement of demarcation, the continued existence of industrial groups regardless of whether they are deregistered. The legislation will lead to further disputes. It will give extremely wide-ranging powers to the Minister regardless of whether a dispute exists. The Opposition is concerned with the wide definition of essential services. An example is the pharmaceutical industry. Certainly a small sector of it could be considered an essential service but to define the whole of the pharmaceutical industry as an essential service is ridiculous. Welfare institutions fall into a similar category. Though not having the opportunity to peruse fully this legislation, the point has been made that it will do nothing to reduce industrial disputes in the State; in all probability it will increase them.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [8.54], in reply: Tonight the House has had a history lesson, a reminiscing by the honourable member for Rockdale on his long history in industrial relations. The honourable member has taken the opportunity to outpour all that has built up in recent times. I can understand that. I can understand that he is not happy with things that have occurred recently in his political career. I can understand why he feels bitter about events. I can understand why he feels hurt that the public rejected him and his Government 10 weeks ago. Honourable members have received a history lesson about what happened in 1969 with Clarrie O'Shea. They were told how penal sanctions were removed as a result of disputation that flowed from those events. They heard how the Hon. Ian Macphee was regarded as a reasonable man when he was a Minister in the Fraser Government and how in 1976 Sir Eric Willis opposed his political allies when the forerunner of this legislation was introduced into this Parliament by the former Minister for Industrial Relations, Mr Hills.

The reality is that industrial law is a system of justice. The Industrial Commission has the same status as the Supreme Court of New South Wales. The rule of law should prevail in that system of justice equally as it should prevail in the civil jurisdiction and the criminal jurisdiction. What are members opposite afraid of? Are they afraid that the law might apply to actions taken irresponsibly, actions that frequently affect the lives of the people of the State—that inconvenience them, that put businesses at risk, that destroy people? Are they afraid that the law will affect those actions? The Government will ensure that it does. It will ensure that the rule of law applies equally in all jurisdictions. That is what this legislation is all about.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Rockdale to order. He has had ample time to address the House.

Mr FAHEY: This legislation means that at the end of the day the judge will decide the issue. I repeat, as I have several times in the past 24 hours, that the legislation is based on a 1976 bill introduced by a Labor government and endorsed by a 1987 bill introduced by another Labor government. It is based upon the proclamation by the Governor, at the request of the honourable member for Rockdale, as Premier, in early March this year, to resolve a dispute—and it did resolve a dispute. It got the parties into a cooling-off period to enable the commission, the court, ultimately to determine the issue. It is not a case of the Government wanting a thousand dollars from the union or a thousand dollars from individual members of the union. When a dispute occurs strikes will occur. The Government does not deny that. The legislation will ensure that when a strike occurs and the matter goes before a judge, before the referee, the referee will have a say in resolving it. In the practical application of industrial laws in the State the commission will not act, will not intervene to make a determination on the issues, until there is a return to work. More often than not a stalemate occurs and the commission will not become involved in the arbitration until the status quo is restored.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Rockdale to order for the second time.

Mr FAHEY: When the dispute is referred to the commission, it attempts to settle the dispute. Let me give honourable members a recent example of how the system is not working. I refer to the storemen and packers' dispute of October last year. The honourable member for Granville mentioned pharmaceutical supplies. Obviously he was not getting the telephone calls that my colleagues and I were getting from widows, pensioners and aged persons who could not get their insulin from the chemists in their suburbs. That was harming those people, real people who may not be in the best of financial circumstances.

What happened? The storemen and packers decided that they wanted to get the 4 per cent second tier wage increase locked up across the board—not just for David Holdings, the big people; they wanted it for the employees in the corner stores. So, they went on strike. Within days we had the matter before the commission. On the Friday night the commission directed that unless the employees returned to work immediately, no consideration would be given to their 4 per cent application. Nothing happened. Late on the Monday the Full Bench ordered the striking workers back to work. It was an order of a court with the same status and standing as the Supreme Court of New South Wales.

The storemen and packers met on the Thursday to consider the order of the court. What contempt. The decision of the court was being considered on the Thursday at Parramatta Stadium. The members of the union met and said that they would return to work on the Monday—6½ days after the court order they decided they would return to work. During that time people in the suburbs could not get their necessary supplies of lifesaving pharmaceutical drugs from the chemist shops.

Mr Unsworth: The Minister knows they provided a service.

Mr FAHEY: All sorts of efforts were being made by the chemists themselves to try to maintain supplies. Girls from the chemist shops were running from one suburb to the next to get them. The honourable member for Rockdale said they provided a service. They did not do so, because the people affected, the pensioners and old people, inundated myself and other members on this side of the House, including the Premier's office, with complaints that they could not get their pharmaceutical needs. They were desperate, anxious and concerned.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Rockdale to order and warn him that he is on dangerous ground.

Mr FAHEY: The people of New South Wales should have their say; their interest has to be taken into account by someone, and this Government will ensure that happens. Let me deal further with the current industrial relations in this State. The former Government had 12 years to control the industrial laws of the State. The Industrial Arbitration Act states clearly that there is no such thing as a legal strike unless 14 days' notice of the intention to strike is given to the Minister. The historian from Rockdale might be prepared to give me a history lesson and tell me when that requirement has been complied with.

Mr Unsworth: In 1961.

Mr FAHEY: He has really given me a history lesson now. Everyone I asked said it has never been obeyed. What I deduce from that is that every strike that has occurred in my memory has been illegal. Yet we are told by honourable members on the other side of the House that we do not need to change the system; it is fine for unions to break the law every time they like. This legislation will not stop strikes. However, it will not allow a strike to drift on indefinitely, to let the anarchy continue when people are affected in a way that they should not have to endure. This legislation is about giving power to the people of this State. A clear undertaking by the Greiner coalition in the leadup to the last election was to return to the people of New South Wales their rights. And that is just what we are doing in this legislation.

Honourable members have been told that this legislation is provocative; that it is offensive to the union movement; that it will be disruptive; that the Labor Council will meet tomorrow and will react against it. I ask simply: what has any member of the trade union movement in this State to fear from this legislation unless he wants to abuse the law, unless he does not want to submit to a decision by a referee, but wants to be able to do what he wants whenever he wants? Anyone who has been involved in a premeditated process of breaking the law would fear this legislation, because ultimately it will catch up with them. They will be told that if they do not accept the verdict of the judge, they will get hurt; it is about time the rule of law prevailed in the industrial system of the State. The Premier knows a great deal more about industrial relations than the honourable member for Rockdale might care to admit or has admitted in the course of this debate. The Premier and I recognize that the Government must be responsible in the implementation of this legislation.

Again I draw the attention of the House to the fact that one does not wait until the problem has arisen and then run to the Parliament to seek a resolution of the dispute. In November 1976 the Wran Government, as best my memory of history serves me, did not have a catastrophic problem on its hands when it immediately introduced the forerunner of this legislation. That

Government determined that a responsible government should have the power to be able to protect the public when the need for that protection arose. That is what this Government is doing. It is simply saying that the rights and the power will be there, not to be abused. I assure all honourable members that it will not be abused but will be used to protect the public interest, to protect the people of the State when the need arises.

I conclude by saying that hypocrisy has surfaced in an unprecedented way in this debate and in statements made by the honourable member for Rockdale and other honourable members on that side of the House in the past 24 hours. It is hypocritical for the honourable member for Rockdale to say three months after he utilized the powers contained in the legislation that the system is good enough, there are no disputes, there is no problem and the legislation is unnecessary. The honourable member spent time telling us that for the past five years this State has had a great industrial relations record, that through negotiation and consultation the federal Government has been able to keep industrial relations issues off the front pages of newspapers. The honourable member should ask some of the traders of this State—those who have had their cargoes tied up on the wharves since last December—what they feel about the manner in which the federal Government is acting in the interests of the public and the economy generally. Because of the inactivity and the irresponsible approach of the federal Government to their problem they have no chance of keeping their businesses alive.

If the federal system does not have strikes, what were the metalworkers doing today when they said, "We want our 6 per cent. There is no negotiation on that. We are going to tell the Australian Conciliation and Arbitration Commission exactly what we feel about the 6 per cent and we will let them know up front that they had better give it to us"? That is the sort of thing that happens from time to time, from day to day. It might not surface to the point of going for a week or a month, but the trouble is brewing and is going unchecked. The proposed legislation will give the Government the right, the power and the opportunity to ensure that when problems occur with industrial relations, the dispute-settling mechanism of the commission will come into play in a meaningful way by getting the parties before the judge. I commend the bill.

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

The House divided.

Ayes, 59

Mr Andrews
Mr Arkell
Mr Armstrong
Mr Baird
Mr Berry
Mr Books
Mr J. D. Booth
Mr Caterson
Mr Causley
Mr Chappell
Mr Cochran
Mrs Cohen
Mr Collins

Mr Cruickshank
Mr Dowd
Mr Downy
Mr Fahey
Miss Fraser
Mr Glachan
Mr Graham
Mr Griffiths
Mr Hartcher
Mr Hatton
Mr Hay
Mr Jeffery
Mr Keegan

Mr Kerr
Mr Longley
Miss Machin
Mr Matheson
Mr Merton
Dr Metherell
Mr T. J. Moore
Ms Moore
Mr W. T. J. Murray
Mr D. L. Page
Mr Park
Mr Peacocke
Mr Petch

Mr Photios	Mr Small	Mr White
Mr Pickard	Mr Smith	Mr Wotton
Mr Rixon	Mr Souris	Mr Yeomans
Mr Roberts	Mr Tink	Mr Zammit
Mr Schipp	Mr Turner	<i>Tellers,</i>
Mr Schultz	Mr Webster	Mr Beck
Mr Singleton	Mr West	Mr Phillips

Noes, 41

Ms Allan	Mr Hunter	Ms Nori
Mr Amery	Mr Irwin	Mr E. T. Page
Mr A. S. Aquilina	Mr Knight	Mr Price
Mr J. J. Aquilina	Mr Knowles	Mr Primrose
Mr K. G. Booth	Mr Langton	Dr Refshauge
Mr Brereton	Mr Lovelee	Mr Rogan
Mr Carr	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	<i>Tellers,</i>
Mr Gibson	Mr Nagle	Mr Beckroge
Mr Harrison	Mr Newman	Mr Christie

Pairs

Mr Greiner	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SUMMARY OFFENCES BILL

JUSTICES (SENTENCING) AMENDMENT BILL

Second Reading

Debate resumed from 31st May.

Mr WHELAN (Ashfield) [9.20]: I have taken the liberty of preparing a schedule so that Opposition members can see readily the reasons that the Opposition cannot oppose the proposed legislation.

[*Interruption*]

Mr SPEAKER: Order! Those honourable members who want to conduct conversations should do so outside the Chamber. The honourable member for Ashfield has the call.

Mr WHELAN: The schedule sets out clearly the reason that the Opposition is in the invidious position of having to support the measure before the House. Prior to the election there was a hue and cry that the coalition in government would introduce tough new laws to curb street crime. The Leader of the Opposition, as he was at the time, in a press release dated 21st March,

1987—that is when the former Government amended the Offences in Public Places Act—said:

The whole approach by the Labor Government—

[*Interruption*]

Mr SPEAKER: Order! If once again I have to call to the attention of honourable members the necessity to conduct their conversation outside the Chamber, I shall start naming the offenders and they might be required to leave the House before the end of the night. The honourable member for Ashfield has the call.

Mr WHELAN: I repeat, when he was Leader of the Opposition, the present Premier said in a press release:

The whole approach by the Labor Government to this legislation is wimpish and cosmetic. The Opposition remains absolutely committed to giving back to the police the power to use their discretion and common sense in dealing with street offences such as the Summary Offences Act.

That proposed Summary Offences Act has now been introduced—the measure that regrettably the public believed would be the be-all and end-all solution to the problems of street crime in this State. I have prepared a schedule for the perusal of Opposition members. I shall pass copies of it to those Opposition members who are listed to speak on this measure so that they can acquaint themselves more fully with the fraudulent nature of the provisions that the Government has put before the House. This proposed legislation contains many cosmetic changes. If it were not a measure introduced into the Parliament, the Liberal Party and National Party would be guilty of breach of copyright, because all of the provisions in this new measure have been taken from legislation that has been passed and approved by this Parliament, passed and accepted by the Government of the day but not yet acted upon by the New South Wales police force. Clause 4 of the Summary Offences Bill provides for a new definition of language. The offensive conduct provisions in the Offences in Public Places Act states:

A person shall not conduct himself or herself in, near or within view or hearing from a public place . . .

All the Government has done is to emphasize the hearing aspect of that provision. I do not propose to say much about the obscene exposure provisions in what was said to be this dynamic, tough new legislation that the Government has now introduced because they are in identical terms to the provisions in the Offences in Public Places Act. It will not surprise honourable members on this side of the House to learn that the provisions in this new measure in relation to the offence of obstructing traffic are identical to those in the Offences in Public Places Act. The provisions in respect of damaging fountains are also identical in the two measures. The same can be said about the provisions in respect of damaging shrines, monuments and statues, and defacing walls. Clause 10 of this new, powerful bill deals with having in custody offensive implements. That provision is identical to section 11A of the Offences in Public Places (Further Amendment) Act introduced by the former Government, the present Opposition. The provisions in the new bill in respect of possession of liquor by minors are identical to those found in section 11B of the Offences in Public Places (Juvenile Drinking) Amendment Act. All the Government has done is change the numbering of the clauses.

Clause 11 (7) of the Summary Offences Bill contains the same definition of liquor as is contained in the Liquor Act 1982, and includes any container containing liquor. The Offences in Public Places Act has the same definition of

liquor; liquor in that Act has the same meaning as is contained in the Liquor Act 1982, and includes any container containing liquor. The Government is really very good. The Cabinet minute that went to the people who drafted this legislation obviously stated that what was required was a special definition of liquor. The Government said that it wanted the definition of liquor put at the end of this set of provisions in the Summary Offences Bill, and it set out to cause confusion by putting the regulation provisions in subclause (6). The regulation powers in the Summary Offences Bill are identical to those in section 11B of the Offences in Public Places Act. I could go on and on.

Provisions contained in the Prostitution Act are also contained in these special provisions before the House. The prostitution provisions are to be found in part 3 of the Summary Offences Bill—this supposed new, dynamic bill. In fairness to the Government I must point out that it has allowed for some consumer price index increases in the penalties imposed for the offences of prostitution and living off the earnings of prostitution. One can imagine how fearful someone would be who runs or owns a brothel in the middle of Sydney or someone who is unfortunate enough to be a prostitute in Sydney. How will a penalty of \$100 deter them from committing an offence of this sort? A fine of \$100 or \$200 is a great joke. In fact, it is not a joke; it represents a serious abdication by the present Government of its responsibilities in much the same way as it abdicated its responsibilities the other day in relation to drug misuse. In three months the Government has gone soft on crime. It cannot deny that, because that legislation has been passed by the Parliament. Now it has gone soft on these matters, and it refuses to acknowledge that the public elected it to put tough new laws into operation. Instead, the Government has abdicated its responsibilities to the Parliament and the people of this State.

[Interruption]

Mr WHELAN: The Attorney General must learn—I shall take great pains to explain this to him—that we lost the election on 19th March, and the buck stops with him. He must accept that. How can we as an Opposition oppose legislation that represents itself to the people of New South Wales as being tough new laws to combat prostitution, summary offences and the like, when what is before the House at present is a straight copy of our own legislation? I give the Government credit for increasing penalties in line with consumer price index increases.

[Interruption]

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

Mr WHELAN: The Government has sought to increase, in accordance with CPI increases, the penalties imposed on those found guilty of prostitution or living off the earnings of prostitution. The Government says that it has introduced another smart provision that creates the offence of living off the earnings of prostitution. That provision states a person who is of or above the age of 18 years and who lives with, or is habitually in the company of, a reputed prostitute and has no visible lawful means of support shall be taken knowingly to live wholly or in part on the earnings of prostitution. What a dramatic provision.

There would be no more than five people charged in five years under that provision. It was included by the Government to fill the legislation with verbiage, to distinguish it from legislation introduced from 1979 onwards by the former Government. It is the same form of legislation. Honourable members

who were fortunate enough to be in the House when the Labor Government was in office will remember the hue and cry that went up about the Government being soft. We ask the public: who is soft on this issue? I have been looking at a few of the Government backbenchers and I think I know where the softness is. The backbenchers in the Liberal Party and in the National Party tell me they are concerned that the Government has not taken the mantle and does not have the courage of its own convictions. I have heard it five times in the past two hours in this Parliament—the Government has a mandate for all forms of legislation, but on the most important issue that concerns and confronts everyone in this State who walks the streets, or who catches trains, the Government has reneged on its commitment, has run away from its promises and after three months is willing to dump the people of this State. If an election were held tomorrow, there would be an equal landslide our way, and the Government knows it.

[Interruption]

Mr SPEAKER: Order!

Mr WHELAN: Of course it is true; it is absolutely true. I said I would comply with the request of the Attorney General because he has a great deal of legislation before the House. There are members on this side of the House who have only a passing interest in the question of prostitution, and not vested interests, who wish to contribute to the debate. If I were to be cruel in this Parliament, I would suggest that the attitude of the Government towards prostitutes, to fines relating to prostitution, to acts of public prostitution, and to those living off the earnings of prostitutes or those who advertise for prostitution, is so weak that I could be bold and present a good argument that the Government is very soft—

Mr Dowd: That would surprise us all.

Mr WHELAN: I can get personal if the honourable member wishes, but I will not. We could say that we could present a good argument—

[Interruption]

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

Mr WHELAN: —that the Government was looking after the vested interests of those despised people in our community who live off the earnings of prostitutes, and who advertise the available services of prostitutes. We could accuse each and every one of the backbenchers that not only are they soft on the question of drugs, but they have gone to water, and are weak at the knees on the subject of prostitution. That is the truth. The Government received a mandate from the people to get rid of this terrible legislation. It promised to introduce tough new laws. It said: you will be safe on the streets; you will not be accosted by prostitutes. What hypocrisy. In March 1987 the then Leader of the Opposition, the present Premier, said, "This legislation is wimpish and cosmetic". We agree with him. It is wimpish and it is cosmetic.

Some of my parliamentary colleagues wish to say a few words on this bill. There is one matter in this legislation with which those who are under 18 years of age must be acquainted. The Government has picked on these kids because they are under 18. The measure will allow police officers to issue on-the-spot fines to children under 18 who are caught with beer or alcohol in their possession. Can honourable members imagine an on-the-spot fine being issued to a person under 18 years of age? Can honourable members imagine a

government abdicating its responsibility on drug rehabilitation and alcohol rehabilitation for young people? Why does the Government not direct its mind to acquainting young people with the real and apparent dangers of alcohol—

[*Interruption*]

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

Mr WHELAN: —and other incidental drugs that are a curse in our community? The Government has turned its back on the people and is now discriminating against those under the age of 18. Consider this scenario: a father sends his 18-year-old son to purchase a bottle of whisky for him. His son is 5 feet tall, plays football in the halfback position, but does not look to be 18 years of age. Upon leaving the hotel he is stopped by a police officer who asks him for proof that he is over 18 years of age. One does not always carry documentation in proof of one's age. Suppose the son had purchased a bottle of Chivas Regal—his father being a Liberal—and the policeman imposes upon him an on-the-spot fine because he is unable to prove his age.

[*Interruption*]

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

Mr WHELAN: After issuing the on-the-spot fine, the policeman takes from the son the bottle of Chivas Regal and returns to the police station. The father is waiting at home, having had a hard day at the office; the mother has been working hard also. They await the return of the son, but he is detained for half an hour while attempting to persuade the police officer that he is over 18 years of age. The son arrives home, without the Chivas Regal but with an on-the-spot fine and says, "Look, mum and dad. It has cost me \$20. I have had to pay the policeman and you have to go to the police station to pick up your bottle of Chivas Regal".

Why does the Government not do something concrete about the alcohol problem for young people? Why does the Government pick on kids in our community? Why does the Government not issue on-the-spot fines for anyone over the age of 18? Why does the Government discriminate? What is the difference between a kid who is 16, 17, or 18, who is carrying alcohol; his mates will buy it for him. If the Government wants a head-in-the-sand attitude, do it. It needs to answer the problem of under-age drinking by kids who go to hotels and clubs to buy alcohol. Everybody knows about that. They buy alcohol from hotels and supply it to their mates who have a problem with under-age drinking. The Government will curb this terrible problem of under-age drinking by issuing on-the-spot fines.

The Opposition cannot oppose this legislation because it is our legislation. Although we would love to oppose it totally and wholeheartedly, it is our legislation and we cannot oppose it. We are restricted by it but we are utterly disappointed and dismayed that the Government, with its big, fat mandate from the electorate, has reneged on its promises again, has walked away from its electoral commitments and will do nothing to seriously resolve the problem of juvenile drinking.

Mr JEFFERY (Port Macquarie) [9.38]: I support the bills. Despite what the honourable member for Ashfield might say, the measures are steps in the right direction. In 1979 the former Government introduced 16 bills to repeal the Summary Offences Act. Since then there has been a steady decline in law

and order, particularly in the 12 years of the former Government. Those who sit opposite are responsible for that decline in law and order—young hooligans, contempt for the police, deranged vandals, juveniles and young people under 18 years of age capable of committing murder or rape. Laws must protect the community from such crimes. Though it was agreed earlier that legislation needed to be updated, the police have been hamstrung by their lack of power to deal with offensive behaviour, and have been laughed out of court. If a policeman lays a charge and it is dismissed, it does not look good for the police. If a policeman sees a group of youngsters walking the streets, as I see quite late at night when returning home from functions, he needs power to be able to disperse them so that they are not involved in crimes such as stealing.

[*Interruption*]

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr JEFFERY: Only last Saturday night the whole of the gate takings of the Kempsey Greyhound Racing Club were stolen by juveniles. Until police have adequate powers, there will be no respect for police on the beat. The former Labor Government failed dismally to take heed of the courts and what people in the community were saying about police lacking powers to deal with street crime. Traditionally, the Government has relied on imposing fines to deal with offences such as drunkenness, offensive behaviour, prostitution and soliciting. The coalition Government is determined that the Summary Offences Bill and Justices (Sentencing) Amendment Bill will go a long way towards cracking down on loutish and disgusting behaviour which disrupts families in suburban areas and country towns. These new laws will help to wipe out prostitution rackets and soliciting in areas lived in and visited by families. Members of Parliament have a responsibility to ensure that all citizens may go about their business without fear of harassment or inconvenience.

[*Interruption*]

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

Mr JEFFERY: We must put together a workable system to protect the innocent and punish the dishonest, rude, selfish and criminal elements. The lawless should be deterred from their ways of destruction and disillusionment. I reiterate that we must return to police the means to deal with offensive behaviour in all circumstances. If police doubt their authority, their position is weakened and others will work on that weakness. The police need the backing of the Parliament. I am confident that this sort of legislation will give police the powers they need. I believe these laws will be enforced.

One of the main factors for the increase in petty crime in New South Wales has been the attitude of the former Government and its dismal failure to consider the victims of crime and allowing offenders to get off lightly for their actions. The honourable member for Ashfield has just told the House that our streets are a nursery for crime. Let us face it, they are. Young thugs are allowed to repeatedly offend and flout the law. They have no respect for law enforcement. They will turn into big-time criminals if they think they can get off scot-free with committing crimes. We must prevent that.

The people of my electorate and of New South Wales in general want protection of their person in the street, and protection of their possessions and their homes. They want offenders punished for violations. Honourable members have heard people say that they will get even in their own way through vigilante

groups. I do not support that. The previous Government did not have the answer; its legislation was not working. As honourable members opposite know, soon after the introduction of the Offences in Public Places Act police became aware that that Act had ill-defined offences. A large number of offences became difficult to prove and many previously straightforward cases were being thrown out of the courts. As the Attorney General said in his second reading speech, the new definition of soliciting was that a person shall not, near or within view of a public dwelling, church, school or hospital, solicit another person for the purpose of prostitution. This measure is a great step forward. I congratulate the Attorney General and the Government on bringing forward this legislation because it will enable police to enforce the law and protect the public.

When in Opposition I emphasized the genuine public alarm at increased lawlessness and generally offensive behaviour. I said at that time that we needed to take action to address the increasing loutish, violent and alcohol-induced crimes, particularly those concerning juveniles. However, the previous Government's lack of action did nothing to address the problem. It adopted instead the practice of warning juveniles—another step down the path to complete lack of community confidence in Labor Party policies. This coalition Government and the Parliament have a responsibility to introduce laws to prevent widespread obnoxious behaviour before it is too late. If we do not, we will let down the law-abiding citizens of this State.

Last year I presented to this House a petition from 2 401 people in the town of Kempsey. Only 18 people declined to sign the petition. So 99.2 per cent of people approached wanted the reintroduction of the Summary Offences Act and the abolition of the juvenile cautioning system. The people of New South Wales have told us what they want. That is what the Government is giving them. No doubt there is a lack of parental control and this contributes directly to the misbehaviour of the young people of today. Parents must take a greater role and responsibility in the bringing up of their children. Backed by new police powers to combat unsavoury behaviour in public places, these measures are a major step towards bringing street offence penalties and punishments up to date and more in line with community demands. I have much pleasure in supporting this legislation. I trust all honourable members will support it.

Ms MOORE (Bligh) [9.47]: It is appropriate that I should make my first speech on this bill. So many of the issues that have led to this legislation are of great concern and relevance to the people of Bligh, the inner eastern electorate which I represent. It is in an urbanized area such as Bligh that the most forceful arguments for and against such a bill can be found. Certainly, there needs to be urgent action by the Government against urban crime, and our streets and public places have to be made safe for everyone. Statistics published in the *Eastern Herald* last December documented an alarming increase in crime. While doorknocking throughout the electorate, I discovered the extent of fear about safety and security, and the need for positive action. I need not remind honourable members that they are looking at the electorate of Bligh when they look out the parliamentary dining-room window.

Increasingly, people in the inner city are living behind bars, protected by security systems, and their contact with the person at the front door is via an intercom. Many older people, particularly in Potts Point, Rushcutters Bay and Elizabeth Bay, are frightened to leave their homes, and parents are becoming reluctant to let their teenagers go to public places for fear of bashings and muggings that occur in places like Town Hall Station, The Rocks and at sporting venues. Residents of Darlinghurst want an end to prostitutes plying

their trade near their homes, and servicing their clients in quiet residential streets, often in view of children coming home from school.

Residents of Paddington, Centennial Park and Surry Hills are looking for effective controls to curb the hooligan-like behaviour of crowds as they leave various sporting venues in Moore Park, especially after night-time events. People in Woolloomooloo complain that youths roam the streets, vandalize public property, strip cars and shoot-up on drugs in full view of residential dwellings. There are frequent complaints that there are no police around, that police do nothing, or that youths apprehended by the police are back on the streets the next day. People are understandably angry and frustrated. And so too, sometimes, are the police themselves. These are some of the problems and fears of the people of Bligh, and I am aware they are shared in many other parts of Sydney and New South Wales. For the past few years, however, the New South Wales police force has run a very convincing campaign, arguing that it is powerless to act on these problems, and it has consistently blamed its powerlessness on the repeal of the Summary Offences Act by the former Government.

The view has been presented, very forcibly, by such organizations as the Council for Civil Liberties, that the police already have sufficient powers to deal with these problems, but have been reluctant to use them. Some civil libertarians have even gone as far to suggest that the police "have gone on strike". Only yesterday, a barrister told me that he could think of at least six charges which police could use to deal with the problem at Town Hall Station, or hooliganism among crowds leaving the Sports Stadium after a nighttime event. The argument as to whether or not police have sufficient powers should be ended by this bill. I assume it has the support of the Police Department. It is unfortunate, however, that the Government has not allowed more time for community discussion on this bill. I hope that it will spark widespread debate on the many other steps we need to take—both legislative and non-legislative.

The Summary Offences Bill seeks to overcome many of the problems I referred to in my opening remarks. It does this by a combination of image and substance. Offensive behaviour has been redefined and offensive language has been reintroduced. There are measures aimed at curbing prostitution activities in defined public places, and they apply to both prostitutes and their clients. Violent behaviour effectively brings in the common law offence of riot, but enables the police and the courts to process these offences more effectively and swiftly. I particularly welcome this section, as I believe it should be an effective deterrent against the hooliganism that increasingly concerns my electorate.

Though many people will welcome increased police power, there are those in the community with a not-so-long memory who will view any revival of such powers with suspicion. The electorate of Bligh has perhaps the most diverse population of any electorate in New South Wales. Proximity to the city and traditional bohemian lifestyles of such neighbourhoods as Kings Cross, East Sydney and Darlinghurst have attracted a cosmopolitan mix of people—artists, students, performers—people who should not necessarily be judged by the mores of suburbia or country towns.

Sadly, the city end of Bligh has attracted many people who are rejected by the rest of society—even by their families: teenagers who find themselves homeless, and turn to prostitution as a means of survival; people with serious emotional and mental health problems; older people whose lives have become derelict as a result of dependence upon alcohol and charity.

It is claimed also that the electorate of Bligh has the highest concentration of gay people of any electorate in New South Wales. Many of them welcomed my election to this House. Many of the gay residents of Bligh, particularly, are rightly very worried about any legislation involving an increase in police powers. They can remember the way that an intolerant, homophobic police force once used similar legislation to persecute and hound them. They can remember the days when it was easier to plead guilty and pay a small fine in the hope that no one would find out, rather than face a drawnout court battle in an endeavour to prove their innocence. They can remember the way police used similar legislation against the first gay mardi gras—unlawfully as it turned out. Mr Speaker, it is an unfortunate fact that in the past, minority groups within the community have borne the brunt of police prejudice.

Many of my gay constituents have expressed concern that this bill, particularly clause 4, the clause dealing with offensive behaviour and offensive language, could be used against them in a highly discriminatory way. They have drawn my attention to the fact that this clause deletes the test for offensive behaviour that exists in the Offences in Public Places Act, namely that it had to be behaviour that reasonable persons in all the circumstances would regard as offensive. Yet the new part dealing with violent disorder writes in a test—namely, the requirement that a person of reasonable firmness must fear for his or her personal safety for an offence of violent disorder to have been committed. I support the inclusion of this test. I hope the Minister can explain the apparent inconsistency between these two sections when he replies to the debate.

The main concern of gay people is how the offensive behaviour clause is to be enforced. The 1982 New South Wales Anti-Discrimination Board report, "Discrimination and Homosexuality", documented several cases of overzealous action by police against homosexuals. The New South Wales Council for Civil Liberties has documented many similar cases. Even prosecutions under the Offences in Public Places Act raised some concerns. The Attorney General has acknowledged that abuses may occur. He believes they are less likely because we have a better educated police force, and better protectors of civil liberties in 1988 than we did 20 years or even 10 years ago. It is undeniable that there have been serious attempts to ensure better relations between the police and the gay community. The establishment by the previous Government of a police gay liaison unit within the police community relations bureau is an important advance. I am pleased that the Minister for Police and Emergency Services yesterday endorsed the important work of this unit when responding to a question in another place. However, not all police are willing to accept the importance of this unit. In a letter to *Police News*, Detective Constable Wayne Davis wrote:

The very idea of a "gay liaison section" makes my blood boil. When I joined this job homosexuals were called queers and fairies and their behaviour was against the law.

Senior Constable Davis is stationed at the New South Wales Police Academy. If the bill is to be accepted, and do the job the Attorney General claims, it must earn support and respect from all sections of the community. It will be up to the police and the courts to ensure that this happens. The police can ensure this themselves. First, there must not be any abuses of the powers the police will have under the Act. Any such abuses will serve only to bring the Act into contempt. Yesterday in another place the police Minister said:

I doubt that there has ever been a law in New South Wales that entitled a police officer, or any person, to openly harass and assault individuals whatever an individual's lifestyle might be.

We must ensure that the Summary Offences Act 1988 does not become such a law. It is worrying that on the notice paper today is the Police Regulation (Allegations of Misconduct) Amendment Bill which would appear to restrict the Ombudsman's power only to complaints of serious misconduct. It seems to me that the Government really has only two alternatives with respect to this police regulations bill. Either it should be willing to state firmly and categorically that abuse by police of their powers under the Summary Offences Act will be treated as serious misconduct, or it must withdraw the bill.

I refer now to the prostitution provisions in part 3 of the bill. The words "within view from" are more definitive than "near to" a dwelling, school, church or hospital, and should succeed in getting prostitution out of residential streets. However, I am concerned that such restrictions might be counter-productive and force prostitution underground, away from a measure of supervision and access by aid and welfare agencies. For the aims of this bill to be effective and fully realized much more work needs to be done. There is a critical need for more police, particularly in identified trouble spots. It is not much use having laws enabling police to act, if the police are not where the crimes are being committed—which is a far too common complaint. For sensitive areas, special liaison units need to be expanded to forge links with the community, for a better understanding of local problems. We desperately need more local police on the beat, especially in densely populated urban areas, to act as a deterrent, and to encourage trust and confidence between the community and police.

These reforms in policing are fundamental to making our streets safe again, and ideally should be introduced in tandem with any bill proposing increased police powers. The issue of prostitution should be addressed in a more positive way than just out of sight out of mind principles of the past. Hard decisions need to be made. Recommendations from the parliamentary Select Committee upon Prostitution still need to be acted upon. The AIDS epidemic has made it more imperative that action be taken.

Finally, it is easy to enact punitive laws but, of course, much more difficult to address the human and social issues of drug dependence, unemployment, child abuse and rejection, breakdowns in family life and homelessness, which are more and more the factors in petty crime, vandalism and violence—particularly in urban areas. Laws alone will not overcome increasing social problems, particularly in urban areas. I hope that the Government will take action equally on the underlying causes which are threatening the well-being of everyone in this State. I intend supporting this bill at the second and third reading stages. I am, however, concerned about what will happen once this bill becomes law. The Attorney General has said the Act will be monitored. I am not convinced that informal monitoring will be adequate. This legislation must have built into it an effective review mechanism requiring reports to Parliament about its effectiveness and fairness. Accordingly, I wish to foreshadow my intention at the Committee stage to move an amendment establishing a committee of review. Building an accountability provision into this legislation is vital.

Mr TINK (Eastwood) [9.58]: Mr Deputy-Speaker, in commencing my maiden speech may I congratulate you on your election to such high office. I thank the Speaker's staff for the assistance they have given me. As one of the many novices in this place I think I have contributed my share of problems to test their patience to the limit. They have borne it all with grace and good humour. Before addressing the bill, I seek to digress for a few moments to make some comments and outline briefly a couple of issues relating to my electorate.

On 3rd November, 1981, the Minister for Health, then the honourable member for Willoughby, said in his maiden speech:

Although the parliamentary Liberal Party may be reduced to a mere 14 members, within it lies the nucleus of a great future Liberal Government.

What prophetic words they were. It gives me tremendous satisfaction to be part of that Government, albeit as one of the atoms more distant from the nucleus the Minister referred to. At the same time I am sure that Government supporters will be mindful of what the Minister had in mind when he went on to say in relation to the fortunes of political parties in the State, "as the tide goes out, so it comes in". It is a great honour to represent the people of Eastwood in this House. I will do all that I can to ensure that the confidence that they have placed in me is not misplaced. Also, I wish to thank my family and members and supporters of the Liberal Party in Eastwood for their support and forbearance. At the same time I wish to make it clear that I will do my best for all the people of Eastwood.

I wish to pay tribute to my predecessor, Mr Jim Clough, who very ably represented the people of Eastwood for 23 years and, before that, the people of Parramatta. In doing so I do not think it is possible to pay Jim a greater compliment than he so graciously paid to his own predecessor, the first member for Eastwood, when he said that he was "a man with a splendid record in both peace and war". So these words are also a fitting tribute to Jim Clough. I wish Jim and his wife well, as I am sure all of you do, in what I am certain will be a very long and active retirement.

The electorate of Eastwood was first settled by Europeans in 1795 and numbers among those early settlers such notable people as Gregory Blaxland, the Blue Mountains explorer, and William Forster who reputedly was the youngest Premier in New South Wales history until the present Premier was sworn in two months ago. While this might cause a re-write of history books in Eastwood, I can say that the people of Eastwood overwhelmingly endorse the new Premier. The electorate, which contains within its boundaries organizations as diverse as Macquarie University, the Channel 7 studios and the Eastwood rugby team, is essentially a family place representative of the hopes and aspirations of middle Australia. Apart from the issue of law and order, and particularly summary offences, to which I shall turn shortly, the area's most pressing problems which are bearing heavily on its delightful family atmosphere are traffic congestion and local planning.

So far as traffic is concerned it is important to ensure that an early start is made to the Castlereagh freeway to relieve the appalling traffic congestion in the Epping area. Accordingly, the announcement by the federal Treasurer in his recent mini-budget of severe cuts to road funding will be greeted with anger and alarm in the electorate. So far as local planning is concerned I shall be pressing the Government to honour its promise to restore local planning to local government.

Transcending these issues in the minds of the people of Eastwood and in the minds of most others in New South Wales is the issue of law and order. It is this issue and its importance to the people of Eastwood which prompts me to make my maiden speech at this time in support of the Summary Offences Bill, and in particular clause 4 relating to offensive conduct and language. Any doubt about the inadequacy of the existing offences in public places legislation was dispelled by the release last week of figures by the Bureau of Crime Statistics and Research which show an alarming increase in the number of street attacks. These statistics show that since 1982 street attacks have risen by 118 per cent.

It has been a favourite tactic of members of the Opposition when in government to take points of order or to interject on the basis that there was no nexus between summary offences and offences in public places on the one hand and in street attacks on the other, which it was said were covered by the Crimes Act. The public attitude is that there has been an obvious nexus for all to see and this manifestly self-evident fact is now borne out by the bureau's report which has found that many assaults occurred in the context of drunken street brawls with increased numbers of gang attacks. In particular, the nexus is confirmed by D. Jeff Sutton, director of the Bureau of Crime Statistics and Research. As reported in the *Daily Telegraph* of 23rd May, Dr Sutton said that the report would strengthen the Government's case for re-introduction of the Summary Offences Act.

It is worth quoting what Dr Sutton had to say in some detail. He said that since the abolition of the Summary Offences Act in 1979 and its replacement by the Offences in Public Places Act, charges of offensive behaviour had dropped by about two-thirds and although they have recently climbed slowly, the rate was nowhere near the level of the mid-1970s. He went on to say that the police have felt their powers under the Offences in Public Places Act were insufficient for dealing with street crimes and that there was an increasing tolerance of alcohol in the streets and a whole breakdown in behavioural standards. The solution, he said, was to have police on the spot with the feeling that they have sufficient power to move in and break up a situation before it gets to the stage of violence. So, let us hear no more about the lack of a nexus between summary offences and street assaults, because Dr Sutton has, with relevant expertise, just confirmed what the people of Eastwood and all other people of good common sense have known all along—that street assaults are inextricably bound up with summary offences.

The fate of the summary offences legislation in New South Wales for the past two decades and the urgent need for the bill now before the House have been intimately linked with the career of the former member for Georges River. When making his second reading speech on that legislation known innocuously as the cognate summary offences bills in this House on 23rd April, 1979, the former member put the passage of the Summary Offences Act 1970 down to being the vehicle of the Askin Government's so-called law and order campaign designed for the particular purpose of winning the Georges River by-election in 1970. Not surprisingly, this sort of attitude towards such an important piece of legislation ultimately resulted in the political demise of the former member for Georges River in the recent election, which was a quintessential law and order election centring on the need for the very sort of legislation which the former member was hell-bent on dismembering in 1979. It is interesting to note also that the other members of the government who supported the former member for Georges River in that 1979 debate, namely the former member for Earlwood and the former member for Penrith, have been defeated in this law and order election.

When reading the *Hansard* of that 1979 debate and the law reports of cases based on the legislation there under consideration, I was struck with great force by the way in which the public and legal perception of Parliament's attitude to summary offences changed dramatically as a result of Parliament's action. This is no better illustrated than in the often quoted judgments of His Honour Judge Newton in the matter of the appeal of Johannes Van Den Hende, where His Honour said:

It is with regret that I feel bound in law to uphold this appeal because I consider the appellant's conduct warrants punishment and would certainly have constituted an offence under the repealed section 7. . . . By the repeal of this section it is apparent

Parliament intended that riotous, indecent, threatening or insulting behaviour is permissible as long as it does not create a state of mind in a reasonable person which did justifiably cause such person to be severely alarmed or severely affronted.

The option of a gaol penalty for serious offences was removed in 1979 and the law which had been concisely consolidated in the Summary Offences Act was scattered to the four corners of the average law library. Moreover, the new legislation entailed considerable complexity of interpretation and resulting confusion by the police and the courts. In *White v. Edwards*, Mr Henderson, Stipendiary Magistrate, when referring to section 5 of the Offences in Public Places Act, said:

I am in a quandary and being in a quandary I have no doubt that the legislation does not make it clear to my mind what the court should do.

Now, true it is that in 1983 the former member for Georges River, albeit extremely grudgingly, introduced amendments going some way towards dealing with the problem he created with his 1979 legislation. Nevertheless, it is still clear that the amended legislation did not rectify many of the problems created in 1979 and the damage done to the public's perception of summary offences remains. For example, at a recent seminar on community conduct organized by the Local Government and Shires Association of New South Wales there was a general perception that the offences in public places legislation signalled an easing off on various forms of street behaviour and that community values had deteriorated. It was stressed that young people should have a clear idea of what constituted offensive behaviour and that it would not be tolerated. In addition, Dr Sutton, director of the New South Wales Bureau of Crime Statistics and Research, said that the new legislation still entailed complexity of interpretation for the police and the courts. The bill before this House is what is necessary to rectify the situation.

The bill, by providing for gaol sentences in appropriate cases, makes it quite plain that offensive behaviour will not be tolerated and will, like the drink-driving legislation before it, send a clear message to the courts and the public. In that respect it is a guide to the courts, and a warning and a deterrent to those who may be tempted to break the law of the seriousness with which such behaviour should be viewed. Legislative crack-downs on offensive behaviour involving little more than adjustment of fines to match the cost of living index, which were trumpeted by the former Government last year as a major law and order initiative, are now hopefully a thing of the past. Recent statistics on offences in public places issued by the New South Wales Bureau of Crime Statistics and Research indicate that there has been a sharp decline in the past 12 months in the number of convictions involving offensive behaviour—a decrease of about 31 per cent. Yet this is in the context of something which over the same period the honourable member for Cabramatta described in this way in *Hansard* of 9th April, 1987:

Unfortunately, recently there has been an increase in street crime which has been a cause for alarm to all sections of the community. In my electorate one of the main concerns of residents has been the problem of street crime of every variety.

Later in his speech the honourable member referred to the Premier of the day, in the lead-up to the Bankstown by-election, saying that he was alarmed at the concern of the community at anti-social behaviour, especially in public places. I recall the words he used at the time, and I quote them:

People want to feel safe walking the streets, catching public transport, enjoying festivals and sporting events.

Probably no member of this House disagrees with those sentiments. I find it interesting that while probably everyone agrees with those sentiments that we have a real problem with street offences, at the same time the number of convictions in the same year that the honourable member was referring to in respect of offensive behaviour was down by 31 per cent. The conclusion I draw is that something is wrong with the legislation governing that activity. The question is: what is wrong with it? What is wrong with it seems to me to involve those of the words inserted in 1979 which remained after the 1983 amendments, and those were the words that related to the reasonable person in all the circumstances of the case. It is those words which have caused very much perplexity in the minds of judges and police officers in terms of respectively hearing cases and determining whether they can and should bring people before the courts. It is in this area that in 1979 the former member for Georges River was at pains to emphasize the reform aspect of the bill then before the House. At page 4918 of the *Hansard* of 23rd April, 1979, he said:

... the new offence requires the arresting officer to cast his mind to all the surrounding circumstances. What might be offensive behaviour in one set of circumstances might not be so in another situation.

Speaking to the same set of words the honourable member for Earlwood at that time was reported at page 4944 of *Hansard* as follows:

These will allow the courts to look more closely into the circumstances that prevailed at the time when the alleged offence or offences occurred.

It is those words that have caused the problems of enforcement on the part of the courts and with the police. As an illustration of that I refer to a decision of His Honour Mr Justice Yeldham in the case of *White v. Edwards*, reported in *Petty Sessions Review* at page 2418. It is true that it is a 1982 case, which was heard before the 1983 amendments were brought in but I refer in particular to His Honour's comments about the words "reasonable person in all the circumstances". It is my submission that those comments of His Honour are as relevant now as they were in 1982. His Honour said:

But the need for the court to determine the question of standards of "reasonable persons" at Kings Cross at 12.15 a.m. on Saturday morning demonstrates the lack of skill in the drafting of the section and the lack of consideration given to its terms.

Is the objective test to be supplied in determining how "reasonable persons" may react that which envisages the standards of prostitutes, of dedicated church-goers, or young people or of old, or of visitors to the area or of residents of Kings Cross?

In my respectful submission, that is the quandary in which the police found themselves. It is the quandary in which the courts found themselves. It has remained a central flaw in that legislation until the bill now before the House was introduced seeking to remove those words and to return the offence of offensive conduct more to the way it was in the 1970 Summary Offences Act. There are other examples of similar judicial difficulty with the section. His Honour Judge Collins had trouble in the matter of the appeal of Peter Miller, reported in *Petty Sessions Review* at page 2244. Again he was in a quandary when he said:

We are looking at an unidentified amorphous group presumably, a broad sample of the community and if there are people in the community who consider it a perfectly reasonable thing for nudity to be practised provided it does not breach any law then, it seems to me, it is putting an impossible onus on a court or officers of the law to draw the line as to whether a hypothetical group of reasonable persons would be seriously insulted ...

In my submission, that is the problem. The bill before the House seeks to remove that difficulty by returning to the old objective test. But it does not leave the matter in limbo. As the Attorney General said in his second reading speech, it goes back in effect to resurrect the old test of offensive behaviour, which is well-trodden territory. There is clear authority in the decision in *Worcester v. Smith*, in these terms:

Behaviour, to be 'offensive' ... must, in my opinion, be such as is calculated to wound the feelings, arouse anger or resentment or disgust or outrage in the mind of a reasonable person.

Specifically in the New South Wales context, in *re Marland* His Honour Judge Prior came to the same conclusion. In my submission that is the test that will re-emerge, and that is a proper test, balancing the rights of the people who may be summonsed under the legislation against the powers and rights of the police and the reasonable time of the courts to hear such matters. Also I support the inclusion of the offensive language provision as a separate provision in clause 4 (1) (b).

[*Extension of time agreed to.*]

This again is a matter which has caused great difficulty. From 1979 there was, as I understand it, no specific offence of offensive language. It was incorporated as part of an overall offence of offensive conduct. This caused problems in a number of cases. It caused trouble in relation to the execution of the law by a number of police officers. It again caused a quandary in the courts. The decision of His Honour Mr Justice Yeldham to which I referred earlier is an example of that. It is still a problem, even since the 1983 amendments were passed. I refer again to Mr Justice Yeldham's decision in a recent case of *White v. Wright* reported in *Petty Sessions Review* at page 3449. Again His Honour had difficulty with the concept of offensive words in the context of an overall offensive behaviour offence. It is my submission that the new provision in the bill will go a long way towards coming to grips with that difficulty.

The only other provision that I seek to refer to specifically is to be found in clause 20 of the bill, which deals with public acts of prostitution. I support the bill, particularly as it seeks to create an offence in relation to each person who is involved in an act of prostitution in the places outlined in the bill. In that respect, it is again interesting to turn to the *Hansard* report of the the debate that took place on 23rd April, 1979. At page 4923 the former honourable member for Georges River was reported, when addressing his remarks to the aspect of discrimination, as follows:

... the present law discriminates unfairly against the prostitute as compared to the customer ... The offence of soliciting another person in or near a public place is to be done away with.

I am pleased to see that we have dealt with this aspect of discrimination not by doing away with the offence but by making it apply to both parties. I support that provision in particular. Another aspect upon which not enough emphasis can be placed is the reconsolidation of all the offences which were once provided for in the Summary Offences Act, except those referred to by the Attorney General in his second reading speech as not being any part of the criminal law in this day and age—and quite rightly so—such as fortune telling and the like. The major aspects—the prostitution aspects, the public assemblies aspect, the violent disorder aspect and, of course, the offensive conduct and language aspect—are all now presented in the one bill. The courts will have a clear message from the Legislature as to what it intended. Provision is made for gaol

sentences to be imposed in the appropriate serious cases. It seems to me that this is very much the way to approach what has been a vexing problem for a decade.

I also congratulate the honourable member for Bligh on her contribution to the debate, which I listened to with great interest. There are some new provisions in the bill which are perhaps not quite as well tested in terms of history or current experience as others, particularly those relating to violent disorder in part 5 of the bill. The review aspect to which the Attorney and the honourable member for Bligh referred will be appropriate to deal with that aspect of the bill.

Mr DAVOREN (Lakemba) [10.21]: I congratulate the honourable member for Bligh and the honourable member for Eastwood on their maiden speeches and their credible contributions to the deliberations of this House. I am primarily interested in the provisions of this bill relating to prostitution. In the Minister's second reading speech he spoke of this subject. By way of background, in the Lakemba area there is growing community concern about prostitution, particularly round Canterbury Road. For the information of those honourable members who are not aware of the geography of the electorate of Lakemba, Canterbury Road comes within my own electorate and that of my colleague the honourable member for Canterbury. We have some differences of opinion about where the sporting ladies are operating, and whether they are in the honourable member's electorate or in mine.

Some time ago Canterbury council arranged for a seminar to be conducted on this problem. The candidate for Earlwood—and now the member for that electorate—stated that, in the unforeseeable event of the Liberal Party-National Party coalition attaining government, they would have a panacea to solve all the problems. I doubt that the bill will provide that panacea. Local police officers have problems with the present legislation which provides for offences occurring near to certain premises. There are all sorts of connotations of the meaning of the words near to, for example, soliciting shall not take place near to a church, school, hospital, et cetera.

Some obscure magistrate stated that in his opinion near to was 50 metres. The State's finest adopted that observation. It may be that near to means 50 metres, or it may mean 500 metres. I was not interested in the legal niceties of what it meant, and nor were my constituents. They were interested in ridding the area of the prostitutes. I have spoken at length to local aldermen and told them that there are problems in getting rid of garbage, but the mechanics of it are not of interest to ratepayers. All ratepayers want to do is to put their garbage out and know that the following morning the garbage bin will be empty. They are not interested in what happens to the garbage.

The analogy is that people are not interested in the legal niceties; they leave those to the legal practitioners. They are interested in getting rid of the prostitutes. I put it to the House that this conglomeration of clauses in the legislation will not solve the problem. I foresee that the constabulary, the magistrates and all sorts of people will argue over the interpretation of the bill. The bill states:

A person in a public street shall not, near or within view from a dwelling, school, church or hospital, solicit another person for the purpose of prostitution.

The proposed legislation contains the phrases near to and within view from. What does within view from mean? Does it mean within view in daylight, at night time, with binoculars or by a person who has 20-20 vision? I was looking for the panacea for our problems that would rid suburban areas of prostitution.

That is what my constituents want. I should have thought that something better than this measure would have been proposed. I foresee great problems for the constabulary, the legal fraternity and the magistrates and for anybody who is involved in solving the problems of my constituents.

Mr Dowd: What does the honourable member propose?

Mr DAVOREN: I do not know. The Attorney General asks, what do I propose. Last night I listened to you, Mr Speaker give a learned treatise on the *sub judice* rule. You deferred to the opinion of the Attorney General. I am not a legal practitioner. I expected that the Attorney General, with all the facilities available to him, would produce something better than is offered by this proposed legislation. I do not consider that this proposed legislation will solve the problems of my constituents or those of my colleague. Local police officers have said to me, "If you can give us a law that we can use to get rid of them with, we will get rid of them". The honourable member for Canterbury and I had an assurance from the former Minister for Police, Mr Paciullo, and from the former Premier, Mr Unsworth, that on the return of the Unsworth Government following the elections, amendments would be implemented to solve this problem. This legislation will not solve the problem. We will be back here in a few months complaining again about the sporting ladies operating along Canterbury Road. When the Liberal Party-National Party coalition said they would solve problems of law and order, I thought that those problems would be solved. They have had 12 years to prepare a proposal, but have come up with a bill that is virtually the same as the existing legislation. That reinforces my argument that perhaps there is a conspiracy to create work for people involved in that sort of business. I do not believe this measure will solve the problem.

I am a humble person. I just want to do the right thing. Honourable members should refer to me in future as Uriah Heep. I am humble and do not want to be involved in all the nonsense. I want a simple solution to what I see as a simple problem. The honourable member for Eastwood spoke at length. His frequent use of the word submission, led me to believe he has some legal training.

Mr Kerr: Cut out those allegations.

Mr DAVOREN: That was not an allegation. I meant it as a compliment.

[Interruption]

Mr DEPUTY-SPEAKER: Order! If the honourable member for Cronulla wants to participate in the debate, he should seek the call.

Mr DAVOREN: I am a great reader. Surely the judiciary of this State would realize that people wish to get rid of all this rubbish, the offensive language and conduct, prostitution on the streets of the city of Sydney and right throughout New South Wales. I have a recollection of a leading case in England in which there was some argument about what constituted prostitution on the street. Perhaps the Attorney General would know more about this. The soliciting was taking place from a balcony, with the defence attorney arguing that that was not a street. The learned justice made an excellent decision that it was in the minds of the legislators to get rid of this sort of offence on the streets. He was not bamboozled by legal argument. He ruled that if prostitutes were soliciting from balconies, they were soliciting on the street. He found the offender guilty.

I believe that Mr Justice Murphy made a learned pronouncement in saying that members of the judiciary should read *Hansard* to find out what was in the minds of legislators when they passed statute law. Surely anyone in this State with brains would realize that all honourable members in this place want to get rid of hoons and those who engage in offensive conduct and prostitution on the streets. There should be no legal argument: if someone is caught in the act of soliciting and police apprehend that person, it is the duty of the judiciary to put that person away. That is all I am asking. I hope that this legislation solves the problems faced by persons in my electorate and the electorate of the honourable member for Canterbury. I am not interested in the mechanics. I want it to be as simple as putting out my garbage bin and having it emptied. Let us get rid of this nonsense that plagues me and my constituents. I do not know how that can be done, and I do not care. I just want to see it done.

Let us look at the so-called strong measures to solve all these problems. For offensive conduct and language, the maximum penalty under the old law was a \$500 fine; the penalties under this bill are a fine of \$600 or three months' imprisonment. I might not be too smart, but I know what a magistrate will impose. He will set a penalty of a fine of up to \$600. The magistrate will not put the offender away for three months because, on his quick calculations, at about \$30,000 a year to keep someone in an institution, he will come up with a cost of \$7,500 for imprisoning an offender. Instead, he will impose a fine of \$600, and that will help the Government raise money. An increase in the penalty from \$500 to \$600 will have little deterrent effect.

Let us look at the penalties for obscene exposure. Surely we are against obscene exposure. In that I feel I speak for all the people of New South Wales. The penalties under the old law are \$1,000 or six months' imprisonment; under this bill the penalties are \$1,000 or six months' imprisonment. This is the so-called strong law and order legislation that will be the panacea and cornucopia to solve all the problems with law and order in this State. For obstructing traffic the present fine is \$300, which will be increased to \$400 under this bill. What an increase. And the offenders will get time to pay. For destroying shrines, the fine will be increased from \$300 to \$400; for destroying fountains, an increase in the fine from \$300 to \$400; and defacing walls, an increase from \$300 to \$400.

This is the really tough penalty: for living on the earnings of prostitution—if the offence can be proved—the present penalties are \$800 or 12 months' imprisonment; or \$1,000 or 12 months' imprisonment under this bill. That might involve another "trick" to raise the other \$200. This is nonsense. These measures are supposed to solve all our problems. I put it to the House, and perhaps I have the temerity to put it even to the Attorney General, that this legislation will not solve our problems. I appeal to the Attorney General, with all the machinery, intelligence and brains available to him through his department and the Crown Law Office to come up with something better than providing that a person in a public street shall not, near or within view from a dwelling, school, church or hospital, solicit another person for the purpose of prostitution. I have no legal training and am therefore not entitled to give legal advice, but if I could not think up a better way of solving the problem, I will walk from here to Bourke.

I am in favour of anything that solves law and order problems. I support the police. They do a marvellous job. The average police officer is trying to do a good job under difficult circumstances. In most cases the officer is a married man raising a family. He is very much aware of the problems that we all face. These measures will not solve the problems that the officer has with the current

Prostitution Act. I appeal to the Attorney General to make it tougher on those involved in these terrible offences. I appeal to the Government to address the problems of prostitution in public streets. I should be delighted if the Attorney General could suggest some better way of doing that than is presented in this mish-mash of measures.

Mr KERR (Cronulla) [10.37]: First I offer the customary congratulations to the honourable member for Bligh and the honourable member for Eastwood on their well-reasoned speeches. I am particularly pleased that the honourable member for Eastwood explained the difficulties apparent in defining the term "a reasonable person". He explained for the benefit of the honourable member for Bligh and others the judicial problems in trying to enforce that sort of law. The honourable member for Ashfield made an incredible speech about this legislation and referred to the transaction of buying a bottle of wine. Perhaps he was thinking of his days as Minister for Consumer Affairs. The honourable member's resort to that sort of asinine illustration does the House and the people of New South Wales a disservice. He could have made a better contribution to the real social issues addressed in this legislation. Now I come to the honourable member for Lakemba. He said he would like to be described as a humble person. Indeed, he has much to be humble about. He went on to talk about the problems of prostitution. He said the Attorney General has his department behind him. However, the honourable member for Lakemba neglected to tell us that he had been a member of government that for 12 years did nothing about these problems.

Mr J. H. Murray: I had not heard that before.

Mr KERR: For the benefit of the honourable member for Drummoyne I shall repeat that. He has been here for 12 years.

Mr J. H. Murray: I have not.

Mr KERR: He has been part of a government that was in office for 12 years. It had the full resources of the State behind it to address this problem. Did it do so at any time? No. The problem still exists after 12 years of Labor Party government. The honourable member for Lakemba was critical about the legal fraternity and at various times the police although he went on to make a few statements of praise. He was critical also of the legislation brought in by his own Government. It was he who said that he did not know what is meant by the term near. It could be 50 metres, 150 metres, whatever. The word nearby was introduced by his own Government. As he said, it is a meaningless expression. The honourable member said he foresaw the same sorts of problems arising with the expression within view from in clause 20 of the main bill. He wondered what that meant. I shall let him in on a little secret; within view from means it can be seen. That is simple and straightforward, even for the honourable member for Lakemba.

The honourable member for Lakemba stated that Mr Justice Murphy said that judges should look at *Hansard* to interpret Acts. His Government brought in legislation that required judges to look at *Hansard*. The honourable member for Lakemba undertook to the House that if he could not bring in a better piece of legislation, he would walk to Bourke. When he was asked what he would do he said, "I do not know". I do not know if he could hear me on the way to Bourke. He said he did not know because he is not a legal practitioner. The fact is that the honourable member for Lakemba is a lawmaker. He has been elected by the people of Lakemba to take part in formulating the laws. He cannot say that he has no legal training and does not have a contribution to make, otherwise he would just sit in this House. I do

not encourage that course of action, after consideration, because it is important that the honourable member for Lakemba like any other member takes part in debates. One of the contributions he made during the debate was to let honourable members in on a secret. He told us that the former Premier and former Minister for Police assured him and the honourable member for Canterbury that they had the answer to the prostitution problem.

[*Interruption*]

Mr KERR: I shall inform the honourable member for Burragorang that those two gentlemen are still members of this House. The honourable member for Rockdale and the honourable member for Liverpool are still capable of moving amendments in the House. They are still capable of offering this House the final solution to prostitution. It will be interesting to see if those two honourable members honour the undertaking they gave the honourable member for Lakemba and the honourable member for Canterbury during the course of the election campaign. It will test the credibility of the Opposition on these matters. I support this legislation. The honourable member for Eastwood detailed graphically the breakdown since the former member for Georges River introduced the legislation to enact the Offences in Public Places Act. The 1970 Summary Offences Act was a hard Act to follow. The former Government had to bring in about seven or eight pieces of legislation to amend it. The real problem was that none of those pieces of legislation addressed anti-social behaviour. They talked only about what a reasonable person would do. As the honourable member for Eastwood illustrated so well, by citing a series of court decisions, what is a reasonable person. Is the standard of reasonableness that of churchgoers? Is the standard of reasonableness that of a collective of prostitutes? Is it a standard of some other group in the community? That was the problem in seeking to apply a standard.

If courts had difficulty determining what is a reasonable person, how much more difficult was it for a police officer to determine? In dealing with street offences and anti-social behaviour the Government imposed impossible conditions, in terms of sociology, on the average police officer. That is where the problem occurred. The people of New South Wales have been crying out for effective policing. The honourable member for Lakemba put forward an interesting suggestion. His proposal is that police arrest people, and judicial officers—presumably magistrates and judges—should then convict them. The former member for Georges River, a noted civil libertarian, would be turning over in his political grave if he could have heard his former colleague say that—that judges and magistrates should automatically convict people because police officers brought them before the courts charged with street offences. Judges and magistrates are required to administer the law of the State. If that law happens to be bad, if it happens to give protection to offenders and those safeguards and protections should not exist, it is not for magistrates and judges to convict those people. It is for the people's representatives to remove those unwarranted safeguards and protections. No member of this House can shirk his responsibility in that regard.

It was all very well for the honourable member for Ashfield to talk about under-age drinking. A lot of under-age drinking occurs in my electorate, round Caringbah and Cronulla. I assure the honourable member for Ashfield that a lot of damage is done by juveniles who have too much to drink. They should be dealt with and their parents should be brought to book for not fulfilling their responsibility. I can tell a simple story about a milkbar in Caringbah that had its windows smashed. No action was taken against the juveniles who did it because of the juvenile warning system that the former Government introduced.

A decent, law-abiding citizen was deprived of money because of actions of people the honourable member for Lakemba rightly described as hoons. In conclusion, I fully support this legislation. So too do the people of New South Wales and that is why the Opposition has no option but to support it.

Mr MOSS (Canterbury) [10.47]: I congratulate the honourable member for Bligh and the honourable member for Eastwood who have contributed to this debate by making their maiden speeches. I wish them every success in getting the call in this House in the future. I have spent much of my time in the past four years arguing with people about the old Summary Offences Act. They are the people who consider that Act to be the be-all and end-all of law enforcement. Those same people were offended that the previous Government repealed the old Summary Offences Act. Members of the public and a number of police were involved in those discussions. On each occasion I have discussed this matter, I have emphasized that all substantive offences under the old Summary Offences Act were reinstated in the Offences in Public Places Act, the Public Assemblies Act or the Prostitution Act. However, it is my belief that many police have chosen to ignore their powers under those three Acts. Over the years this has led to a lack of confidence in the police and the former Government by the people of the State.

In the 1988 election campaign members of the Liberal Party were very cunning. They seized on this issue. So much so that the spokesman on police matters at the time, the Hon. E. P. Pickering, came to Earlwood. He stood on one side of Canterbury Road and announced to the world that the Liberal Government would reintroduce the crime of offensive behaviour, which would allow police to act effectively. He went further than that. He said that the police would be empowered to arrest anyone soliciting in the street whether it be in Belmore or anywhere else. They were pretty strong words, probably stronger than I would advocate myself. All that was really election hype; it was just a catchcry. Government supporters promised to reintroduce the Summary Offences Act but honourable members do not have it before them this evening. All they have is an Act in name, a so-called Summary Offences Act.

The Government had the opportunity to carry out its promise, but all it has done is reverse the format of the existing legislation. When the Labor Party was in office it introduced three Acts in this area. The Government has reversed the situation by putting those three Acts back into one new bill and has called it the Summary Offences Bill. In doing so it has provided for no additional penalties of any consequence. Soliciting is of concern. There is a proliferation of it in my electorate. Much has been said tonight both by the honourable member for Ashfield and the honourable member for Lakemba about the increases in penalties and fines. I shall not elaborate on that much, except to say that the increase in fines for living off the earnings of a prostitute and soliciting will amount to a total increase of only \$300. If a girl is run in one night with her pimp boyfriend, all she has to do is work overtime the next night and take in two or three extra clients and she has enough money to pay her fine with no trouble at all. The increase is paltry.

Two other penalties have been added to the fines specified in the bill, and the Minister made reference to them in his second reading speech. A new penalty of \$1,000 or imprisonment for six months will be imposed for public acts of prostitution. That sounds good, but that it is an act of prostitution, has to be proved. All honourable members know that it is hard to prove that a couple, whatever they may be doing, and wherever they may be doing it, are carrying out an act of prostitution. The best way to clamp down on prostitutes is to clamp down on the girls when they are soliciting in the first instance. I

expect few, if any, charges to be laid under that particular clause. The other new penalty of a fine of \$800 or imprisonment for three months is for harassment by means of soliciting. I know of a number of people who have been harassed by prostitutes in my electorate. The parents of a number of 15-year-old boys have complained to me. I do not care how gentle the girls are with 15-year-old boys; I consider that to be harassment. There are never any police around when that sort of harassment is happening. So, a young boy is harassed and his parents complain to me, but I can only advise them to take private legal proceedings. That will end up in a court of law with the girl saying, "No, I did not harass him", and the boy saying, "Yes, you did", and there is a stalemate.

The penalties that will be increased by the bill are trivial and the new ones it will introduce are cosmetic. The only other addition is the words within view. The Minister in his second reading speech said, quite rightly, that many police experience difficulty in defining the word near. I should like to put to the Government that the police did not just experience difficulty; they used the term near as an excuse to ignore the law and not take appropriate action they should have. The word near has always implied within view. So the bill will not strengthen the law or change the law. All that the Government is doing is spelling out the definition of the term near. Prior to the 1988 elections I attended a large public meeting in Campsie concerning the issue of soliciting on Canterbury Road. If honourable members think that I and the honourable member for Lakemba are harping too much on prostitution, I point out that it is relevant to the bill and there would be probably about 40 000 individual encounters with prostitutes occurring along the Canterbury Road strip each year. It is an important issue in the electorates of Lakemba and Canterbury, and also in the Liberal seat of Earlwood and the electorates of Ashfield and Marrickville.

The meeting I attended was a political meeting. Candidates from various parties were invited to attend. The new honourable member for Earlwood was there and gave his views on behalf of the Liberal Party. I spoke on behalf of the Labor Party, and an Independent candidate spoke, too. The guest speaker was the local chief superintendent from Campsie police station. I approached that meeting with fear and trepidation of being drawn and quartered and tarred and feathered as I was a member of the Government of the day, things were not happening, and in fact were getting worse. I thought I was going to approach a very hostile crowd that night.

More than 400 people attended. Surprisingly, I was well received; so were the other candidates. But, when the chief superintendent of police spoke—who, incidentally, tried to portray the image of the big, jolly neighbourhood cop, everyone's friend—the mob got stuck into him. They did that because they were not there to be charmed by the police. The message that came out of the meeting that was loud and clear was that the people at the meeting appreciated that the Government was doing all it could at the time. They accepted that the law was appropriate but they were appealing to me, to the candidate for Earlwood and to anyone else in public life who attended the meeting, to do something for the law to be strengthened so as to compel the New South Wales police to carry out their responsibilities.

The police have a number of reasons why they cannot or do not want to apprehend girls for soliciting. Many police regard soliciting as a victimless crime. I do not consider that it is. My view is that the victims of prostitution are possibly the girls themselves and their pimp boyfriends, many of whom are drug addicts. The police—some police, that is—say that their time is better spent apprehending bag snatchers, wife bashers, car thieves, household burglars

and, of course, attending to more serious crimes such as homicide. That is a pretty lame excuse. I say that because as serious as other offences may be, people in the metropolitan area of Sydney who put up with prostitution look upon it as a breach of the order side of law and order. Those people have every right to be offended and they want something done. Under the proposed legislation little will be done to address the problem.

To their credit, the police have suggested ways to strengthen the law. The police have told me that if they were given power to charge known prostitutes for loitering in public thoroughfares everything would be all right. The Minister in his second reading speech said that there are big problems with that as if the police action gets too heavy the girls are likely to go underground, and that would only be a deterrent in the fight against AIDS. But, what would have been wrong in the Government adding the words, in suburban areas? The legislation could have read, police have power to charge known prostitutes for loitering in public thoroughfares in suburban areas. That is all the bill had to say. The honourable member for East Hills, the former chairman of the Select Committee Upon Prostitution, is in the Chamber tonight. He could tell honourable members that the report of the committee suggested that soliciting should not be outlawed altogether but should be outlawed in metropolitan areas. The Government had the report of the committee to refer to when drafting the bill, but it did nothing about it.

The principal bill is wishy-washy. On one hand soliciting remains the same except that the words within view have been added. The clause now reads, near, or within view from, a dwelling, school, church or hospital. Yet, when dealing with prostitution itself the Government has added the words that it is an offence to carry out prostitution in a public place. That means that a girl may solicit in a public place but may not carry out prostitution in a public place. In other words, though one cannot commit an act in a public place one can initiate an act in a public place under the proposed legislation. Why could the bill not have read, known prostitutes soliciting in public places near or within view from a church, school, hospital or dwelling in suburban areas be an offence? That would have been a tremendous move in the right direction. It would have gone a long way to strengthening the law and would have solved the problem.

I have mixed feelings about the proposed legislation. As a member of the opposition, first, I am once again convinced of the ineffectiveness of the Government. In spite of its promise before the election, this bill really contains nothing extra. The Government has changed the name of three Acts by marrying them into one bill and giving it a name. However, as the member of Canterbury, as a local State member I am bitterly disappointed that under the proposed legislation things will stay the same. There will be no relief from the despicable situation that affects not only Canterbury and Lakemba but, as I said before, five electorates in all, one of which is a Liberal held seat. The only avenue left to the Government is to convince the police that the proposed legislation will be effective.

I assure the Government that when the police are informed of the provisions of this bill they will not agree with them, because they did not agree with what we tried to do in government. When that happens all that the Government will be able to do is to apply some friendly persuasion to the New South Wales police force. If the Government is as successful as I was in that regard, it will get nowhere. As I have said, although I believe that the existing law is sufficient, the police do not agree. The police and the public combined called for stronger penalties. The present Government promised to introduce

those penalties but has not done so. As I see the proposed changes, they are these: the word unseemly is to be deleted and the word offensive is to be added. The words in view of are to be added to another provision in the bill. The bill seeks to provide for a couple of new penalties which I have said before are both cosmetic and minute. The provisions in the bill will not solve our problems. The Government has not got tough as it promised it would. All it has done is to take some provisions from old Acts and introduce them in the one bill. It will not get anywhere with these provisions. When the law and order problem escalates, which it will, Government members will be shown up to be the phonies they are.

Mr NEWMAN (Cabramatta) [11.1]: I join other honourable members in congratulating the honourable member for Eastwood and the honourable member for Bligh on their maiden speeches. The Summary Offences Bill 1988 causes me concern. To begin with, I am concerned about the name of the proposed Act. From the outset I should say that I do not envy the Attorney General and the Government in trying to fulfil their role of explaining the provisions in this bill to the police and the public. Those officers who were in the police force prior to 1970 when the old Summary Offences Act was in force will think that we are going back to the old days of having summary offences. Frankly, I would deplore returning to those days, and that is a matter that concerns me. I would have thought that the Government should have introduced amendments to the Offences in Public Places Act, providing fine tuning, which is an expression I have heard the Attorney General use in debate in the past, on provisions in that Act.

I support the intent of the bill. I can understand to a degree the Attorney General's motives in attempting to improve in particular those laws relating to street offences. The 1970 Summary Offences Act was repealed by the Wran Government in 1979. The Government of the day had a mandate, as does the present Government, to revise legislation. The Wran Government had a clear mandate to repeal the Summary Offences Act. It was a repressive Act containing repressive laws which acted in a repressive way against those most vulnerable in our society—the poor, the down-trodden, the homeless and chronic alcoholics.

In 1979 the former Government introduced the Offences in Public Places Bill. While that Act was still in force it sought to amend its provisions in respect of increased penalties for offensive implements and juvenile drinking. I took part in the debate on those amendments. When they were introduced the Opposition of the day commented to the effect that our proposed increases in penalties were only window-dressing, that no amount of increase in the amounts imposed by way of penalty would make much difference. Under this measure it is proposed in many cases to increase the penalty by \$100. That approach is much the same as that which we adopted. Again I do not envy the Government in its efforts to find a remedy to the difficulties encountered with respect to street offences.

It took some time for the police to fully appreciate the authority given to them under the Offences in Public Places Act. I draw the attention of the House to a comment I made in one of the debates on that legislation. In that speech I quoted the words of Mr Avery, the Commissioner of Police at that time, in a circular he issued dated 11th September. That circular once and for all dispelled the theory put about by the Opposition of the day, the present Government, that there were problems with interpreting the police authority under the Offences in Public Places Act. The Commissioner of Police said:

Legal authorities broadly define "offensive conduct" as behaviour that is displeasing, annoying, insulting or offensive in the mind of a reasonable person. It is not necessary to prove in a prosecution of this kind that some person has actually been offended by the actions witnessed or the words used, but the evidence of bystanders and people present is relevant and admissible . . . Behaviour by louts and hoodlums who brawl, urinate and use indecent language in public places and streets is not acceptable behaviour. This type of behaviour is clearly "offensive conduct . . ."

He went on to say that the police have the power to act. The Government of the day was making some headway under the Offences in Public Places Act. The police force accepted that it could act. The court statistics showed that offences were being proved and that we were getting on with the job and winning the battle for the streets. In the two years that I have been a member of this House, the Opposition has said nothing more about this matter than it would, in government, reintroduce in a Summary Offences Bill provisions that would fix this problem once and for all. I was shocked when this legislation was brought forward. Frankly, as has been stated by the honourable member for Canterbury, I cannot find very many new initiatives in the bill. In fact, I found only two new aspects to the bill. One is related to that important but ever-concerning issue of bad language. I give credit to the Attorney General of the Government for introducing the other initiative, which is the new offence of violent disorder. That provision should allow the police to act in such cases. My electorate of Cabramatta is a wonderland and a wonderful place during the day, but unfortunately after 2 o'clock in the morning difficulties arise from time to time. Some of those difficulties arise as a result of the gathering of people in groups, which can be extremely threatening. I am pleased that that provision has been included in the measure. I express my appreciation to the Attorney General for allowing fairly extensive debate on these bills.

I support the increases in the penalties and the Government commitments embodied by the legislation. I am concerned about the need for briefings to occur and for clarification to come from the bill as it passes through the House. I am concerned also about the name of the bill, and that it can be mistaken for the original Summary Offences Act. The Government is embarrassed that nothing new will come from this legislation. Some people in my electorate who sought the reintroduction of the Summary Offences Act will be surprised to learn that this legislation is a rehash of the Offences in Public Places Act, with a couple of additions, with which I have already indicated I agree. One has to call this a Clayton's Act, or a pussy-cat Act. Because of the matters on which the Attorney General spoke, this legislation might lead to lengthy litigation. I make that point in respect of proposed section 2, offensive behaviour, and the qualification that I believe is missing in the provision. Overall I support the initiatives taken, although the measure is simply a rehash of the Offences in Public Places Act.

Mr ROGAN (East Hills) [11.11]: I express my thanks to the Leader of the House for allowing the debate to progress to this stage. Honourable members had a late night last night and do not want an exceptionally late night tonight. The Attorney General has allowed members from the Opposition side to contribute to the debate, despite the fact that he has virtually put a gag on members from his own side, and that is appreciated. I congratulate the honourable member for Eastwood and the honourable member for Bligh on making their maiden speeches. Though honourable members may disagree in this Chamber on a philosophical basis, I know that both members were sincere and made significant contributions to the debate. I am confident they will make their marks in this House as the years progress.

I turn now to the provisions of the bill. This is a fairy floss piece of legislation: at the first puff of wind it will blow away, or on the first application of heat it will melt. I doubt that in a year's time the situation will be vastly different to today when the Government, in the first blush of its days in office, is intent on changing everything. I am a great believer in the old saying that the more things change, the more they stay the same. This measure is a lost opportunity. The Government has lost the opportunity to address the problems of prostitution.

The honourable member for Bligh made the pertinent point, that we need to attack the underlying causes of prostitution. This legislation does not do that. I do not believe that penalties are the answer to social problems. Penalties must be used as a deterrent. If the community believes that by imposing greater penalties and enacting more draconian legislation the problem will disappear, they are living in a fool's paradise. The Attorney General said that the bill provides for strong penalties to be imposed. In many respects they are not vastly different from the existing penalties. He said the only way to have an effect on the offence of prostitution—and this bill relates only to street prostitution, the offence of soliciting for prostitution—is to have a further definition of the offence of soliciting. However, I do not believe that is the answer to the problems in the suburbs, such as Canterbury Road. In 12 months' time the same problems will exist.

When I was chairman of the Select Committee upon Prostitution that committee looked in depth at this problem. For a brief period the Attorney General was a member of the committee, as was the honourable member Drummoyne, who because of the limitation on speeches, has withdrawn from the debate. I know the honourable member would have wanted to comment on this measure because of his active involvement with the committee and the contribution he made to that committee. The committee was aware that street offences and soliciting offences cause the greatest concern to the community. By and large, provided brothels operate in a discreet manner, they do not cause great offence to people. The evidence given to the committee showed overwhelmingly that the reason young people solicit on the streets for prostitution is to obtain money to buy drugs. Nothing in the legislation before the House addresses that problem.

The former Government embarked on a wide-ranging program to overcome problems such as homelessness and drug problems among young people. Regrettably young people still solicit. I wish to comment on some of the matters raised in the Attorney General's speech. In his introductory remarks the Attorney General said that an important aspect of the legislation is the reintroduction of gaol sentences for offensive conduct, offensive language and prostitution. The Attorney General said also that, though deplorable in the eyes of many, prostitution is a social fact which has persisted in many civilizations for many centuries. We know prostitution has a long history. Man's civilization and that of women as well goes back some 2 000 years. Certainly in the 200 years of civilization in this land, prostitution has been a feature of the country. I do not believe the measures the Government proposes in this legislation will address the causes of prostitution. That is what we should be considering.

I am concerned about clause 19 and the new provision relating to acts being committed in view of as well as near certain buildings. In his speech the Attorney General said that that provision was clear and unequivocal and should remove any confusion. I have spoken to a learned Queen's Counsel who informs me that this provision will be a bonanza for lawyers who will have a field day in the courts with it. Inevitably the court will interpret or lay down guidelines

that may be different from what is proposed by the Attorney General in the bill. I predict that within twelve months this House will have before it an amendment to this proposed legislation, to strengthen it, better define it or make it more effective, as the Attorney General wants. Frankly, it would appear that the phrase within view of which appears in the Attorney General's second reading speech or the term within view from appearing in the bill will have little meaningful effect in overcoming the problems that those living in the Canterbury area are experiencing with street soliciting.

The main increase in penalty relates to the offence of allowing premises to be used for the purposes of prostitution. That penalty is to be increased from \$800 to \$5,000. As the chairman of the Select Committee upon Prostitution I was made aware of the corrupt practices of elements within the police force. I do not know whether that element still operates today, but I think it does. Police were accepting bribes for turning a blind eye to the operations of brothels. When one increases the penalties for offences such as this, one simply ups the ante for the corruption of ignoring illegal acts, for which there is a great demand. Anyone who doubts that statement need only look across the border to what is being disclosed by the Fitzgerald inquiry in Queensland. The Government had a golden opportunity with this bill to do something meaningful about problems of prostitution. It could have adopted the sensible recommendation of the Select Committee upon Prostitution in relation to brothels, where 90 per cent of prostitution occurs. It could have done something positive about girls who solicit on the streets and the underlying causes mentioned by the honourable member for Bligh.

I did give an undertaking to limit my speech to ten minutes duration. Thus I will conclude it now. Though I hope the bill will work and will address the many problems caused by street soliciting—and I confine myself to speaking about the prostitution aspect of the measure and do not address any comments to offensive conduct, language, obscene exposure and the like—I do not envisage that this measure will work. I predict that 12 months down the track the problems will still exist and we might be engaging in a similar debate to that which is now taking place.

Mr DOWD (Lane Cove), Attorney General [11.24], in reply: I thank all honourable members who have contributed to the debate. I thank particularly the two honourable members who made their maiden speeches. If I may say so, the honourable member for Bligh acquitted herself with distinction. We would expect nothing less from a member for Bligh, for they have all done so in recent years. I congratulate the honourable member on her approach to this matter. She came to see officers of my department about an amendment, which she sought to frame as well as she could. I congratulate her for that and for raising the serious concerns she did on behalf of her electorate in particular.

I congratulate the honourable member for Earlwood, a person I have long hoped would join us in this Parliament. I have had a lot to do with him over the years. He is an impressive member, and a sound judge of legal and social matters. I trust he will have a lengthy career as honourable member for Earlwood in this place. I look forward to the contributions he will make. I congratulate him on an excellent maiden speech.

Though the hour is advanced I thought it proper to allow honourable members to take part in debate on the bill. I must say, at the risk of being a little uncharitable, that the least useful contribution was made by the member who led for the Opposition. His speech did not advance the matter much at all and he said a series of things that were just wrong. Though the Opposition must

be allowed some time to get its act together, the honourable member has been around long enough to do better than he did. However, in view of the substantial number of comments that have been made, I shall direct a few remarks in reply. I was most disappointed, from a civil liberties point of view and from the point of view of concern about the legal system, that not one serious remark was addressed by the Opposition to a concern I have had about bringing back the offence of offensive behaviour, as it was known under the former Summary Offences Act. I want to make that abundantly clear, because the Interpretation Act does oblige the courts to have regard to what is said in the Parliament.

The honourable member for Ashfield and others said that the Government has done nothing serious about the offence of offensive behaviour. I assure them that it is a chasmic leap from providing a monetary penalty of a few hundred dollars to providing a potential penalty of imprisonment. This measure must be used by the police and others in the community with care and responsibility. We are in the midst of a federal inquiry involving Aborigines. It has shown that Aborigines or those of Aboriginal descent have serious problems coping with custodial sentences. As well as cases of violence that have occurred to them, a significant number of Aborigines or persons of Aboriginal descent cannot handle custody, resulting in suicides in prisons. I expected someone on the Opposition side to raise this matter. Because they have not, I think it proper to mention it. Police must be extremely careful, especially in areas where there is a persistent record of alcoholism and violence, particularly in some of the larger country towns, where a significant number of Aborigines are arrested. All I ask is that arrest be the last resort. That is the structure of this measure. Though penalties are provided to back up the authority of the police, I ask the police and others in the community to understand that putting people into prisons is the last resort. Until our community comes up with something to deal with the problems of a section of the Aboriginal community that is more meaningful than sending them to gaol, we have a responsibility to exercise extreme care and caution.

I make that same point in relation to the remarks made about the issue of notices to juveniles found drinking in a public place. The silly remarks of the honourable member for Ashfield about how the Government was attacking young people and people under the age of 18 were below even his standard. The former Government introduced, for cosmetic purposes, legislation about notices in hotels to overcome under-age persons drinking alcohol in a public place. Unless the community and Parliament does something meaningful to address the massive amount of alcohol being consumed by young people these days, honourable members ought to hang their heads in shame. This is a small measure but an important one to start work on the problem. It goes nowhere near arresting the massive social problem. Kids have a lot of money to spend nowadays. This legislation is a step along the way.

The Government has to do this because the former Government did not get it right. Honourable members can see the offence the Government has created in the Summary Offences Bill. They can see the important measure in the cognate Justices (Sentencing) Amendment Bill to prevent young persons being admitted to institutions. The Government has produced a protective offence but it is an important one. Parents can tell their kids not to take alcohol into the streets and not to get drunk, because if they do they may receive a penalty notice and may have to serve a community service order. The Government does not want to penalize kids but this is an important step and it has exercised its responsibility.

I have only ejected one child from my house. I actually did not eject him, but I said to my daughters that that child was not welcome. That child committed suicide six months later, not because of what I did but because of the terrible alcohol problem he had. He was a nice kid who could not handle alcohol. He died at 15½ years of age. The silly shadow attorney general says the Government is attacking kids. It has to start solving the alcohol problems of those kids in a determined and mature way. The machinery provision merely backs that up by giving police authority to make sure there is some sanction.

Many remarks have been made about the term Summary Offences Bill and how it does not do all that the Government said it would. Honourable members on this side of the House told members of the community they would get back the Summary Offences Act. The community wanted the Summary Offences Act. It has got it. The Government did what it said it would. The suggestion was made that it should have been called something else—the Public Order Bill—and I was attracted to that view. However, these things are dealt with by the public in fairly simplistic terms. If it had been called something else members opposite would have made more asinine comments about not doing what was promised. As I indicated earlier in the debate, certain provisions were left in other Acts.

The monetary penalties are not massive. There must be some relativity right across the scale, between offences contained in this legislation and other offences. Of course the fines are not \$2,000 or \$5,000. However, in drafting legislation one has to have some cognizance of relativities with other legislation. Prostitution is not and never has been an illegal activity in this State. It is a legal activity and will remain so. However much one may approve or disapprove of prostitution, it cannot be treated as some major crime when it is not part of the criminal code in this State.

The Summary Offences Act is but part of the Government's scheme to deal with organized crime in this State. Yesterday the House debated the Independent Commission Against Corruption Bill. Of course part of that is aimed at activities associated with prostitution. The drug industry that feeds on prostitution is being attacked by that measure. That measure is passing through Parliament and I hope honourable members will do all they can to give it support. A significant number of prostitutes are involved in the distribution of drugs and other activities. I am pleased members representing the inner west were able to contribute to this debate. They have seen the growth of a secondary prostitution market, the like of which has not been seen in this community. It is only the start; it may go further.

I deal now with the silly remarks that the Government has not done anything to make the Act more substantial. First, it has introduced the Independent Commission Against Corruption. It should be remembered this is only a short session of Parliament to deal with principal matters we promised the electors and the electors asked us to do. Second, in the next session there will be a complete review of the penalties contained in the Crimes Act and related statutes. Under the Justices Act the Government will bring in a right of appeal against inadequate sentences. For the first time police will be given the power, if magistrates do not carry out the wish of this Parliament, to lodge an appeal. In that appeal a District Court will be able to give guidance to the magistracy. I do not mean this as a criticism of the magistracy but there are 110 magistrates from all walks of life. Once decisions have been made about inadequacy, guidance will be given to the courts and to the police as to what the sections mean.

It is nonsense to talk about not bringing back penalties. It is necessary to rebut that silly claim and to deal with it specifically, because obviously some members of the Opposition did not even read the bill. The Government is bringing back the old offence of offensive behaviour as it was understood over the years. It has removed the qualifications added by the former Government when it amended section 5 of the Offences in Public Places Act. It has taken out the words in all the circumstances and replaced it with the old provision understood by the law and clearly explained by the honourable member for Eastwood in his excellent maiden speech. The Government has reintroduced clear offences in relation to the use of offensive words.

Honourable members should go to The Rocks or Kings Cross and see the violence exhibited by people who have had too much to drink. The police— young men and young women—have to suffer foul and offensive language from people trying to breach their authority. I will not have police officers insulted. The fact that they are policemen and policewomen does not mean they have to put up with that; nor do members of the public. Anyone who suggests the Government has not done something new in this provision should go to The Rocks, Kings Cross or to Newcastle. Members of the press in Newcastle asked me whether I will give police extra power. It is a significant step. These offences now have a gaol backup. If honourable members do not think that is a serious sanction, they do not understand much about being in gaol. The Government has provided a penalty as a backup to the offence of juvenile drinking.

Honourable members have heard nonsense about soliciting within view from and all the difficulties that will create. No one has suggested an alternative. What should the requirement be—500 yards, 200 yards, 50 yards, a mile, or a kilometre? It is silly to suggest there can be some clear definition. As the honourable member for Cronulla said, what does within the view mean. It means it can be seen. That is an accurate analysis. Of course honourable members can think of all sorts of examples. There is the old joke about the lady who complained about the man she could see dressing in the window opposite. She brings in the policeman but he says he could not see anything. She says, "no, but if you stand on this and lean out the window you will be able to see him". Of course it is a matter of fact whether a person is committing an offence in a public place. One cannot define these matters precisely. This is why the court system gives guidance and why magistrates exercise power every day when dealing with such matters. There cannot be hard and fast rules about these matters.

I know the honourable member for Bligh will support the Government's intention. The churchyards in her electorate are being used at night as brothels to service clients. Prostitutes wait outside harassing people going to worship and people walking past. The words in the clause within view from will take them right away from those churches. But the important thing the Government will do is remove the activities that are conducted along the notorious wall; that area is within view from a hospital and a church. Of course it is a problem. Because of the AIDS epidemic, male homosexuality is a more dangerous activity than female prostitution. The wall area has become a place to which people have resort. That has to change for the sake of the people who live in the area. I am tired of Kings Cross becoming a dumping ground for the city's problems. I know the honourable member for Bligh is tired of that also. The proposed penalties will not drive prostitution back into Kings Cross, because street prostitution constitutes a small percentage only of all prostitution. The Government will give the police the power to stop the offensive behaviour of prostitutes and other people at Kings Cross. A completely new offence is included in the bill, that of harassment by prostitutes, which will carry a penalty. So there is a new offence,

though the shadow Attorney General could not find it when he cursorily glanced through the bill.

The measures in the bill will prohibit soliciting within view from a dwelling, school, church or hospital. The Government did that for the sake of Kings Cross, but primarily for Canterbury, Lakemba, Earlwood and other suburbs, as well as Newcastle. With prostitution comes drugs. The honourable member for Canterbury and the honourable member for Lakemba have real concerns, which came through sincerely. I congratulate them on raising them because I know they are worried about them, as I am. For the honourable members to say to the House that they went to the former Premier and the former Minister for Police and Emergency Services, who said they would do something to assist, shows how hollow the former Government was. As the honourable member for Eastwood said, in the 12 years of the rise and fall of Frank Walker, like a reverse Midas, all of his amendments and everything he touched, turned to lead. He paid the price in electoral terms. The Government will now cure the disaster of his 1979 and 1983 amendments and change the law to something that the police can work with.

It has been fairly said that sections of the police force did not carry out the obligations imposed on them by the former Government. There was a lack of will on the part of significant sections of the police force to use the amendment introduced by the former Government. The Government wants to make it abundantly clear that in creating these powers it expects them to be used carefully and sensibly. I referred to the Bathurst riots at an earlier stage in the debate. Anyone who knows what the gangs do around the city would acknowledge that they get courage from numbers and from alcohol. Many people are afraid to go out at night and to travel on the trains. Stations on the North Shore line are not manned at night time. No station attendants are on duty to collect tickets, the stations are locked up; and the kids maraud and with alcohol and the power of numbers, they intimidate people. As a society, we must seriously address that problem.

It is right that honourable members should talk about social causes, but they should not blame the Government. It has been in power for two months only. Honourable members have a responsibility to look at the social causes. As well as giving kids some guidance and discipline they must be taught to acknowledge the authority of the police. Kids must be given something to do. We adults sit here pontificating about the problems involved with kids drinking alcohol, but we do not give them anything to occupy their time. No Government in Australia spends enough time looking for activities that will involve kids. It is not easy to organize teenagers, police boys clubs, dancing and church group activities. Some sections of the community try, but as a collective community we do not. There is a heavy responsibility on all honourable members to look at that matter. Violence in the community is only an external manifestation of the problem. The fact that we have to deal with these groups of kids, or indeed adults, is an indictment on us in a sense. But to bring in two new significant matters, for the honourable member for Ashfield to say that the Government has done nothing reflects the Opposition's approach to the measures. I exclude from those comments the honourable members who have made their support clear.

The Government will create a new offence of prostitution in a public place. It will not be easy to prove. There will be problems in its implementation, as with the introduction of all new offences. If, as the honourable member for East Hills said, we need to amend the legislation in 12 months, so be it. The Government did not invent the wheel; it is not inventing it now; it is not even

working on how to put it on properly. The Government is taking a step to deal with a problem that I know the honourable member for East Hills is worried about. He and I were members of the Select Committee upon Prostitution. But the Government will make changes, it will monitor the effect of these changes. The honourable member for Bligh said that she would move an amendment at the Committee stage. I congratulate the honourable member on her genuine concern about the way the measures will be monitored. I assure her that officers Department of the Attorney General and I will watch the implementation. We shall have the police watch their operation. I shall keep in touch with the magistrates, as I always have done as a barrister. Significant changes will occur.

The Government has created a new offence, and whether difficulties arise in relation to proof, the Government makes it clear that if a person wishes to engage a prostitute, he should not do so in public without fear of penalty. The Government has crossed the Rubicon in that sense by making the customer liable. There has been no rejection of that provision within the community. The Government has had nothing but support for it. It has done that in an attempt to clear up the Canterbury, Lakemba and Earlwood areas. If people want to engage in an act of prostitution, they must find somewhere private to do so, which is where prostitution has always been carried out in our society. The Government is introducing these two measures as a clear attack on the problem. For the Opposition to say that it is not dealing with the problem and not bringing in new penalties is absolute and utter nonsense. New South Wales has a much better educated police force now, a better educated magistracy and more vigilant groups, such as the Council for Civil Liberties and other groups.

The Government hopes that gaol will become the last resort. Community service orders are well down the track. With repeated offenders and repeated violence, hoodlums must understand the Government will not tolerate it any longer. For that reason the courts and the police will be given the power to deal with those sorts of offences; the community demanded it, and that is what the Government has given the community. Gaol is the ultimate sanction. To suggest we have not done anything except bring back the Offences in Public Places Act is utter and complete nonsense. Finally, I shall deal with the amendment proposed by the honourable member for Bligh. The committee proposed would impose on some very busy people—the Commissioner of Police, and others—heavy duties in addition to those they have already. The Government believes that the setting up of such machinery has to be serviced and it becomes cumbersome and a public service exercise.

If I could deal briefly with the proposed amendment, it seeks to set up a committee with power to obtain any documents, or research finding of the Bureau of Crime Statistics or to obtain records in relation to complaints or allegations made to the Ombudsman. Such a committee should not have that power. The Ombudsman has enough problems without having this proposed committee looking over his shoulder. I commend the honourable member for Bligh for her idea. I would like to think that those honourable members who have to live with this sort of problem in their electorates, such as the Lakemba, Canterbury, Earlwood and Bligh electorates, and perhaps even the honourable member for McKell, might together constitute a committee that would help me and the Minister for Police and Emergency Services to deal with these matters. I ask the honourable member for Bligh to consider forming such a committee and coming to see me on a regular but informal basis. They are the members who will be close to these matters. If the legislation is not working and they are experiencing problems, I will want to know about it. I am responsible for the legislation and I will want to know if it is not working. I would be happy for that group to meet on an informal basis. I leave it with those members to meet

as a committee and to arrange to see me on a reasonably regular basis so that I can know, without having to visit their electorates, whether the legislation is working.

I thank all those honourable members who have contributed to the debate. I thank also those members of the community who have supported the Government in the introduction of this important measure. We have a serious problem to deal with. We have taken this step in that regard. We believe this is the right step. Clearly the Opposition believes that it is, otherwise it would try to amend provisions of the bill. Therefore, I commend the bill.

Motion agreed to.

Bills read a second time.

In Committee

The **CHAIRMAN**: Order! The Committee will deal first with the Summary Offences Bill. With the consent of the Committee I propose to put the bill in parts. There being no objection, I shall proceed accordingly.

Part 6

[General]

Ms MOORE (Bligh) [11.53]: I move:

That at page 13, after line 31 there be inserted:

PART 6—COMMITTEE OF REVIEW

Constitution of Committee of Review

29. There is constituted by this Act a Committee of Review (in this Part called "the Committee").

Membership and staff

30. (1) The Committee shall consist of—

(a) five official members, being the following:

- (i) the Commissioner of Police;
- (ii) the Chief Magistrate of Local Courts;
- (iii) the Ombudsman;
- (iv) the President of the Anti-Discrimination Board;
- (v) the President of the New South Wales Council for Civil Liberties,

or their respective nominees; and

(b) one person appointed by the Governor, being a person who, in the opinion of the Minister, will represent the community.

(2) The appointed member shall hold office for such term as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(3) The Public Service Act 1979 does not apply to the appointment of the appointed member, and the appointed member is not, as such, subject to that Act.

(4) The Committee may, with the approval of the Minister responsible for the department concerned, arrange for the use of the services of any staff or facilities of a government department.

(5) The Secretary of the Committee shall, pursuant to such an arrangement, be an officer of the Attorney General's Department.

(6) Persons whose services are used under such an arrangement are officers of the Committee.

Secrecy

31. A member or officer of the Committee shall not disclose any information obtained by him or her in the course of his or her duties as such a member or officer, unless the disclosure is made—

- (a) for the purpose of any proceedings under Part 3 of the Royal Commissions Act 1923; or
- (b) for the purpose of the execution or administration of this Act.

Maximum penalty; 10 penalty units.

Chairman and Vice-Chairman

32. There shall be a Chairman and Vice-Chairman of the Committee, who shall be elected by and from the members of the Committee.

Procedure

33. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee.

(2) The first meeting of the Committee shall be called by the Governor in such manner as the Government thinks fit.

(3) At a meeting of the Committee, 3 members constitute a quorum.

(4) The Chairman or, in the absence of the Chairman, the Vice-Chairman or, in the absence of both the Chairman and the Vice-Chairman, a member of the Committee elected as chairman for the meeting by the members present shall preside at a meeting of the Committee.

(5) The Vice-Chairman or other member presiding at a meeting of the Committee shall, in relation to the meeting, have all the functions and powers of the Chairman.

(6) The Chairman, Vice-Chairman or other member presiding at a meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7) A question arising at a meeting of the Committee shall be determined by a majority of the members present and voting.

Functions

34. (1) The functions of the Committee are as follows:

- (a) to examine and inquire into the administration, operation and enforcement of this Act;
- (b) to make recommendations to Parliament on the administration, operation and enforcement of this Act;
- (c) to make recommendations to Parliament as to amendments to this Act;
- (d) to transact any other business in relation to this Act as it sees fit.

(2) The Committee has power—

- (a) to obtain any document, research finding or other material, whether in print, electronic or other form, held by the Bureau of Crime Statistics that relates to this Act or any other relevant Act; and
- (b) to obtain records or other information relating to any complaint or allegation, whether formal or informal, lodged with the Ombudsman relating to the administration, operation or enforcement of this Act; and
- (c) to obtain records or any other information relating to any complaints, whether informal or formal, lodged with the Anti-Discrimination Board concerning the administration, operation or enforcement of this Act; and
- (d) to seek submissions, whether oral or written, from members of the public, on any aspect of the administration, operation or enforcement of this Act.

(3) Subsection (2) (a), (b) and (c) do not empower the Committee to obtain information as to the identity of any person, and have effect notwithstanding any requirement of non-disclosure in any other Act.

Annual reports

35. (1) The Committee shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister a report of its work and activities for the 12 months preceding that date, together with any recommendations under this Part.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Special reports

36. (1) The Committee may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the exercise or performance of its functions and powers.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Provisions relating to reports

37. (1) On any occasion when a report is made to the Minister for presentation to Parliament, any member of the Committee may submit a minority report or recommendation on which the Committee makes a report, and such a report or recommendation shall be presented to Parliament simultaneously with the Committee's report.

(2) The Committee may include in a report under this Part a recommendation that the report be made public forthwith.

(3) If a report contains such a recommendation, the Minister may make it public notwithstanding that it has not been presented to Parliament.

Duration of Committee

38. The Committee shall continue in existence until the end of the forty-ninth Parliament.

Amendment of Defamation Act 1974 No. 18

39. (1) The Defamation Act 1974 is amended—

(a) by inserting after section 17J the following section:

Committee under the Summary Offences Act 1988

17K. (1) There is a defence of absolute privilege for a publication to a member of the Committee of Review constituted under the Summary Offences Act 1988, or an officer of that Committee, for the purpose of the execution or administration of that purpose of the execution or administration of that Act, or, for that purpose, by that Committee or by such a member or officer.

(2) There is a defence of absolute privilege for the publication under section 37 (3) of the Summary Offences Act 1988 of a report under that Act.

(3) There is a defence of absolute privilege for the publication under the authority of the Minister for the time being administering the Summary Offences Act 1988 of a copy of a report previously made public under section 37 (3) of that Act.

(b) by inserting at the end of clause 2 of Schedule 2 the following item:

(17) proceedings of the Committee of Review constituted under the Summary Offences Act 1988.

These proposed new clauses aim to write into this bill a formal review and monitoring mechanism. The Attorney General has acknowledged that there may be abuses of this bill, and has said that it will be monitored. Rather than informal monitoring which he proposes will be adequate, I believe it is essential that this Parliament guarantees that monitoring and evaluation of the bill will take place, and that the Parliament receives the benefit of it. Proposed new clause 29 establishes this mechanism, called the committee of review. Proposed new clause 30 sets out its membership and provides for it being staffed and resourced. The proposed members are the Commissioner of Police, the Chief Magistrate of the Local Courts, the New South Wales Ombudsman and the President of the Anti-Discrimination Board or, in each case, their respective

nominees. It proposes also two community representatives, the President of the New South Wales Council of Civil Liberties or his nominee, and a community representative appointed by the Minister. Each will have a direct interest in the operation of the bill when it becomes law, whether that interest be enforcement, adjudication or receiving and investigating complaints of its abuse or discriminating use. The community also has a direct interest, as it is looking to this bill to make its streets safe and overcome the problems of increasing violence in our society.

I believe that a forum in which each of these persons may meet and discuss issues related to the workings of the bill will be extremely useful. Discussion within the committee may well lead to problems arising from the workings of a bill being overcome swiftly and effectively. This, in turn, will assist it in being able to do the job intended of it. Proposed new clauses 31 to 33 set out the mechanics of the committee's operation, and provide for a sanction against any breaches of confidentiality by members of the committee. Proposed new clause 34 is the core of this amendment and sets out the functions and power of this committee. The functions are straightforward. The committee is to examine and inquire into the administration, operation and enforcement of this Act, and to recommend improvements, both in the workings of the Act and the Act itself.

For the committee to do its work effectively it needs information. Proposed section 34 allows it to obtain this information. A major source will be the Bureau of Crimes Statistics, which the Minister has stated will be monitoring this Act. Information concerning complaints alleging abuse of police powers under this Act lodged with the Ombudsman or Anti-Discrimination Board will also be available to the committee. The privacy of parties to complaints will be protected. Proposed sections 35 and 36 relate to reports to Parliament. They will ensure that every 12 months, and more frequently if necessary, the Parliament itself is informed about the workings of this Act, whether abuses are occurring under it, and whether further amendment is needed. Proposed section 37 allows for individual members of the committee to make minority reports, if they believe that the committee itself has not adequately addressed any particular issue. It also provides for reports to be made public if Parliament is not sitting. Proposed section 38 seeks to establish the life of the committee as being concurrent with the life of this Parliament. Proposed section 39 seeks to amend the Defamation Act 1974 to enable the committee to enjoy absolute privilege. I thank the Attorney General for making the Parliamentary Counsel available to assist me in bringing these amendments to their present form.

Mr HATTON (South Coast) [11.57]: I congratulate the honourable member for Bligh on an excellent speech and on having the energy and the courage to tackle the task of moving an amendment to legislation on which she made her maiden speech. I have not seen that happen in this Parliament before. I support strongly the principle embodied in the honourable member's amendment. I acknowledge the problems that the Attorney General has raised in implementing the terms of the amendment. However, this is not just any piece of legislation; it is legislation that deals with street offences, the safety of citizens, the major problem of prostitution, and police powers, as those matters affect the ordinary citizen in the street. Therefore, it is a special piece of legislation, and those who took part in the second reading debate acknowledged that. We should not just throw away this idea of establishing a committee of review. It is a new idea, thought up, as far as I know, by Larrie Galbraith, the research assistant employed by the honourable member for Bligh. Incidentally, his salary is paid out of the pocket of the honourable member.

The committee need not be a formal committee of review; it could be an informal committee of review which will meet three months after the bill has been proclaimed. This mechanism would provide a cross-discipline approach to the problem and would result in an opinion being provided. That will result in two things. It will compel people with different viewpoints to talk to each other about a piece of legislation that is common to their interests; and it will provide the Attorney General with a committee membership to whom he can speak and seek advice. At the same time it will permit such organizations as the Council for Civil Liberties and the Ombudsman to express a view to the Attorney General through a committee whose membership includes persons from multidisciplines. The amendment embodies an important principle: this concept of establishing a committee of review could be applied to other such legislation. I acknowledge the strength of the comments made by the Attorney General. However, this principle is one that is worth supporting.

Mr DOWD (Lane Cove), Attorney General [12.0]: I thank honourable members who have spoken on the proposed amendment. I have taken to heart the importance of what they said. It is proper that I establish outside the Act that type of committee they propose, though not perhaps with the same people that they propose. As I have said, if those members who represent the prostitution areas wish to meet, I believe that is important. I propose to set up an informal consultative process between my department and the Police Department, together with other interested groups, social workers and churchworkers who are interested in this area. We should also acknowledge that some prostitutes act responsibly in helping to keep children off the streets. It is not just a matter of looking after their own interests. They see new people in the area. It is one of the reasons why the offence of loitering has been retained. Where prostitutes see young people with serious drug problems they often contact social welfare agencies or church agencies to provide assistance. I am pleased that the Parliamentary Counsel was able to be of assistance. It was a good amendment and had I known that it was Mr Galbraith's amendment perhaps I would have treated it with considerably more respect as I have great respect for his concern for the community and for his ability. This amendment would establish a machinery that I believe is too cumbersome as a formal procedure. The Government will try to carry out the spirit of the intent. We do not accept the amendment as proposed.

Mr WHELAN (Ashfield) [12.1 a.m.]: I join with the honourable member for the South Coast in congratulating the honourable member for Bligh on her maiden speech. I take the opportunity to congratulate her formally; I have done so personally. One of the difficulties about this complicated set of amendments is the fact that little time was available to members of the Australian Labor Party to consider them. That should be borne in mind when future amendments are considered. The amendment has a lot of merit. Unfortunately there are some misgivings and I worry about the delegation of the Commissioner for Police and how far the delegation will continue, and how often the supervising committee would be likely to meet. I am also concerned about other aspects, particularly the absence of a parliamentary representative on the committee, but I support it in the general sense that this is a troublesome area with a long history dating back through the 1970s and the 1980s when several amendments were introduced by the former Government, particularly in 1987, to resolve this problem. I suggest that when other amendments are moved the Australian Labor Party members be given the opportunity to comment in detail. We have no objection to the general principle of the amendment proposed.

Ms MOORE (Bligh) [12.3 a.m.]: I wish to reply to those comments. We received the bill only yesterday. I worked through this amendment. We got it to a stage where it could be commented upon by the Attorney General's Department, for which I was most grateful. I received advice and literally gave it immediately to both the Australian Labor Party and the Attorney General. We have all been working for the past 24 hours on this amendment and I forwarded it to the Attorney General as soon as I could. As I said in my maiden speech, I wish there had been more time to deal with this legislation and to have community debate on it. I feel it has moved very quickly.

Question—That the clauses be inserted—put.

The Committee divided.

Ayes, 45

Ms Allen	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr Arkell	Mr Knowles	Mr Primrose
Mr A. S. Aquilina	Mr Langton	Dr Refshauge
Mr J. J. Aquilina	Mr Lovelee	Mr Rogan
Mr K. G. Booth	Mr McManus	Mr Rumble
Mr Brereton	Mr Mack	Mr Shedden
Mr Cleary	Mr Markham	Mr Unsworth
Mr Davoren	Mr Martin	Mr Walsh
Mr Doyle	Mr H. F. Moore	Mr Welsh
Mr Face	Ms Moore	Mr Whelan
Mr Ferguson	Mr Moss	
Mr Gibson	Mr J. H. Murray	
Mr Harrison	Mr Nagle	<i>Tellers,</i>
Mr Hatton	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Noes, 53

Mr Andrews	Mr Griffiths	Mr Rixon
Mr Armstrong	Mr Hartcher	Mr Roberts
Mr Baird	Mr Hay	Mr Schipp
Mr Berry	Mr Jeffery	Mr Schultz
Mr Books	Mr Kerr	Mr Singleton
Mr J. D. Booth	Mr Longley	Mr Small
Mr Caterson	Miss Machin	Mr Smith
Mr Causley	Mr Matheson	Mr Souris
Mr Chappell	Mr Merton	Mr Tink
Mr Cochran	Dr Metherell	Mr West
Mrs Cohen	Mr T. J. Moore	Mr White
Mr Collins	Mr W. T. J. Murray	Mr Wotton
Mr Cruickshank	Mr D. L. Page	Mr Yeomans
Mr Dowd	Mr Park	Mr Zammit
Mr Downy	Mr Peacocke	Mr Turner
Mr Fahey	Mr Petch	<i>Tellers,</i>
Mr Glachan	Mr Photios	Mr Beck
Mr Graham	Mr Pickard	Mr Phillips

Pairs

Mr Greiner
Mr Morris
Mr Smiles

Mr Carr
Mrs Crosio
Mr Paciullo

Question so resolved in the negative.

Amendment negatived.

Part agreed to.

Bills reported from Committee and passed through remaining stages.

TRANSPORT APPEAL BOARDS (AMENDMENT) BILL

Second Reading

Debate resumed from 31st May.

Mr BRERETON (Heffron) [12.16 a.m.]: On behalf of the Opposition I oppose this bill. I do so because the sole purpose of the proposed legislation is to remove Mr Phillip O'Neill from his position as full-time vice-chairman of the Transport Appeal Boards. For that reason the Opposition completely rejects the legislation. It does so for the very best of reasons, which I shall outline. The bill proposes that Mr O'Neill's full-time position be replaced by two part-time positions of vice-chairman. The bill is another example of the Greiner Government's campaign to remove from the public service of New South Wales persons who have any connection whatever with the Australian Labor Party; even if that connection is as remote as having been appointed by the Australian Labor Party during the twelve years that it occupied the Treasury benches in this Parliament.

In recent weeks the Government has rushed headlong to sack, remove, transfer and downgrade some of the best public servants who have ever served New South Wales. I instance the disgraceful effort of the new Government to sack Mr John Ducker, the Chairman of the Public Service Board; Mr Pat Johnson, Chief Executive of the State Rail Authority of New South Wales, was sacked. Three fine public servants in the Department of Agriculture and Fisheries, Mr Rod Wise, Mr Don Ferguson and Carol Douglas, were removed from office. Paul Riomfalvy, respected throughout the theatrical and film world, was removed from his position as head of the Film Corporation of New South Wales. Mr Gregor Ramsay, head of the Department of Education, was sacked in a disgraceful performance by the Minister for Education. Michael Evers, head of the Department of Housing, was removed from office. As announced this week, the five members of the Corrective Services Commission are to lose their jobs. I instance also the disgraceful sacking of Dr Don Kelly, director of the Taronga Park zoo. Of course, after a considerable public protest, and a cowardly performance by the Government, Dr Kelly was reinstated.

At the same time there has been an equally impressive list of appointees who have either been transferred from their offices, dismissed or in some way downgraded. David Easson from the Department of Industrial Development and Decentralisation will lose his job. His assistant, Dr Alan Smith, was removed from office. John Wansborough, the head of the Department of Industrial Relations, has been removed from office. We have seen Bob McGregor, the head of the Department of Health of New South Wales, removed from office.

Gordon Messiter, head of the Premier's Department, was removed from office. David Richmond lost his position with the Public Service Board. We have seen Roger Byrnes of the Police Ministry lose his position. John Markham from the Department of Health, the man in charge of the department's industrial relations, lost his position. All of those people have been dealt with in the blind rush of the new Government to purge people. Of course, there have been plenty of indications of other people whose positions have been put at risk. Those people whose positions have been threatened include Vern Dalton.

Mr Singleton: Is he catching the bus, too?

Mr BRERETON: The Minister might think this is funny, a big joke. But the fact is that these people have served New South Wales, and served it well. This action by the Government is another example of its blatant politicization of the New South Wales public service. That old saying as ye sow so shall ye reap will be true of this Government. In recent weeks the most tired of hacks have been pulled from the shelves of the National Party and the Liberal Party and promoted to positions of importance. What about Leon Punch? No one saw him for three years. Suddenly he is in these precincts every day. What is he doing? He has a top job in State development, looking over the shoulder of the Deputy Premier. Jim Clough, that human dynamo from Eastwood, has been brought back to chair the mine subsidence inquiry.

[*Interruption*]

Mr SPEAKER: Order!

Mr BRERETON: What a couple of classic jobs for the boys. What a disgraceful performance. The Minister for Administrative Services and Assistant Minister for Transport today in the House reflected disgracefully on the fine public servants I have mentioned. They have been dealt with most savagely by this new Government. That is nothing short of disgraceful. Let us look at the result of those actions. There has been an exodus from the New South Wales public service. Only this week I received advice that Jane Diplock—one of the most dedicated legal officers ever to serve this State—has gone from the Premier's Department. Last week we lost Andrew Andersons. The Minister for Transport laughs. But Andrew Andersons is a man greatly respected throughout the planning and architectural world. That man walked away because he was not willing to serve this new regime in the manner in which it is conducting affairs in New South Wales. Honourable members opposite might laugh, but this is a most serious matter.

To replace those respected people we have the Leon Punches of this world and the Jim Cloughs of this world. Ian Kortlang was brought in to replace David Easson to run the Department of Industrial Development and Decentralisation. John Sturgess was brought in to replace Gerry Gleeson to run the Premier's Department. John Conde, the classmate and soulmate of the Premier, a fellow Harvard graduate with a master's degree in business administration, was brought in to chair the Electricity Commission. I repeat: as ye sow, so shall ye reap. I should like to deal now with the second reading speech of the Minister for Transport, because quite disgracefully he reflected on the competence of Mr Phillip O'Neill, the man the subject-matter of this specific piece of legislation. He did so in the following words:

Without wishing to detract from the personal contribution of Mr O'Neill, I do not believe that any regard was had to whether Mr O'Neill's experience or background would adequately equip him for the job required. This was simply a case of jobs for the boys — in this case, a former member for the seat of Burwood.

For the benefit of those opposite who would quickly dismiss, as the Minister did yesterday in this House, Mr Phillip O'Neill's qualifications, I remind honourable members of those qualifications and Mr O'Neill's background. From 1960 to 1977 he was an administrative officer with the New South Wales Government Railways—a person steeped in knowledge of New South Wales railways, and a person adequately experienced to understand the sort of cases that come before the vice-chairmen of the Transport Appeal Boards. From 1968 to 1978 he served as a member of the State and federal executives of the Australian Transport Officers' Association and federation. Surely the Minister would not say that that industrial relations experience does not stand Phillip O'Neill in very good stead to understand the sorts of issues that vice-chairmen of the Transport Appeal Boards so often have to grapple with, the difficult problems of industrial relations. He had 10 years experience as an officer, at executive level, State and federal, of the Australian Transport Officers Association.

His experience in dealing with such issues did not stop there. He served from 1968 to 1980 as an alderman on Burwood municipal council, where he was a member of the finance committee, the works committee, the general purposes committee, and the industrial relations committee—all broad-ranging experience befitting someone who had to take on the responsibilities of vice-chairman of the Transport Appeal Boards. During that time he successfully completed a post-graduate course in industrial law at Sydney University. As you well know, Mr Speaker, that is a great institution, and that was a great challenge for someone who wanted to contribute to public life in this State and wanted to contribute to the public service, as he subsequently did as a member of this Parliament. Sure, Phillip O'Neill was elected a member of this Parliament. That should not disenfranchise anyone from anything.

Let us look at Phillip O'Neill's performance as the member for Burwood. Anyone in this House who dealt with him would know of his diligence and of his application to duty. He was a dedicated member and served that electorate well. After two terms he was replaced by a conservative member, but that did not stop his desire to serve the public of New South Wales. We all know that for a period of time he worked as a policy adviser to Kevin Stewart. If we were to ask Kevin Stewart—who, if he were not in England, would be taking part in this debate tonight—he would tell us about the dedicated service that Phillip O'Neill gave as his senior policy adviser and a special projects officer in the Ministry of Local Government.

Phillip O'Neill served even more broadly in the community with his work as a member of the Western Suburbs Area Health Board, and in a totally voluntary capacity as well as a foundation and continuing patron of the Westmount Drug and Alcohol Rehabilitation Co-operative. Honourable members opposite might snigger and laugh, but for the past few minutes I have been rounding out the very full career of someone tremendously experienced and well capable of serving in the capacity. Not a single word in criticism of Phillip O'Neill's performance has been put forward by those sitting opposite. Not a single reflection was made on his performance or any decision that he handed down. Instead, he was dismissed in one paragraph of the Minister's statement, with the Minister saying that he did not really want to reflect on Phillip O'Neill, but it was after all a case of jobs for the boys. That is nothing short of absolutely disgraceful conduct.

Tonight the Public Sector Management Bill was introduced in this House. It provides a code of behaviour for governments that would dismiss public servants. It provides an arrangement for compensation for the dislocation

that that involves. This is the blueprint of the new Government for dealing with such matters. Do we see any reference to this legislation in the Transport Appeal Boards (Amendment) Bill? There is not one word, not a murmur. All we see in the bill on this matter is the final part of schedule 1, which provides:

A person holding office as Vice-Chairman immediately before the day on which the Transport Appeal Boards (Amendment) Act 1988 commences ceases to hold office as such on that day.

No thought has been given to the position in which this dedicated man finds himself: sacked without reason; sacked without compensation; sacked without any consideration. That behaviour is disgraceful.

Mr McManus: What about superannuation?

Mr BRERETON: My colleague reminds me of superannuation. He has always worked for his living. He has always done his best. Only last year he took up his appointment, which had been before the Executive Council on 25th August, 1987. He was appointed for a five-year term, from 31st August, 1987, in accordance with the provisions of the Transport Appeals Board Act 1980.

[Interruption]

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

Mr BRERETON: He took up duties and since then he has handled diligently and competently literally hundreds of cases. No one can reflect on his work performance. But how was he dealt with by this Government? He was sacked in this disgraceful manner. Superannuation was mentioned. Only last week, on 26th May, Phillip O'Neill applied, when he took up his duties, to become a member of the State Superannuation Fund. He made his first contribution, having been duly admitted in accordance with the rules of that fund. I suppose he is fortunate in one respect because he will be refunded his \$182.22 contribution; his first contribution. It would appear from reading this legislation that that is all he will get. I ask the Minister and Government members if they will persist with this attitude of sacking people associated in any way with the Labor Party, including the most talented people appointed in the State? Surely they should be consistent and at least do the honourable thing in dealing with compensation.

Mr SINGLETON (Coffs Harbour), Minister for Administrative Services and Assistant Minister for Transport [12.32 a.m.]: I had no intention of speaking in this debate.

[Interruption]

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

Mr SINGLETON: The honourable member for Heffron raised a number of matters that by his own tedious repetition are quite disgraceful. The honourable member for Heffron raised the matter of Mr O'Neill, together with a lot of other people who were working for the former Government. Mr O'Neill was dismissed by the people of the electorate that he represented in this Parliament. The honourable member for Heffron was sacked by his former Premier from his office as Minister for Public Works in this Parliament, so he should not talk about who sacked whom or who has the right to sack. He should realize that the game changed on 19th March.

[Interruption]

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

Mr SINGLETON: The game changed because the members on that side—

[*Interruption*]

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

Mr SINGLETON: —had completely politicized government management in this State. They had completely politicized the ministries of the Government in this State and that was the rock upon which they foundered. The people who guided and directed them had only one point of view; the Labor Party's point of view. The honourable member for Heffron, with a lot of experience, stands here and denigrates the people that this Government has moved; people that it has every right to move. The honourable member raised the matter of Gordon Messiter having been sacked. Gordon Messiter is setting up the new Department of Administrative Services. Only tonight I moved to confirm his permanency in that position, so the former Minister is wrong again. When it comes to talking politics, in the past 12 years virtually every facet of Government department in this State has been politicized; politicized to the extent that members of this Government have great difficulty even talking to heads of departments run by the former Government, almost all of them being political appointments. It was no joke to me that after 19th March at least two departmental heads in the North Coast area could not come to my office fast enough to try to make their corner good. It did them absolutely no good because that sort of crawling does not go down well with me.

[*Interruption*]

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

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Wyong to order for the second time.

Mr SINGLETON: Tonight the honourable member for Heffron has attacked a lot of good people whom the Government sees as not being suitable for the positions in which the former Government was using them. He has failed in his bid to get into federal Parliament and he is making a comeback in the Parliament of New South Wales.

Mr J. H. MURRAY (Drummoyne) [12.36 a.m.]: The Minister for Administrative Services and Assistant Minister for Transport has indicated to the House that the rules have changed and that he is in control. The Opposition agrees that the rules have changed but I should like to put to the Minister and to the House that the new rules are lousy rules because they give no recognition to compensation. They give no recognition to compassion and no recognition to service to this State from any individual, in particular the individual at whom this legislation is aimed, Mr Phillip O'Neill. Where has the rhetoric gone from the Government's policy which was based on efficiency? Here we have a situation where a full-time member, a member serving the tribunal on a regular basis, will be replaced by two part-time officers. Where is the efficiency in sacking an individual who is a full-time person and replacing him with two part-time people? There is no efficiency there, but there is nepotism. I guarantee this

House that those two individuals who will replace Phillip O'Neill will be members of the Liberal Party or close supporters of the Liberal Party. This will be a payoff for them. This unique piece of legislation is nepotism at its highest level.

[Interruption]

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

Mr J. H. MURRAY: As the honourable member for Heffron said, this Government has created the new rules. However, it knows as well as I that it will not always be in office. That is the system that this Government has created and it will have to live with it. Its successors will have to live with this system. It is vindictive and small-minded. I am appalled that the Minister for Transport whom I have always believed to be a reasonable individual—though he cannot always answer questions in the House at question time—has introduced into this House the poorest type of legislation one could bring before the Chair, which is based on personalities and nothing else. Not one Government member can honestly say that the curriculum vitae read out by the honourable member for Heffron did not fit Phil O'Neill for that job. Few members sitting on the Government benches could reach the standard necessary to take on that job. Phil O'Neill has worked his butt off in that job. He has done that not for himself. He has done that for the people of this State. What has he received? He has received nothing because he did not get a parliamentary pension. The Minister knew that when he sacked him. Though he had worked for 12 months—

Mr Kerr: Michael Yabsley got a job.

Mr J. H. MURRAY: This person is doing something for the State, not swanning around London talking on the telephone to the Premier, knocking the honourable member and his mates off from Cabinet jobs. Phil O'Neill has been working day and night for this State. Yet this is the sort of treatment he is getting from the Minister for Transport. I shall be a bit charitable. The Minister may have had someone other than the Deputy Premier leaning on him—maybe someone a little higher. The honourable member for Heffron said that the jobs for the boys started with a former member for Gloucester, who received a chairmanship; the former member for Eastwood also received a chairmanship. They are members of the National Party and the Liberal Party. Yet because a vice-chairman of a statutory authority is a member of the Australian Labor Party, this legislation has been introduced to take his position from him. This matter is being debated at one o'clock in the morning.

Only last week the Minister for Education made what I would term a ministerial statement to the effect that casuals are inefficient in the teaching service and the Government must have permanent employees. This so-called Government of efficiency is seeking to sack all casual teachers. A week after the Minister made his statement legislation is introduced to sack a permanent employee: one permanent officer will be replaced by two part-time officers. That is the logic behind this legislation. The legislation has shades of Queensland type legislation. No legislation should come before this Parliament to remove a person from office because of his or her political persuasion.

Mr WHELAN (Ashfield) [12.42 a.m.]: I join with the honourable member for Heffron and the honourable member for Drummoyne in registering complete and utter disgust at the highhanded and arbitrary action taken by the new glossy Minister for Transport. One of the first major bills he has presented

to this Parliament provides for the cessation of employment of a person who was validly appointed under an Act of Parliament. That person clearly has the capability and background required to do that job. The only reason legislation is being introduced to remove this person from office is because he is a former Labor member of Parliament and a member of the Labor Party.

I am horrified at the legislation and sickened by the interjection of the honourable member for Miranda, who said Phil O'Neill is getting the sack because he was the leak. I have never heard anything so sickening. This man was appointed in 1987 by the former Government. In the 1984 election he was defeated in a ballot, and accepted the public's decision as we all must. He took his defeat on the chin. I remind members on the Government benches that their leader was thrown out by the electorate of Willoughby in a by-election. He was defeated by a fine man named Eddy Britt. When the public makes a decision a candidate has to accept it.

The Minister, by his meretricious action, has denigrated the importance of his role as a Minister of this Parliament. He has savagely shown that his priority is for revenge. It is about time he and the rest of the Ministers of the Crown woke up and started administering this State. They should not be petty or worry about trivial matters. To suggest that Phillip O'Neill was responsible for the leak of anything is offensive to all members of the Labor Party. It is particularly offensive to me. This legislation is about the cessation in office of a member of the Labor Party and a representative of the people from 1978 to 1984. The Government's action to remove Phillip O'Neill from office does not add to the role of members of Parliament.

Mr BAIRD (Northcott), Minister for Transport [12.45 a.m.], in reply: It is unbelievable that members of the Opposition should carry on about jobs for the boys. If ever a Government provided jobs for the boys, it was the one of which they were members. If I worked my way through the transport authorities seeking to dismiss members of the Labor Party appointed to senior jobs—often without qualification—many people would be out on the street tomorrow. It is because the Government is not vengeful that those people are still employed. One such person occupies a senior position in the transport ministry. He was appointed by the former Minister. The head of the Premier's Department said that he was not up to the job and never was, but he was pushed into it against the wishes of the head of the ministry. Has he been sacked? No. The liaison officer of the State Rail Authority which I administer is a member of the Labor Party. Has he been sacked? No.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Drummoyne to order for the second time.

Mr BAIRD: Where did the head of the State Rail Authority come from? Why was he appointed? What background did he have other than being a member of the Labor Party? The list goes on and on. What did the former Government do with people like Mr Horton who was head of the Department of Finance? It threw him out because he had a clash with a member of the former Minister's staff—for valid reasons, I might add. I wish to clear up the question of compensation. The head of the Premier's Department is discussing a compensation package with him.

[*Interruption*]

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

Mr BAIRD: The honourable member for Ashfield made the assumption there was no compensation, and he was wrong. Compensation is being discussed between the head of the Premier's Department and the person concerned. The former Government made jobs for the boys an art form.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Hurstville to order for the second time.

Mr BAIRD: The politicization of the New South Wales public service from top to bottom, is a disgrace. If honourable members opposite wish to speak about that I will do so. From 1980 to 1987 there was one part-time vice-chairman of the Transport Appeal Boards. In 1987 the position was made full-time. Mr O'Neill has not been in this position for a long time; he was appointed in August last year. One would have thought we were talking about someone with 50 years' service and ready for his gold watch, but we have snatched it from him. Was this position advertised? If this person's qualifications were so good, why could he not stand up to simple scrutiny? Every other position in that category—

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Heffron to order for the second time.

Mr BAIRD: —had been advertised. This appointment broke the tradition. The position was not advertised and it was not discussed with the chairman of the board. The former Government just appointed him. The so-called magnificent qualifications of the appointee that were bandied around, the post-graduate degree from the University of Sydney, are worth no more than certificates obtained for attending courses for one evening each fortnight, for which one is given a piece of paper that informs the reader it was granted for a post-graduate industrial law course. What a load of rubbish. It was a part-time course. This nonsense of claiming the man to be a highly qualified individual was quite untrue. The Opposition knows that, and knows that well. It was a case of jobs for the boys.

Mr Whelan: Give him compensation.

Mr BAIRD: That is a complete misrepresentation. Discussions about that are taking place. The Opposition is jumping at shadows. As for having two part-time chairmen, at present the assistant chairman sits for three or four days a week and then has to write out his results. It is intended that there shall be two part-time chairmen, giving greater efficiency. The two boardrooms will be able to operate for five days a week. The charade that has been played by members of the Opposition is a game of "comrades united". They stand behind their fallen partner. They like to see the gravy train continue. Losing an election would not matter to them so long as they remain on the gravy train. The Liberal Party had one member who lost his seat at the last election, but he obtained a job for himself outside the political sphere.

Why should the Government of New South Wales continue to support Labor appointees, simply because they want to maintain the lifestyle standards to which they have become accustomed? The reality is that the man was appointed without the position being advertised. His qualifications were not discussed with the chairman, and they were light. As to any suggestion that he was treated unfairly it must be emphasized that he held the position for little more than six months. That he was appointed only because of his political

connections is well known to the Opposition. The reforms proposed by this bill will ensure greater opportunity for the hearing of appeals. The hitherto blatant disregard for the rules will not be tolerated. We intend to improve the system, not to detract from it.

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

The House divided.

Ayes, 56

Mr Andrews	Mr Hatton	Mr Roberts
Mr Armstrong	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Schultz
Mr Berry	Mr Kerr	Mr Singleton
Mr J. D. Booth	Mr Longley	Mr Small
Mr Caterson	Miss Machin	Mr Smith
Mr Causley	Mr Mack	Mr Souris
Mr Chappell	Mr Matheson	Mr Tink
Mr Cochran	Mr Merton	Mr Turner
Mrs Cohen	Dr Metherell	Mr Webster
Mr Collins	Mr T. J. Moore	Mr Welsh
Mr Cruickshank	Mr W. T. J. Murray	Mr West
Mr Dowd	Mr D. L. Page	Mr White
Mr Downy	Mr Park	Mr Wotton
Mr Fahey	Mr Peacocke	Mr Yeomans
Mr Glachan	Mr Petch	Mr Zammit
Mr Graham	Mr Photios	<i>Tellers,</i>
Mr Griffiths	Mr Pickard	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S. Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshauge
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner	Mr Carr
Mr Morris	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1

[Short title]

Mr BRERETON (Heffron) [1.3 a.m.]: The Opposition opposes clause 1, short title. It is the Opposition's view that it would be more appropriate if the bill were known as the Phillip O'Neill Unauthorized Dismissal Bill.

Question—That the clause stand—put.

The Committee divided.

Ayes, 55

Mr Andrews	Mr Hatton	Mr Roberts
Mr Armstrong	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Schultz
Mr Berry	Mr Kerr	Mr Singleton
Mr J. D Booth	Mr Longley	Mr Small
Mr Caterson	Miss Machin	Mr Smith
Mr Causley	Mr Mack	Mr Souris
Mr Chappell	Mr Matheson	Mr Tink
Mr Cochran	Mr Merton	Mr Turner
Mrs Cohen	Dr Metherell	Mr Welsh
Mr Collins	Mr T. J. Moore	Mr West
Mr Cruickshank	Mr W. T. J. Murray	Mr White
Mr Dowd	Mr D. L. Page	Mr Wotton
Mr Downy	Mr Park	Mr Yeomans
Mr Fahey	Mr Peacocke	Mr Zammit
Mr Glachan	Mr Petch	
Mr Graham	Mr Photios	<i>Tellers,</i>
Mr Griffiths	Mr Pickard	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshauge
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner	Mr Carr
Mr Morris	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Clause agreed to.

Clause 2

[Amendment of Transport Appeal Boards Act 1980 No. 104]

Question—That the clause stand—put.

The Committee divided.

Ayes, 55

Mr Andrews	Mr Hatton	Mr Roberts
Mr Armstrong	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Schultz
Mr Berry	Mr Kerr	Mr Singleton
Mr J. D. Booth	Mr Longley	Mr Small
Mr Caterson	Miss Machin	Mr Smith
Mr Causley	Mr Mack	Mr Souris
Mr Chappell	Mr Matheson	Mr Tink
Mr Cochran	Mr Merton	Mr Turner
Mrs Cohen	Dr Methereil	Mr Welsh
Mr Collins	Mr T. J. Moore	Mr West
Mr Cruickshank	Mr W. T. J. Murray	Mr White
Mr Dowd	Mr D. L. Page	Mr Wotton
Mr Downy	Mr Park	Mr Yeomans
Mr Fahey	Mr Peacocke	Mr Zammit
Mr Glachan	Mr Petch	
Mr Graham	Mr Photios	<i>Tellers,</i>
Mr Griffiths	Mr Pickard	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S. Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshaug
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner
Mr Morris
Mr Smiles

Mr Carr
Mrs Crosio
Mr Paciullo

Question so resolved in the affirmative.

Clause agreed to.

Schedule 1

Mr BRERETON (Heffron) [1.13 a.m.]: In his reply the Minister inferred that the issue of compensation for Mr O'Neill will be addressed in some manner between Mr O'Neill and the secretary of the Premier's Department. His reply lacked any detail of what form the compensation scheme would take. Schedule 1 provides that Mr O'Neill, the vice-chairman, will cease to hold office on the day immediately before this legislation is enacted. No reference is made to any other Act or scheme of compensation. By the Minister's action of failing to include in the schedule any reference to any Act of Parliament or scheme of compensation, Mr O'Neill has been denied his rights and entitlements. It is a flagrant denial of natural justice.

[*Interruption*]

Mr BRERETON: Members on the Government side of the House are seeking to interject; they seem to think that what is being debated is a glib matter. I wish to draw to their attention the provisions of section 20 of the Public Service Act 1979 which relates to the removal of a member from office. It provides:

(1) A member shall not be removed from office except in accordance with this section.

(2) A member may be suspended from his office by the Governor for misbehaviour or incompetence.

(3) The Minister shall cause to be laid before each House of Parliament a full statement of the grounds of suspension of the member within 7 sitting days of that House after suspension.

(4) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the suspended member ought to be removed from office.

(5) If each House does so declare within that period, the suspended member shall be removed from office by the Governor.

(6) For the purposes of this section, sitting days shall be counted, whether or not they occur during the same session.

The scheme is well mapped out but no such arrangement is outlined in this legislation. The Government has used a blunt axe to remove Mr Phillip O'Neill from office. Today the Public Sector (Management) Bill was introduced in this Parliament, and—

The CHAIRMAN: Order! The honourable member for Heffron should confine his remarks to the schedule being debated, which is schedule 1.

Mr BRERETON: I intend to, but in the process I seek to inform the house that the Public Sector (Management) Bill contained an outline of a scheme of compensation that would apply in like cases. Clearly that outline of a compensation scheme referred to in that legislation should be contained in this bill so that Mr O'Neill's rights and entitlements are made clear. Instead, a blunt axe is used on Mr O'Neill who has served this State well and with great

dedication. The Opposition awaits the outcome of the discussions between Mr O'Neill and the Premier's Department, which are taking place against the background of a man who has been removed from office and who has been robbed of all his rights and entitlements. For that reason, the Opposition opposes the schedule.

Mr BAIRD: (Northcott), Minister for Transport [1.18 a.m.]: I am sure the Opposition would prefer legislation that specifies what compensation its members will receive when they leave this Parliament, as many of them will do after the next election. They are a desperate lot. Most of them would not have occupations to go to; or resume if they should leave the Parliament. They are carrying as many parachutes as possible to cushion their fall. When in government, Opposition members stacked the membership of hospital boards, area boards, and the boards of authorities throughout the State. Consideration was given to whether the legislation should contain an outline of a scheme of compensation or would remain silent to permit negotiation to take place. The latter course was decided upon. That negotiation will be ongoing. The comrades of the Opposition need not worry about their mate.

Question—That the schedule stand—put.

The Committee divided.

Ayes, 55

Mr Andrews	Mr Hatton	Mr Roberts
Mr Armstrong	Mr Hay	Mr Schipp
Mr Baird	Mr Jeffery	Mr Schultz
Mr Berry	Mr Kerr	Mr Singleton
Mr J. D. Booth	Mr Longley	Mr Small
Mr Caterson	Miss Machin	Mr Smith
Mr Causley	Mr Mack	Mr Souris
Mr Chappell	Mr Matheson	Mr Tink
Mr Cochran	Mr Merton	Mr Turner
Mrs Cohen	Dr Metherell	Mr Welsh
Mr Collins	Mr T. J. Moore	Mr West
Mr Cruickshank	Mr W. T. J. Murray	Mr White
Mr Dowd	Mr D. L. Page	Mr Wotton
Mr Downy	Mr Park	Mr Yeomans
Mr Fahey	Mr Peacocke	Mr Zammit
Mr Glachan	Mr Petch	
Mr Graham	Mr Photios	<i>Tellers,</i>
Mr Griffiths	Mr Pickard	Mr Beck
Mr Hartcher	Mr Rixon	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S. Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshauge
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner	Mr Carr
Mr Morris	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Schedule agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Mr BAIRD (Northcott), Minister for Transport [1.25 a.m.]: I move:

That the report be now adopted.

Question—That the report be adopted—put.

The House divided.

Ayes, 55

Mr Andrews	Mr Hay	Mr Schipp
Mr Armstrong	Mr Jeffery	Mr Schultz
Mr Baird	Mr Kerr	Mr Singleton
Mr Berry	Mr Longley	Mr Small
Mr J. D. Booth	Miss Machin	Mr Smith
Mr Catterson	Mr Mack	Mr Souris
Mr Causley	Mr Matheson	Mr Tink
Mr Chappell	Mr Merton	Mr Turner
Mr Cochran	Dr Metherell	Mr Webster
Mrs Cohen	Mr T. J. Moore	Mr Welsh
Mr Collins	Mr W. T. J. Murray	Mr West
Mr Cruickshank	Mr D. L. Page	Mr White
Mr Downy	Mr Park	Mr Wotton
Mr Fahey	Mr Peacocke	Mr Yeomans
Mr Glachan	Mr Petch	Mr Zammit
Mr Graham	Mr Photios	
Mr Griffiths	Mr Pickard	<i>Tellers,</i>
Mr Hartcher	Mr Rixon	Mr Beck
Mr Hatton	Mr Roberts	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S. Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshauge
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner	Mr Carr
Mr Morris	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Motion agreed to.

Report adopted.

Third Reading

Mr BAIRD (Northcott) Minister for Transport [1.29 a.m.] I move:

That this bill be now read a third time.

Question—That the bill be read a third time—put.

The House divided.

Ayes, 56

Mr Andrews	Mr Hay	Mr Roberts
Mr Armstrong	Mr Jeffery	Mr Schipp
Mr Baird	Mr Kerr	Mr Schultz
Mr Berry	Mr Longley	Mr Singleton
Mr J. D. Booth	Miss Machin	Mr Small
Mr Caterson	Mr Mack	Mr Smith
Mr Causley	Mr Matheson	Mr Souris
Mr Chappell	Mr Merton	Mr Tink
Mr Cochran	Dr Metherell	Mr Turner
Mrs Cohen	Mr T. J. Moore	Mr Webster
Mr Collins	Ms Moore	Mr Welsh
Mr Cruickshank	Mr W. T. J. Murray	Mr West
Mr Downy	Mr D. L. Page	Mr White
Mr Fahey	Mr Park	Mr Wotton
Mr Glachan	Mr Peacocke	Mr Yeomans
Mr Graham	Mr Petch	Mr Zammit
Mr Griffiths	Mr Photios	<i>Tellers,</i>
Mr Hartcher	Mr Pickard	Mr Beck
Mr Hatton	Mr Rixon	Mr Phillips

Noes, 40

Ms Allan	Mr Irwin	Mr E. T. Page
Mr Amery	Mr Knight	Mr Price
Mr A. S. Aquilina	Mr Knowles	Mr Primrose
Mr J. J. Aquilina	Mr Langton	Dr Refshauge
Mr K. G. Booth	Mr Lovelee	Mr Rogan
Mr Brereton	Mr McManus	Mr Rumble
Mr Cleary	Mr Markham	Mr Shedden
Mr Davoren	Mr Martin	Mr Unsworth
Mr Doyle	Mr H. F. Moore	Mr Walsh
Mr Face	Mr Moss	Mr Whelan
Mr Ferguson	Mr J. H. Murray	
Mr Gibson	Mr Nagle	<i>Tellers,</i>
Mr Harrison	Mr Newman	Mr Beckroge
Mr Hunter	Ms Nori	Mr Christie

Pairs

Mr Greiner	Mrs Crosio
Mr Morris	Mr Paciullo
Mr Smiles	Mr Carr

Question so resolved in the affirmative.

Motion agreed to.

Bill read a third time.

**PUBLIC HOSPITALS (VISITING PRACTITIONERS) AMENDMENT
BILL**

**AREA HEALTH SERVICES (VISITING PRACTITIONERS)
AMENDMENT BILL**

Second Reading

Debate resumed from 31st May.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [1.32 a.m.]: The Opposition does not intend to move any amendments to these bills but opposes them totally. This is part of the Government's great con —

[*Interruption*]

Mr SPEAKER: Order! I ask the Deputy Leader of the Opposition to wait until members wishing to leave the Chamber do so.

Dr REFSHAUGE: These bills are part of a great con perpetrated on the electorate by the Minister for Health in his statement before the recent election that a deal had been done with orthopaedic surgeons to return to the public hospital system. Unfortunately the people of New South Wales are the losers. Despite the promises of the Minister, more than two months have elapsed since the election and we do not have any legislation that will ensure the return of the orthopaedic surgeons. What we have is more concessions, but concessions that will erode patients' rights, which the former Labor Government introduced for their protection. Earlier today at a press conference the Minister admitted that he had no guarantee from the orthopaedic surgeons that they would return to the public hospital system. Only 24 hours ago the Minister forced these bills

on to the Parliament in the middle of the night; again in the middle of the night he will use the Government's numbers in this House to crunch through changes with far-reaching implications for patients.

The essence of the bills is to remove protection for patients. Under instructions from rogue orthopaedic surgeons, the Minister proposes removing the coercion clause, which outlaws doctors from compelling patients to take out health insurance. The coercion clause is supposedly offensive to doctors, but how much more offensive is it to patients? How much more offensive is it for patients to be compelled to take out private health insurance? What honourable member has not heard or known of doctors compelling patients into taking out private health insurance? What honourable member has not heard of doctors who tell their patients that if they change to private health insurance they will be treated earlier and treated differently? What honourable member has not heard of doctors who hand over the treatment of public patients to doctors in training?

The honourable member for Cronulla is surrounded in his electorate by surgeons who have a reputation for doing just that. I hope that as a result of this legislation the honourable member will use the time available to him in private members' statements to bring to the attention of the House those patients who have been abused by the coercion of doctors who push then into joining private health insurance funds. If the honourable member does not do that, I shall do it. I say to all Government members that if they do not do that, they will be abrogating their responsibility to their electorates.

[Interruption]

Mr SPEAKER: Order! I call the Minister for Education and the honourable member for Peats to order.

Dr REFSHAUGE: If Government members abrogate their responsibilities, they will prove what I have been saying, that the Government has perpetrated a con on the people of New South Wales.

Mr Hunter: On a point of order. The Minister for Education has been called to order on at least four occasions.

Mr SPEAKER: Order! No point of order is involved.

Dr REFSHAUGE: What is so sacrosanct about private practice that we must bow to this cabal of rogue surgeons to allow them to push patients into private health insurance funds? The coercion clause exists for good reason. Does the Minister want patients to be compelled to take out private health insurance cover? If so, why? The Minister, whose family are Medicare patients and whose wife recently so proudly gave birth to their child as a public patient, now aids and abets those who would destroy his family's choice to be public patients. On the face of it, the introduction of honorary contracts seems a sensible move. The main bill defines an honorary contract as follows:

... a service contract under which the services of a medical practitioner ... are provided to a specified class of patients otherwise than for monetary remuneration.

That sounds good; it is something for nothing, but is it really an indication of the stupidity of this Government? I ask honourable members to look again at the definition. Some specified patients are treated free of charge. What about the others? Which patients are treated free of charge? There is no doubt that this is an underhand backdoor attempt to introduce means testing into the public hospital system. One can see what will happen—pensioners will be treated free of charge, but all other patients will be charged as private patients.

Who are the others? They include everyone except pensioners even if they do not have private health insurance cover. That is returning to the bad old days when one million people could not afford private health insurance and could not obtain treatment in a public hospital. The legislation does not specify exactly what the terms of the contracts will be. Is that protecting the rights of the people of this State? I repeat: this legislation is a con. It will remove the rights of patients. It will do nothing for the people of New South Wales.

This legislation is supposed to ensure the return of orthopaedic surgeons to the public hospitals, but where is the guarantee? As late as yesterday Dr Shepherd refused to guarantee that he and other surgeons would return to the public hospitals. He said there are more problems to be overcome. Why did the Minister introduce these bills now? Why not wait until all the problems have been ironed out with the orthopaedic surgeons? It is obvious that the Minister is being driven, or led, by this recalcitrant group of doctors, or he is incompetent. He is giving away protection for patients without receiving anything in return. This is, of course, not the first action of giving in and getting nothing by this Minister. Just a week ago the Minister announced in the House that major amendments to the Private Health Establishment Act would be introduced in the budget session. Why the announcement? Why only this announcement? Because the Minister was told by the bargaining orthopaedic surgeons that to maintain faith with them he must make such a statement. So much for the much-vaunted deal that the Minister trumpeted before the election that the orthopaedic surgeons would return if the coalition gained office. The coalition won but the people of New South Wales have lost. Orthopaedic services have not been restored, despite the Government's promise. Again patient's rights have been eroded.

It cannot have escaped the attention of honourable members that on the same day that we debate this legislation, we debate the draconian Essential Services Bill. This Government has one law for nurses—who rarely, if ever, take industrial action—and one law for doctors who walk out on public patients. What makes the hypocrisy of this Government so obvious? Basically it is the incompetence of the Minister. There are a few more examples of the style of this Government, the style of hypocrisy, arrogance, and blatant discrimination. I feel compelled to give a word of caution to the Minister in his negotiations: wait until the deal is sewn up before giving in all on your side. Obviously the Opposition would like the Minister to not proceed with the legislation. I call on the Minister to not proclaim this legislation until the Government has an ironclad guarantee that all orthopaedic surgeons and other surgeons who left the public hospital system will return. Do not proclaim the legislation until we know we will have services in the public hospitals. I oppose the bills.

Miss MACHIN (Manning) [1.42 a.m.]: It is disappointing to see the ideological blindness of the Opposition coming to the fore yet again when this legislation shows a practical move by the Minister to fulfil yet another election promise made by the Government. It is interesting to note that the Deputy Leader of the Opposition claimed that the legislation does not force the doctors back into the system and that there are no ironclad guarantees that they will return. Does the honourable member suggest that we legislate to nationalize doctors to compel them to return to the public hospital system? Is that how he would like us to force them back?

The legislation is straightforward. Basically it will establish the framework for an agreement between the public hospital system and visiting medical officers, primarily orthopaedic surgeons who have been out of the system because of the former Government's typical bloodyminded attitude,

exemplified by the Deputy Leader of the Opposition—an attitude that has led to pain and suffering of little old ladies, of pensioners and other people who have waited years for operations. The Deputy Leader of the Opposition does not need to lecture the Government on the deficiencies of the system and on what it is like for a constituent who has been waiting for some years for a hospital bed.

The effects of this dispute, which has continued since 1984, have led to lengthy delays in the public hospital system and are largely responsible for the problems in the system. It is unfortunate that the pain of an arthritic hip or a crumbling knee joint is not an elective phenomenon. However, it is classified as elective surgery in many major hospitals because of the delays.

Dr Refshauge: Are you challenging the decision of the doctors?

Miss MACHIN: I am not challenging the decision, but if sensible approaches had been made previously by a government that was willing to negotiate and not be so bloodminded, the situation would not have arisen in the first place. The honourable member for Rockdale bleated about a fair go under the industrial relations legislation debated in the House and seemed to support the use of selective contracts weighted in favour of the Government, or at least a Labor government—that is, a fair deal with the Labor Government if one is on that philosophical track. If one has a different philosophical viewpoint, and is interested in doing a professional job but also earning a dollar at the same time, then one must have a different type of contract that is heavily weighted in favour of a Labor government. Once again we see typical doctor-bashing exercises by every member of the Opposition, which is partly why they are in opposition.

It is fair to say great expectation and responsibility rests with the surgeons who will be affected primarily by this legislation. I recognize the challenges the Minister has faced in negotiating with the people involved. Those affected by the legislation—that is, the doctors—will have a great responsibility to respect the spirit of the measures and to return to the public hospital system. Largely in their hands lies the power to alleviate many of the delays experienced in public hospitals, of which many honourable members will be aware. One example is the sad case of a person, often elderly and on a limited income, and often alone, who cannot afford to go to a private hospital and jump the queue. Most honourable members will have seen that sort of thing all too often.

I was interested in the comments of the Deputy Leader of the Opposition about means testing in the hospital system. He does not seem to find it offensive that someone who earns a lot of money can be treated in a public hospital. I should like to know how he would defend his colleague the federal Minister for Health, Dr Blewett—perhaps I should say doctor-non-medical—who, on a salary in excess of \$80,000 a year, is being treated in a public hospital, funded by the levies and taxes of people earning less than half that amount. I see nothing wrong with expecting people who can afford to do so to pay for their own health care, preferably where the queues and delays are not so long. People who earn probably less than half Dr Blewett's salary, or even the Deputy Leader of the Opposition's salary, are compelled to take out private health insurance as well as pay a Medicare levy. It is insurance they can probably ill afford. It is probably costing them more in the long run than it did prior to the introduction of Medicare. These bills will go a long way towards encouraging doctors to return to the public hospital system. It is a necessary and sensible move, one that was promised prior to the recent election. The Government has a mandate for this legislation and it is obvious that the public is looking for action. I think the legislation will be successful and I support it.

Mr H. F. MOORE (Wyong) [1.48 a.m.]: I oppose the bills. I sympathize with the Minister because he has one of the most difficult portfolios. He is dealing with people who, because of special expertise that the Lord has granted them, hold others to ransom. In my electorate where disadvantaged people are waiting for eye treatment—and the honourable member for Manning spoke of little old ladies—one lady had waited eight years for an operation. She went to a varmint who was legalized to charge whatever he wished and was told that if she paid \$1,000 he would operate next day. Where will she get \$1,000? People in my electorate who were waiting for eye treatment were told that they would not be treated. It was an electoral gimmick used against the Australian Labor Party. It succeeded to a certain degree in that the Liberal Party are now in control of the coffers.

Several hundred doctors will not, in my opinion, irrespective of what they are promised, return to the public hospital system to alleviate the suffering that many people have suffered for many years. These doctors have said that if they are given this, they will do that; and if they are given something else, they will do this. I do not believe that anything they may be given will result in their full return to the public health system.

The Government has said that it will issue private hospital licences. One gentleman in my former electorate of Tuggerah told terrible lies. He said that the honourable member for Tuggerah had not assisted him in any way to obtain a licence to conduct a private hospital in Berkeley Vale. That was a pack of lies. I have letters saying what a good job I did; applauding my efforts in writing to the Minister. However, he said in the newspaper that I did nothing.

Mr Christie: Who was he?

Mr H. F. MOORE: The Minister knows who he is, a person called Stanner from Berkeley Vale. I provided information to the editor of a newspaper. He published it a week after the election. Though I tried to assist this gentleman, I knew that he was telling lies from day one. I told him that I did not care if he received a private hospital licence; that he would not help the disadvantaged people in my electorate. That is the fact. What the Government will probably do to have these doctors return to the public sector is to issue licences to the private hospitals. Then they will send all the public patients to the private hospitals. Those hospitals work on a 50 per cent bed occupancy ratio. However, the average person cannot afford to go to a private hospital.

What is the other realistic aspect of this problem? The public hospital system provides beds for people who require operations. Recently my 13-year-old niece had an appendix operation in Gosford District Hospital. My niece told me that she was to be operated on at 7 p.m. When I asked why the operation could not be performed during the day, her mother told me that the doctor operates at North Gosford Private Hospital during the day and at Gosford District Hospital during the evening. Of course, overtime has to be paid for operating theatre staff at Gosford Public Hospital, which is not paid at the private hospital. These are some of the things that occur in the health system. Why should doctors, who have a God-given talent, receive so much money? I approve of university students being charged for their courses, which at present are paid for by the taxpayers. Having a God-given talent, when these students qualify as doctors they hold poor insignificant people to ransom for one reason—greed.

In 1987 I spoke in the debate on the medical practitioners' legislation. I spoke specifically about the greed of doctors. I referred to an instance in 1936 or 1937 of a chap being injured at Bulahdelah. He was placed on a stretcher and taken to the local doctor's surgery in Bulahdelah—or perhaps it was the hospital. He was said to have pneumonia. He was placed on the verandah. His mates returned that evening and asked how he was. They heard him heaving and breathing heavily. They were told that he was not going too well. His mates suggested that Newcastle Hospital be contacted with the view to his transfer there. The reply was, "Who will pay the sixpence for the phone call?" The next day this poor fellow died of blood poisoning—all because someone would not pay sixpence to ring up the Newcastle Hospital to arrange his transfer. When action was taken against the doctor, the medical tribunal said it could not do anything because he was not a member of the British Medical Association. That is the sort of thing that happened—and it seems it still happens.

I wish the Minister well in his efforts with these doctors, because decent, respectable people in New South Wales and throughout Australia are suffering. The doctors do not want for anything. I believe that one of them received \$400,000 in one year from the federal Government alone—quite apart from what he received from his private sector activities. I hope that the Minister is successful with the doctors. I do not believe that the doctors will do what the Minister seeks, but I urge the Minister to do everything in his power to try to get them back into the public hospital system.

Mr KERR (Cronulla) [1.52 a.m.]: The Deputy Leader of the Opposition delivered an interesting speech. One can understand why he is not a member of the right-wing of the Labour Party: obviously he finds adult company unbearable. He spoke about trying to con people. However, the Government has a mandate to introduce this legislation. It is crazy for the Deputy Leader of the Opposition to suggest that there has been some kind of conspiracy between the Minister for Health and the New South Wales electorate to enable the coalition to win the recent elections. This issue was debated during the course of the election campaign. The coalition said that it would get the orthopaedic surgeons back into the public health system. It is pertinent to ask why they left the hospital system. The doctors left as a result of the Public Hospital Act that the former Government introduced. Mr Brownie, Q.C., of whom the former Government had such a high opinion that it appointed him as a judge of the Supreme Court, in speaking about that legislation said—

Mr McManus: Does not the honourable member for Cronulla think highly of Mr Justice Brownie?

Mr KERR: Yes, of course I do. Mr Justice Brownie said:

However, the power is even broader than that, for it is provided that the regulations may deal with the management and government of these practitioners, including the conditions subject to which they may perform work at the hospitals. That is, the regulations may impose any term at all as a condition to be satisfied before the visiting practitioner may perform work at the hospital.

Honourable members have heard talk about emergency legislation. What unionist, in a master and servant relationship, would subject himself to that sort of legislation? Yet that is the sort of legislation the former Government introduced. The honourable member for Blacktown said:

They (doctors) have a deep philosophical objection to working in the public hospital system under the Medicare arrangements. They can proceed with their resignations. Let them. If they do, we do not want them in the system.

Does the honourable member for Blacktown recall saying that?

Mr J. J. Aquilina: Hear! Hear!

Mr KERR: The honourable member stands by his statement.

Mr Christie: Yes.

Mr KERR: So does the honourable member for Seven Hills. Fine, that is a second opinion. Is that what the honourable member says?

Mr Christie: Is the honourable member for Cronulla deaf?

Mr KERR: No, I am not deaf, but some members of the Opposition are. The Deputy Leader of the Opposition must be deaf. He moved a motion to the effect that this House condemns those doctors who are leaving the public hospital system. He wanted them back. Yet his colleagues are trying to encourage them out. What sort of logic is that? Encouraged by the honourable member for Blacktown and other honourable members opposite, the doctors left the public hospital system and resigned. What happened then? The former Government said that if the doctors resigned, it would pass legislation that would block their return for seven years. Do honourable members recall that? If the doctors resigned, the public of New South Wales would be denied the services of orthopaedic surgeons at public hospitals for seven years. That is the sort of Government it was. That is the sort of compassion and humanity that the former Government administered when it occupied the Treasury benches.

Mr Phillips: It is called industrial relations.

Mr KERR: Indeed. That is the sort of government it was—and that is why it is in opposition now. The Government is introducing legislation to provide for the return of orthopaedic surgeons into the public hospital system—not the private hospital system—so that ordinary, decent Australians will be able to receive the sort of specialist attention they deserve. I should have thought that the left-wing of the Labor Party would fully support the return of orthopaedic surgeons, because most of them have minds of hand-carved bone.

Mr McMANUS (Burraborang) [2 a.m.]: I am not going to start throwing words around like worms and grubs. Those on the other side of the House are linguistic garbologists. For four hours I have sat here listening to contributions from members like the honourable member for Cronulla. Finally the honourable member for Murrumbidgee has woken up. The Minister for Administrative Services and Assistant Minister for Transport is still asleep. That is how interested they and the Liberal Party are in this bill. They cannot keep their eyes open and listen to discussion about it. I will have a little more to say about public hospitals in particular, for when I was first elected, Sutherland Hospital was just outside my electorate.

Mr T. J. Moore: Then you bolted, and now it is a long way away.

Mr McMANUS: While we are talking about bolting, for 18 months I have had to put up with the rubbish from the Minister for Environment. I was criticized by members of the coalition Government, but when one of their members did what I have done they made him a Minister. What a disgraceful bunch. The coalition and the private doctors of this State, led by that right-wing fascist Dr Shepherd, have held this State to ransom. The coalition parties entered into a conspiracy with the orthopaedic surgeons of this State to ensure that the coalition parties were returned to Government. That will cost the public of this State dearly. The Minister for Health and Minister for Arts has leaks from his organization. I should like the Minister to tell how much per head it

will cost the Government of New South Wales to encourage the orthopaedic surgeons to come back into the public hospital system.

[*Interruption*]

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

Mr McMANUS: How much will the Government pay the orthopaedic surgeons to keep them in the system? Is it about \$350,000 per annum per head? If it is, that money must come out of the health budget. Even if it is not that much, what sort of money will come out of the health budget? What other services will suffer? The Minister for Education is looking for \$100 million for his budget. How much is the Minister for Health and Minister of Arts seeking for his health budget to make sure that these right-wing rogues can once again rip off our health system? I am only too happy to have those doctors return to our health system and our hospitals, because I am concerned about those in the community who have bad bones and bad limbs. I am not particularly concerned about the bank accounts of the friends of the coalition in Sutherland and Cronulla.

The coercion provision states that a visiting practitioner shall not, to the detriment of any patient, discriminate in the nature of treatment between private and public patients, and that a visiting practitioner shall not coerce a patient to join a health insurance fund so that the patient can be treated as a private patient. Members on the Government side know full well that we have lousy doctors, lousy lawyers and cheats in all of our systems. This clause will ensure that the Government can act. Why must we say to medical practitioners such as Shepherd, "You look after your own". This Government has a responsibility to ensure that not only doctors but also lawyers and barristers come under the control of the Government". The repeal of provisions such as the section on coercion can only devastate our system. I support the existing provision.

The Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier is enacting legislation against unions and providing fines of up to \$50,000 if they do the wrong thing. At the same time the Minister for Health and Minister for Arts is pandering to the most vicious, greedy and uncomprising union that this State and country have ever known. We are giving in to the Australian Medical Association, led by that ultra-right-winger, Dr Shepherd. God help the Government.

Ms ALLAN (Wentworthville) [2.5 a.m.]: I want to make a few remarks about Westmead hospital in particular, and the impact that this measure will have on Westmead hospital. The Minister must take into account the position of hospitals such as Westmead at this time. There is a danger to the deal that he is seeking to make with bully boy Shepherd, as the doctor is known in Westmead because of his physical and professionally threatening tactics used at the time of the dispute with the orthopaedic surgeons. Dr Shepherd was frequently at Westmead hospital at the time of that dispute seeking to intimidate surgeons who were interested in staying within the system. As a result of that, he has a bad odour at Westmead hospital.

At the present time Westmead hospital is the leading hospital for trauma treatment, not only in western Sydney and Sydney, but throughout New South Wales. It specializes also in the more specific selective surgery. Bringing the orthopaedic surgeons back to Westmead hospital will threaten the hospital's status as the pre-eminent trauma-treating hospital. There are some

inconsistencies in the Liberal Party's policies on Westmead. Those inconsistencies will be brought out by the sorts of amendments now being moved by the Minister for Health. The honourable member for Parramatta made a number of inconsistent promises about what the new Government would do in relation to Westmead hospital. First, he claimed that it would be maintained as a centre of excellence, following the election of the coalition parties. Second, he claimed that the new Government would reduce the fairly significant queues of people waiting for surgery. That intent is commendable.

In another world, that might be realistic as an objective. Unfortunately it cannot be achieved, because of the inconsistencies and the fact that the Government cannot do both things, given the resources that the Government will make available for public health. The Government should not encourage orthopaedic surgeons to use Westmead hospital for non-elective surgery such as hip replacements—which the honourable member for Manning referred as causing much pain for many people. I am the first to acknowledge that because some in my electorate have been waiting for some time for that sort of operation. It is not the right approach to encourage elective surgery patients to queue up at Westmead hospital and clutter up the system there, diminishing the hospital's role in specialized surgery. Rather, those resources should be ploughed into surrounding hospitals, such as those at Auburn and Blacktown, where elective surgery can be performed.

I am trying to inform the Minister of the basic inconsistencies in commitments made about hospitals such as Westmead. I do not think the Australian Medical Association particularly, or Dr Bruce Shepherd, recognizes the subtle inconsistency. We will be doing Westmead hospital a disservice if we let Dr Shepherd and his cohorts have their way at that hospital. It is important that Westmead hospital be maintained as a centre of excellence. It should not have its services cluttered up with elective surgery. Orthopaedic surgeons will be encouraged to perform those operations at Westmead if these amendments are made.

Mr COLLINS (Middle Harbour), Minister for Health and Minister for Arts [2.9 a.m.], in reply: A number of points have been made, I will not say from the sublime to the ridiculous, but certainly at the latter end. Let me deal first with some of the serious comments that have been made. First, I shall deal with the assurance sought by the honourable member for Wentworthville about Westmead hospital. I assure the honourable member that Westmead hospital has a particularly long waiting list for orthopaedic surgery, as is common in a number of other major hospitals. I am aware of the vital role played by Westmead hospital in servicing and being the flagship for the entire western region. I assure the honourable member that Westmead hospital will remain the centre of excellence which it has become. Some of the problems at present experienced at that hospital will be addressed because this Government will give to western Sydney the attention that it needs and deserves. It has not received consistent attention from the previous Government.

Before dealing with those number of other points that were made, I comment that the Department Leader of the Opposition in leading for the Opposition chose to use my personal family circumstances to illustrate his point. I make it clear that three months ago my wife and I were extremely grateful for the superb service given at Royal North Shore Hospital when my wife attended that hospital as a public patient for the birth of our son. It should be put on the record that the standard of service at that hospital, as with a number of the State's teaching hospitals, was second to none. My wife and I were fortunate that we live a short distance from one of the country's finest hospitals.

It is regrettable that in his first major speech on a medical bill in this House the honourable member chose to introduce the personal and family circumstances of another member of the House. I urge all members to avoid that practice, because it can quite easily lead members into unfortunate personal reflections. I take it that the honourable member, for whom I have considerable respect, did not intend to reflect personally on either my wife or me by his remark. That warning needs to be made fairly early in this Parliament so that as a Parliament we can stay away from personal mudslinging.

The honourable member for Wyong raised the question of ophthalmic surgery. Ophthalmic surgeons are the other category of surgeons who have been absent from the public hospital system for the past four years. They too have to be got back urgently into the public system to reduce waiting lists. About three weeks ago I revealed that waiting lists are in the order of 40 000 patients statewide. The Deputy Leader of the Opposition shakes his head. In ten of the State's teaching hospitals alone we are talking about a waiting list, however it is interpreted, of 10 000 to 12 000 people. I concede that teaching hospitals are the bigger hospitals and therefore probably have longer waiting lists. The advice provided to me by my department is that the estimated waiting list is about 40 000. I hope the next survey to be released in August will add considerably to the number of hospitals providing detailed information. This Government has made a commitment to provide that information to the House and to the public because it feels that is the only way to show that visible progress will be made in this area.

The honourable member for Wyong spoke from the heart and his final comment was, "Try to get the doctors back into the public system". That is precisely the intent of the legislation before the House—nothing more and nothing less. He rightly said it can be very difficult to negotiate with the medical profession. That is so. It is a time-consuming process. Therefore the past couple of months have been spent in a great deal of detailed negotiation to try to pin down precisely what legislative amendments would be required. The legislative amendments now before the House pave the way for the return of orthopaedic and ophthalmic surgeons, who once they come back to the public hospital system of this State to treat public patients in public hospitals will dramatically reduce waiting lists.

Last year I attempted to table in this Parliament the waiting list for St George hospital. Of the 1 000 or so patients waiting at St George hospital in the months of June, July and August of last year, one-third to one-half were orthopaedic patients. Therefore St George hospital, if taken to be a major teaching hospital, is indicative of the sorts of waiting lists in the Sydney metropolitan area. Westmead hospital is another example of where a similar trend is reflected. We must get the orthopaedic surgeons back in order to slash those lists. We are talking only about 50 or 60 surgeons coming back—a relatively small number. But that is about a 50 per cent increase in the number of orthopaedic surgeons working in the public hospital system. That is why the numbers are down. That is why we are behind and why we must get them back into the system.

Honourable members would be aware that historically this State is the oldest State in the Commonwealth. It is the State with the first hospital in the Commonwealth. This State has a hospital system based predominantly on the public system rather than the private system. That hospital system had worked successfully for 196 years without a coercion clause. Yet in 1984 the former Government introduced this coercion clause, which this Government now seeks to remove. The system worked for 196 years on good will and trust but was

poisoned four years ago by the actions of the former Government. That problem must be addressed.

Public patients have been forced onto waiting lists and forced to suffer extraordinary and unacceptable delays because the previous Government and branches of the medical profession reached a complete standoff; they were at loggerheads. There was a complete breakdown in dialogue and negotiation between the former Government and the medical profession. For the sake of the public and everyone in this State the deadlock must be broken, and that is the purpose of this legislation. The honourable member for Burratorang, holding his hands behind his back, asked what it was going to cost and if there was a secret deal. He asked how much was the Government going to pay these people. He said there was a trick to it and that we were ripping off the public. He was holding his hands behind his back indicating there was some sort of bribe to get the doctors back. His question was "How much? Is it \$350,000?" I think he meant \$350,000 each.

Mr McManus: \$350,000 a year, or is it not? I ask the Minister.

Mr COLLINS: The honourable member cannot handle it. He said \$350,000 each. The honourable member for Burratorang meant \$350,000 for each doctor. He should have the guts to admit it. That is what he meant.

Mr McManus: May I answer the question, Mr Speaker?

Mr SPEAKER: Order! No, the honourable member may not.

Mr COLLINS: If that is what the honourable member meant, \$350,000 each, then all I can say is—

Mr McManus: On a point of order. I was not allowed to answer the question the Minister asked. I seek a ruling from the Chair. It is not the Minister's place to ask me questions.

Mr SPEAKER: Order! I am sure the Minister was asking a rhetorical question that required no answer. No point of order is involved.

Mr COLLINS: I recall the honourable member for Burratorang posing a question to me no doubt in a similar rhetorical sense. He used the figure \$350,000 per annum per doctor, and challenged me to say whether that was correct. I think that is the gist of what he said. The answer to his question is no, not \$350,000. Let me tell all honourable members opposite who are listening with rapt attention that when the orthopaedic surgeons return to the public hospital system most of them, if not all, will return as honoraries at no cost in salaries to the State. That is the answer to the honourable member's question. Members opposite have destroyed the honorary system. They said they did not want charity but wanted to pay the doctors. They did not want doctors to do honorary work or treat people for nothing.

In December last year I was able to reveal that the former Government's visiting medical officers system, which replaced the honorary system under the Macken determination, generated a 340 per cent increase in costs. Members opposite destroyed the free, honorary system. Yet, the honourable member for Burratorang demonstrates so convincingly how little members opposite have learned in the past four years. It is not good enough to have 40 000 people in this State suffering because they are waiting for elective surgery. That happened because people opposite for four years would not come to their senses. That is the sort of ideological claptrap that the Deputy Leader of the Opposition seems

to be bound by. Members opposite were not willing to resolve an issue that has caused much suffering. That is why this legislation is now before the House.

This Government is about the restoration of public hospital services to public patients—pure and simple. If the 50 or 60 orthopaedic surgeons want to return to public hospitals, under the system established by the former Government and on the pay rates it approved, they can do so as visiting medical officers. That will be their right. But, I predict that when they do return, most of them, if not all, will return for nothing.

Mr Catterson: As honoraries?

Mr COLLINS: As honoraries. If in a year the system treats an extra 10 000 or 14 000 orthopaedic patients and a few thousand ophthalmic patients—and for the benefit of members opposite, that means eye surgery—theatre costs will be increased. The additional services and surgical teams will have to be paid for. Until 1984 they were part and parcel of the public hospital system from one end of the State to the other. I predict that by the end of this year they will again be part of that system. The honourable member for Burragorang objected to the actual payment of salaries to those surgeons. That is an illusion, because those surgeons return to the system as honoraries. They will not be receiving \$350,000 a year. If they were, it would be because of the former Government's visiting medical officers scheme.

A couple of weeks ago the Deputy Leader of the Opposition trumpeted in one of the weekend newspapers in an article headed "Threat to Government's deal on surgeons" that the Labor Party was going to stop the deal with the surgeons. In order to stick to his Doctors Reform Society ideology and his socialist left ideology, he is willing to drag his unfortunate colleagues with him. Those colleagues with a bit of sense probably belong to another faction in the Labor Party. Members opposite are seeking to block legislation that will ensure the return of services to public patients in this State. If members opposite do that when a vote is taken, it will be on their heads. They are the ones who are seeking to deprive public patients from the surgery they have desperately needed for the past four years. These patients have suffered while on the waiting lists the former Government created, yet members opposite threaten to turn their backs on them. For how long will they do that—another four or eight years? Members of the Opposition claim to be compassionate and care for people who have no alternative. However, a private patient with a lot of money in the bank would have an alternative. This legislation will restore medical services to public patients in public hospitals. Public patients are the people that members opposite claim to represent. However, public patients are among the sort of people who deserted the former Government in droves on 19th March. I commend the bills.

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

The House divided.

Ayes, 52

Mr Andrews	Mr Griffiths	Mr Roberts
Mr Armstrong	Mr Hartcher	Mr Schipp
Mr Baird	Mr Hay	Mr Schultz
Mr Berry	Mr Jeffery	Mr Singleton
Mr Books	Mr Kerr	Mr Small
Mr J. D. Booth	Mr Longley	Mr Smith
Mr Caterson	Miss Machin	Mr Souris
Mr Causley	Mr Matheson	Mr Tink
Mr Chappell	Mr Merton	Mr Turner
Mr Cochran	Dr Metherell	Mr Webster
Mrs Cohen	Mr T. J. Moore	Mr West
Mr Collins	Mr D. L. Page	Mr Wotton
Mr Cruickshank	Mr Park	Mr Yeomans
Mr Dowd	Mr Peacocke	Mr Zammit
Mr Downy	Mr Petch	
Mr Fahey	Mr Photios	<i>Tellers,</i>
Mr Glachan	Mr Pickard	Mr Beck
Mr Graham	Mr Rixon	Mr Phillips

Noes, 44

Ms Allan	Mr Irwin	Ms Nori
Mr Amery	Mr Knight	Mr E. T. Page
Mr A. S. Aquilina	Mr Knowles	Mr Price
Mr J. J. Aquilina	Mr Langton	Mr Primrose
Mr K. G. Booth	Mr Lovelee	Dr Refshauge
Mr Brereton	Mr McManus	Mr Rogan
Mr Cleary	Mr Mack	Mr Rumble
Mr Davoren	Mr Markham	Mr Shedden
Mr Doyle	Mr Martin	Mr Unsworth
Mr Face	Mr H. F. Moore	Mr Walsh
Mr Ferguson	Ms Moore	Mr Welsh
Mr Gibson	Mr Moss	Mr Whelan
Mr Harrison	Mr J. H. Murray	<i>Tellers,</i>
Mr Hatton	Mr Nagle	Mr Beckroge
Mr Hunter	Mr Newman	Mr Christie

Pairs

Mr Greiner	Mr Carr
Mr Morris	Mrs Crosio
Mr Smiles	Mr Paciullo

Question so resolved in the affirmative.

Motion agreed to.

Bills read a second time and passed through remaining stages.

FILM INDUSTRY BILL

Second Reading

Debate resumed from 31st May.

Mr J. J. AQUILINA (Blacktown) [2.37 a.m.]: The abolition of the New South Wales Film Corporation not only sent a shudder through the film industry in this State and nationally, but also among the arts industry as a whole. The Minister for Health and Minister for Arts is on record as saying, "We need to recognize the economic impact on the arts", but he has failed absolutely to recognize the economic and artistic impact of the abolition of the Film Corporation. It is absurd that the New South Wales Film Corporation, under the entrepreneurial leadership of Paul Riomsfalvy, is to be replaced by the bland bureaucratic Office of Film and Television. The Film Corporation was the only—I repeat, only—State body that acted as an entrepreneur. It was in no way the sort of ineffective bureaucratic meddler the Government now seeks to create. The Film Corporation gave tremendous moral and investment support to the New South Wales film industry. It pioneered and marketed the ideas and energy of formerly unknown film makers and packaged them into great award winners. It backed such Australian film classics as "My Brilliant Career", "Careful, He Might Hear You", "Newsfront" and "Bliss", all of which won best film awards. Of the films with which the corporation was involved, all except one carried an Australian cast, crew and technical personnel.

Mr SPEAKER: Order! I draw the honourable member's attention to the policy of the Chair not to accept, in a second reading debate, speeches that are read verbatim. The honourable member for Blacktown is an experienced member of this Chamber and, with a bill such as this, should be able to speak, using copious notes. I direct him to do so in future.

Mr J. J. AQUILINA: The Film Corporation also generated a great deal of pride in the films of this nation. In days gone by the Minister for Health and Minister for Arts and I sat on the Public Accounts Committee. In those days we looked at the Film Corporation and examined its books and considered precisely the work it was doing. I recall that we had a difference of opinion about what the corporation was achieving in New South Wales. That difference of opinion arose from the fact that though the Minister for Health maintained that the Government should have a greater degree of financial scrutiny and an assurance that the Film Corporation would be able at all times to return a substantial profit to the State, on the other hand there were those of us within the Public Accounts Committee who felt the Film Corporation had a greater responsibility to the people of the State and nation, and that responsibility was to produce films of excellence, films of artistic quality, and to make sure that it placed this State and Australia among the world's leaders in artistic film development.

Mr Cruickshank: How wrong you were.

Mr J. J. AQUILINA: Was the former Government wrong, was the New South Wales Film Corporation wrong when it produced films like "Bliss", "Careful, He Might Hear You" and films of top quality and excellence that won praise throughout the length and breadth of this nation and the length and breadth of the globe? Those films received magnificent applause all over the world. They brought a great degree of merit to the Australian film industry, to our Australian artists, and provided hope for local employment in the film industry. Yet the House has before it today a bill that will abolish that body that has provided such an impetus and has been such a great catalyst for an industry—and let us be honest about it—that otherwise would never have got off the ground in New South Wales. Why? Because the Government has said that it cannot always guarantee a profit or a financial return. What nonsense. What entrepreneur investing in the film industry anywhere in the world expects that he will be able to reap a bountiful harvest from each of his investments?

The film industry is a risky business. Everyone knows that. The stakes are high. The returns when one strikes a positive product also can be high. Is the New South Wales Government going to sacrifice all that has been achieved to date simply because it wants to bind what has been an efficient entrepreneurial system with a bureaucratic mass of red tape, which the Minister so eloquently spoke out against and criticized time and again while he was a member of the Public Accounts Committee? No, I do not think that the Government will achieve anything by this measure. It will let down the Australian film industry and local actors—vital products that are giving this State a great name elsewhere in Australia. It will cut Australia's links with the rest of the globe. In his second reading speech the Minister made a number of remarks about the office in Los Angeles and how, presumably, it had been losing money. I wonder how he assesses precisely the value of that office and how he intends that Australian films will be marketed in the United States of America in future without input from that office and the capacity to be able to link directly into that voluble and highly competitive market.

Will it all be done from New South Wales? Who will the advisers be who will give expert opinion about exactly what is happening in those markets to predict the trends that often have to be predicted many months, if not years, ahead. Those questions need to be asked and answers need to be provided to them. I firmly believe that by abolishing the New South Wales Film Corporation New South Wales will go back a step. If I may, I shall return to my notes to make a brief comment. The Opposition firmly believes that Mickey Mouse should remain on celluloid and not run the New South Wales film industry. Clearly, this measure is a return to Mickey Mouse. It is about time that the Government allowed Mickey Mouse to get on with the job and New South Wales got back to the serious business of promoting the New South Wales film industry and making sure that local actors, local investment and local industry reap sufficient rewards.

Mr COLLINS (Middle Harbour), Minister for Health and Minister for Arts [2.45 a.m.], in reply: I think the honourable member for Blacktown was chairman of the Public Accounts Committee when it produced its report on the New South Wales Film Corporation. I stand corrected; he was a member of that committee at the time. When introducing the bill I said that the Film Corporation had been resoundingly criticized in the report of the Public Accounts Committee to this Parliament. Indeed, of the \$10.3 million invested in films since its inception in 1977 it had produced a return of only \$2.8 million. I have conceded that there was a role and a need for the New South Wales Film Corporation at that time. New South Wales had a fledgling film industry, an industry largely inspired by Prime Minister John Gorton and subsequently by Prime Minister Whitlam, and the 1970s were a period of growth.

New South Wales has reached a stage where film and television production on a national and even an international scale are well established. The time has now come, therefore, for a change in the structure of support by the New South Wales Government not just for the film industry but for the television industry as well. One of the changes the Government proposes in the Film Industry Bill is the establishment of a New South Wales Film and Television Office within the Ministry for Arts in New South Wales. It will be, therefore, directly accountable and responsible to the Minister for Arts of the time. That means that the sort of criticism directed, absolutely correctly, by the bipartisan Public Accounts Committee of this Parliament will be addressed and the problems will be rectified. A report undertaken by Mr David Block on behalf of the former Government, which was of course, available to this Government,

questioned the very existence of a film instrumentality run by the New South Wales Government.

The Government feels there is a need, a role, for such an instrumentality but that the requirement has changed since the New South Wales Film Corporation was established in 1977. Contrary to the claims of the honourable member for Blacktown, who led for the Opposition, the Government foresees a period of sustained growth and recognition of the film and television industries in New South Wales under the new arrangements, and believes that they are in keeping with the times and in keeping with the international recognition that Australia has tremendous talent, that it has actors, actresses, technicians, cameramen, directors and producers of world class. There will be room for the continuation of a number of activities undertaken by the New South Wales Film Corporation. They will be undertaken, and the exact form of grants and assistance under the new Film and Television Office will be determined through consultation with the industry.

On other occasions in this House I have referred to the Los Angeles office of the New South Wales Film Corporation. North American audiences do not watch South Australian, Tasmanian, or New South Wales films. The export of our cultural achievements, whether that is the sending of the Sydney Dance Company to New York to participate in an international festival, or sustaining a marketing operation in North America for film and television products, is primarily the responsibility of the federal Government. Regrettably the Australian Labor Party in this place and in the national capital seeks frequently to dabble in many activities. It is vague and uncertain about the constitutional responsibilities of State, federal and local governments. The New South Wales Government has a clear knowledge of its responsibilities and of the separate responsibilities of the federal Government. It is endeavouring to clearly define those responsibilities so that consumers of services, and those who may benefit from them, will be aware of the origin of that government support. In that way administration costs, at every level of government support, will be reduced. I noted the comments of the honourable member for Blacktown and I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CHILDREN (DETENTION CENTRES) AMENDMENT BILL

Second Reading

Debate resumed from 31st May.

Mr J. J. AQUILINA (Blacktown) [2.52 a.m.]: The Opposition does not oppose the bill. It recognizes that the legislation is a further tidying up of measures commenced about 14 months ago. Honourable members may recall the package of community welfare legislation I introduced, in my former capacity as Minister for Youth and Community Services, on 6th May, 1987. At that time it was acknowledged that the legislation was the culmination of almost 11 years of legislative process. I recall the scepticism of the Opposition at that time about whether the legislative package that I introduced would ever get off the ground. I recall the Leader of the Opposition at that time, the Hon. N. F. Greiner, saying that he thought the package was a gross waste of time. He said, "the Opposition has heard it all before. Already a package of legislation has been introduced, in 1982, which has never been proclaimed". That

legislation was labelled, and to some extent appropriately labelled, Clayton's legislation. Mr Greiner said that he doubted that the legislation I introduced on 6th May, 1987, would ever be proclaimed.

When I introduced the package I said it was conceded that it contained some flaws. I said it was dynamic legislation, as indeed community services legislation had to be, and that it must be amenable to change. I made it clear also that the legislation must be passed by the Parliament and that a specific timetable had to be prepared for the legislation to be given assent and eventually receive proclamation. Despite what the Government might say—although from time to time its members have made complimentary remarks about my package of legislation—the introduction of that legislation will remain one of the proudest moments of my parliamentary career. Substantially, the package was proclaimed on 18th January.

I concede that changes have had to be made to that legislation. Amendments to the Children (Detention Centres) Bill 1987 were introduced in November last year. This legislation is a further extension of the philosophy espoused in November 1987. I recall that you, Mr Speaker, led for the Opposition in debate on those amendments. It appears that some of the amendments proposed in this bill are similar to those that you foreshadowed on that occasion. I shall now highlight some significant aspects of the bill. The provision to send 16-year-olds and 17-year-olds to prison on remand has been available for some time in the Children (Criminal Proceedings) Act, which was enacted in May 1987. For that mechanism to be given effect, the consent of both the Minister for Corrective Services and the Minister for Family and Community Services must be obtained.

In the past complications have arisen, particularly when a young person has been brought before a court and the consent of both the Ministers was required. I was placed in that position on a number of occasions in my capacity as a Minister, and I recall the problem of getting the two Ministers together to obtain that consent. Towards the latter weeks of the term of the previous Government, the former Minister for Corrective Services and I resorted to faxing the appropriate consents to one another. The originals of those consent documents were forwarded at a later stage to ensure that the particular matter was promptly concluded. The legislation will tidy up that process.

The bill proposes that a court may make an order of remand to a prison, following which consent to that order will be obtained from the Minister for Corrective Services. I hope that the proposal will satisfy the requirements of the Minister for Corrective Services, who must retain the right to question the validity of a court order and the merits of sending a young person aged 16 years or 17 years to prison on remand, which is a very serious and grave step. I am sure the community would view such an order with a degree of scepticism. Historically, a similar provision whereby 16 and 17 year-olds are sent to prison on remand has existed for some time, but has been resorted to infrequently. I am confident that this legislation will ensure that the occurrence remains infrequent. Nonetheless, the provision is essential, as I said when I was the Minister for Youth and Community Services. I initiated the first steps to implement that provision. The proposed legislation will facilitate that process. We should also address the issues of segregation and confinement, to which the legislation refers. I recall having many discussions with the Ombudsman about these matters in my former capacity as Minister for Youth and Community Services.

It has always been difficult to segregate or confine young people, for whatever purpose, within a juvenile detention centre. The reasons for that traditionally are humane ones. It must be recognized again that there are always exceptions to the rule. Sometimes it has been found to be necessary to segregate a young person in a juvenile detention centre for his or her own welfare, for the welfare of other persons, or for the welfare of the youth workers or the personnel working in that juvenile detention centre. Generally speaking, this bill attempts to tidy the present provisions in that regard.

One of the problems associated with segregation has been the term for which the segregation has been effected. Under previous Acts that term could be for a total of three hours. I recall specifically Mr Speaker, that in a similar debate, you said that detention for three hours seemed to be inappropriate in the case of a person who was physically out of control, in the sense of having undergone some personal trauma. That person may need to be detained for more than three hours to allow him or her to calm down following that trauma. A person going through a period of personal rage may require a period of restraint of longer than three hours. If I recall correctly, Mr Speaker, you specifically said at the time that perhaps a period of 12 hours, 24 hours or even 36 hours would be more appropriate. The bill provides for a period of detention of 24 hours. Frankly, that is an acceptable compromise and one that is workable. I specifically noted the comments you made at that time because they seemed to me to be sensible.

Unfortunately, at that stage we did not have the flexibility to allow us to adopt amendments. Nonetheless, I gave an undertaking, as honourable members will remember and as will be recorded in my reply to the second reading debate, that the comments made and the issues raised in that debate would be kept in mind and would be actively pursued with departmental officers. I see these amendments as the fruition of that logical process, given that one set of quite purposeful amendments have already been adopted by the former Government.

I come now to the matter of the furniture that is used in areas of confinement. Some of the furniture that has been used in the past has been totally unsuitable. The bill removes any confusion in that regard. Clearly it is inappropriate for the usual furniture of tables and chairs that one would find in a normal detention unit in a juvenile detention centre to be placed into a specialist confinement unit. I am sure that honourable members can readily imagine that when violent young people were placed in a confined situation that contained normal household furniture, that furniture was quite mercilessly destroyed. If we are to establish specialist segregation or confinement units, it is also appropriate that those units be furnished with special furniture. In order for that to happen, it would be necessary to amend the Act, and that is what is proposed by the bill.

A number of changes have been made to the leave provisions for young people on remand. One can point to a number of anomalies in the provisions in the original Act that would enable young people on remand to go out on leave. It always seemed to me to be somewhat ludicrous that a person who was refused bail but placed on remand may or may not be able to obtain leave for various purposes. It may be appropriate for a person who has been placed on remand after being accused of committing an offence that was serious enough to warrant that person's being refused bail to be granted leave in special circumstances, such as perhaps to attend the funeral of a close family member. However, it would be appropriate that at all times that young person be under

custody. Therefore, it would be appropriate to provide that an escort be assigned to that young person.

Other matters dealt with in the bill include the showing of videos. The specific matter of concern would be that no R-rated or unclassified videos be shown. The same controls would need to be imposed in relation to alcohol and drugs. Previously provisions of this sort have been implemented by way of regulation. I must admit that there have been some inconsistencies in the way in which such regulations have been applied from one juvenile centre to another and also, at times, within those juvenile detention centres. I acknowledge that the present Minister wishes to move away from the regulatory process and to have more and more of these matters specified in legislation. Eventually that could lead to a situation where the Minister created somewhat of a straitjacket for the operations of the various units. Legislation tends to become stale after a period and it is not always easy immediately to amend that legislation in the Parliament, whereas regulations can be amended fairly readily.

I made the point earlier that when one is dealing with issues of human welfare it is important to maintain a degree of dynamism to meet changing needs and changing circumstances, as well as changing community attitudes from time to time. Those remarks apply very much to this legislation. Nonetheless, the Opposition respects the wishes of the Minister and the Government to have these matters, which previously were spelt out in regulations, now included in the legislation. The Opposition does not oppose those provisions in the bill either.

I herald here one minor concern. I notice that this bill provides for the removal of the right of appeal by a juvenile to the director-general in cases where perhaps a superintendent has taken some action against that juvenile in a detention centre. I understand why that provision has been included. Obviously in such cases it is important that a young person, who is either contravening the regulations of the juvenile institution or causing problems, be dealt with immediately. One needs to issue a word of caution in this regard. The rights of those individuals to lodge an appeal must always be kept in mind. In this State the Ombudsman has the capacity to safeguard such rights; and there are other means of safeguarding those rights. We should not move too fast too soon in eliminating or reducing the rights of appeal or the rights to natural justice of those individuals.

With those minor provisos, the Opposition supports the bill. I acknowledge that this legislation seeks to amend an Act that is only a year old. As a result of my knowledge at the time of the change of Government, as well as what might be in the minds of senior officers in the department and in the mind of the Minister, I anticipated further amendments down the track.

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [3.9 a.m.], in reply: I thank the honourable member for Blacktown for his bipartisan approach to this measure. I do not wish to recanvass in detail the material with which he was in agreement. I simply respond to his remarks about the removal of rights of appeal. There is a maxim in law that says that justice delayed is justice denied. Breaches of discipline are dealt with at a comparatively low administrative level. It is the view of the Minister and the Government that it is better that they be dealt with immediately by summary justice, as it were, than by providing for a right of appeal which may drag out the matter and worsen the disciplinary circumstances involved. I thank the honourable member and the Opposition for their support.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADOPTION OF CHILDREN (AMENDMENT) BILL

Bill received and read a first time.

Second Reading

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [3.11 a.m.]: I move:

That this bill be now read a second time.

This bill will lower the age at which a long-term foster child may consent to adoption without the need for additional consent from each natural parent or guardian. The lowering from 15 years to 12 years of the age at which a child may consent to an adoption without the need for additional consents, follows an amendment in 1987 which sets the age at 15 years. The Government considers that the 1987 amendment did not go far enough to promote the consolidation of a child's relationship with a long-term foster family. When the Adoption of Children Act was first enacted in 1965, it provided that long-term foster parents of a child could not adopt the child without the consent of every person who was a parent or guardian, until the child attained the age of 18 years, unless the court dispensed with the consents on one of the grounds set out in section 32.

One such ground for the dispensation of the consent of parents and guardians consent was establishing that the welfare and interest of the child would be better served by adoption rather than by allowing the parents some residual rights in relation to the child. This often resulted in lengthy contested matters before the Supreme Court of New South Wales with the Crown Solicitor briefing counsel. In many ways these cases were pointless, because even if the department was not successful in the application to dispense with the consent of a parent or a guardian, the placement of the child with the foster family did not change. However, the child and foster family were required to wait until the child attained the age of 18 years before a formal adoption could proceed.

Many applications for the adoption of long-term foster children occur when the child needs to produce a birth certificate for various reasons, such as registration with a sporting organization, and later to obtain employment. It then becomes an embarrassment, particularly for an adolescent, to have to explain to people that the name on the birth certificate is not that by which he or she is commonly known. For these reasons, it would be more appropriate to lower the age at which a child may consent to an adoption from 15 years to 12 years. Lowering of the age to 12 years would also be consistent with the recognition in section 33 of the Act of the child's ability to consent at the age of 12 years which requires that the court cannot generally make an order for the adoption of a child who has attained the age of 12 years unless the child has consented.

It should also be recognized that the amendments will only serve to facilitate the bringing of adoption applications; they will not affect the discretionary power of the court to grant or refuse the order. It is Government policy to encourage the adoption of children in long-term care to promote stability and security for the child and the family. Though promoting the

adoption of long-term foster children, the amendments also contain certain safeguards; for instance, the provision will apply only in situations where the child has been fostered by the family for more than five years. The amendments will not undermine the child's relationship with the biological family as the child will have been separated from his or her parents for many years. The opportunity has been taken to increase the penalties under the Act to bring them into line with similar legislation, such as the Children (Care and Protection) Act. I commend the bill.

Debate adjoined on motion by **Mr J. J. Aquilina**.

HOME CARE SERVICE BILL

Bill received and read a first time.

Second Reading

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [3.14 a.m.]: I move:

That this bill be now read a second time.

The main purpose of this bill is to provide a new corporate structure for the Home Care Service of New South Wales. The present rather unusual company structure will be replaced by a new statutory corporation whose affairs will be managed by the Director-General of the Department of Family and Community Services. The Home Care Service was originally the housekeepers emergency service. For many years it provided limited but useful housekeeping assistance in cases of illness, child birth or other emergency. In the 1960s it changed its emphasis from assisting mothers to an increasing focus on part-time assistance to aged people. In the 1970s and 1980s there has been a rapid change in direction and structure of the service, with considerable expansion of funding by both Commonwealth and State governments.

The service now provides assistance which varies from ordinary domestic cleaning for the majority of clients to general maintenance and personal care—that is, washing and dressing—and relief care of the disabled. Assistance is available to any person after assessment of need and it is delivered through more than 160 branch committees. It provides about three million hours of service to clients annually and total funds available to the service in 1987–88 amount to more than \$62 million. With such an enormous expansion of activity and the expenditure of very large amounts of public monies, it is not surprising that governments saw the need to revise the statutory base of the service. In 1983–84 stresses between the then Government and the Home Care Service led to a public campaign for increased funding to maintain the level of activities. As a result certain changes were made to the structure of the board and management consultants were called in. Their major finding was:

The efficiency and effectiveness of the Home Care Service is being adversely affected by its anomalous structure and inappropriate constitution and by considerable uncertainty of objectives.

In 1987 the Public Accounts Committee produced a report on the service based on an extensive review of its administration and operations. This bill will substantially implement the recommendations of the committee. I now turn to the detailed provisions of the bill. The director-general will be charged with the management of the service, which will be advised by a board consisting of nine members including seven part-time members appointed by the Governor, with

the director-general as chairman and the general manager of the service as an *ex officio* member. Appointments to the board will ensure that the broad interests of community-based groups active in this area will be adequately represented. The name of the Home Care Service of New South Wales will remain unchanged and for legal purposes it will have continuity with the present corporation. The Home Care Service will remain a separate corporate entity, operated in close association with, but not assimilated in or legally part of, the mainstream structure of the Department of Family and Community Services.

The branch structure of the service will generally be preserved. The Public Accounts Committee made a number of recommendations about the way in which branch committees should operate. The general thrust was that the primary role of a branch committee should be to act as advisers to the branch manager. The present board has been moving in that direction and the intention is that the recommendations of the Public Accounts Committee will be closely followed in that regard. A broad statement of objects is included in clause 6 in accordance with the Public Accounts Committee recommendations. The functions of the service are laid down in the bill and provision is made for appropriate expansion of the activities of the service by the prescription of additional functions by regulation.

In recent years the Home Care Service has been a principal vehicle for the implementation of the home and community care program, with substantial funds coming under that program from the Commonwealth Government. This bill does nothing to affect those arrangements. The bill provides for the continuity of employment of persons employed by the service. It will continue to have power to employ persons, not subject to the Public Service Act, though their conditions of employment will be determined by the Government which will continue to act for the service in proceedings before industrial tribunals. It is the intention of the Government that the Home Care Service should be included in schedule 3 to the Public Service Act. The effect will be to enable efficiency audits and management reviews to be conducted and also for staff numbers to be determined formally by the Government.

The present board of management will necessarily be dissolved as a consequence of the passage of this bill, but the Government records its great appreciation of the work of the members of the board, in particular the present chairperson, Joy Bertinshaw. The Government also pays public tribute to the volunteers who form the backbone of the service, the local committees active in hundreds of branches throughout New South Wales. The Home Care Service has a proud record of volunteer effort extending back to 1943. The Government is intent on maintaining and supporting that community-based contribution. This bill will strengthen the partnership between volunteer effort and government activity, while demonstrating the Government's intention to promote enhanced accountability in the public sector. I commend the bill.

Debate adjourned on motion by **Mr J. J. Aquilina**.

CHILDREN (CARE AND PROTECTION) AMENDMENT BILL

Bill received and read a first time.

Second Reading

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [3.20 a.m.]: I move:

That this bill be now read a second time.

Broadly, there are four major changes introduced by the bill. These changes give effect to government policy to strengthen and support the family unit. The first series of amendments relates to temporary care arrangements. Under the provisions of section 14 of the Act, children as young as 14 could be given help to leave their families, without the wishes of parents being taken into account. The amendments preclude the making of such arrangements for children under 16 unless the parent consents, or cannot be located. However, in a case where a child alleges sexual abuse, if the parent refuses consent to a temporary care arrangement, the matter will be referred to the Children's Court to make appropriate orders. We do not aim to deny assistance to children in crisis. We aim to ensure, whenever possible and appropriate, to provide this assistance by working with the family unit in order to try to achieve reconciliation.

While reviewing temporary care arrangements, we have also taken the opportunity to streamline the provisions dealing with the various types of temporary arrangements introduced under sections 13, 14, 15 and 17. Apart from the fact that these sections overlay and contain contradictory and confusing provisions, sections 13, 15 and 17 appear to be superfluous, as other provisions in the legislation can be relied upon to obtain the desired assistance for the child. The amendments rationalize the type of services to be provided, thus simplifying and clarifying the procedures to be followed, while preserving the safeguards contained in the Act relating to the temporary care arrangements, such as the imposition of a time limitation on the arrangement. Significantly, consistent with our policy, the amendments also contain a requirement for the director-general to keep parents informed of the whereabouts of a child who is subject to a temporary care arrangement, except where it is prejudicial to the child's welfare to do so.

The second major change is that provision has been made to protect children under 16 years of age who have run away from home and are living on the streets. These provisions will enable departmental officers and the police to remove children from the streets and other public places and put them in the temporary care of the department. They will be returned to their homes if possible. If family reconciliation is not possible, proceedings will be taken in the Children's Court to enable the court to assess their needs and make appropriate orders. At present such intervention is possible only in cases where a child is in immediate danger of abuse, which does not cover many of the children who are homeless and living in or habitually frequenting public places.

Third, the director-general will be able to act quickly, and before significant bonding is established, to prevent so-called back door adoptions. This will be achieved by expanding the definition of a child in need of care to include infants under six months of age who are in unauthorized foster care. The director-general will be able to obtain a warrant to remove the child and bring care proceedings in the Children's Court. Although general powers exist at law under which the future of these children might be determined, such proceedings are necessarily lengthy, and by the time they have been concluded significant bonding may have occurred between the child and his or her illegal carers. Thus, despite the best intentions of all concerned, the welfare of the child and the child's future family are adversely affected. Fourth, current restrictions on the adjournment of care proceedings before the Children's Courts which place an unnecessary burden on the parties to the proceedings will be removed without affecting the safeguards contained in the Act which require proceedings to be finalised expeditiously.

Under the Act, the Children's Court cannot adjourn proceedings for a period exceeding eight days on any one occasion in a situation where a child, who is the subject of the proceedings, is in the care of the director-general. As the proceedings must generally be concluded within 42 days, in cases where the parties consent and it is clearly apparent that the proceedings cannot be dealt with within eight days, it appears to be an unnecessary burden on the parties and the court, as well as being an unnecessary expense to the community to keep bringing the matter before the court. These amendments are interim adjustments to the Children (Care and Protection) Act to give effect to the Government's policy mainly in areas which were the subject of hot debate when the principal Act was before the Parliament last year. It is likely there will be further amendments in the Budget session. I commend the bill.

Debate adjourned on motion by **Mr J. J. Aquilina**.

COMMUNITY WELFARE (AMENDMENT) BILL

Bill received and read a first time.

Second Reading

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister For Transport [3.25 a.m.]: I move:

That this bill be now read a second time.

This bill is necessary to clarify the power to provide assistance to people in need or distress, and to disaster victims. It will also enable the delegation of ministerial functions or those of the director-general under the Children (Criminal Proceedings) Act. This bill will not change current practice, but will merely ensure that it has an adequate statutory basis. First, the power to grant assistance to disaster victims requires clarification. Under the current provisions, there is reference to the community disaster relief fund, which consists of private donations and to general welfare assistance. There is no specific provision for the granting of government funds for financial assistance to disaster victims, although this is capable of being provided under the more general provisions of section 35 which covers people in need or distress. The amendment incorporates a separate power to provide financial and other assistance to disaster victims. It also changes the definition of a "disaster" and a "disaster victim", to ensure that there is a power to grant assistance in all relevant circumstances.

Second, doubt has arisen regarding the statutory power to provide general welfare assistance. The Crown Solicitor has advised that doubt exists about whether assistance can be provided if it is not specifically directed at preventing the breakdown of the family as a social unit. This would mean that there is no power to grant either general welfare or disaster assistance to single individuals, which is clearly contrary to current practice, and was not intended when the legislation was enacted. Clearly, the Act must be amended to ensure that there is power to provide assistance to people in need or distress, irrespective of whether they form part of a family unit.

Third, this bill also clarifies the powers of the Minister and the director-general to delegate. Difficulties have arisen because there is no power for them to delegate their functions under the Children (Criminal Proceedings) Act, because that Act is administered by the Attorney General. The amendment allows the delegation of functions by bringing the Children (Criminal

Proceedings) Act within the definition of the "community welfare legislation" in section 5 of the Community Welfare Act, which confers the power to delegate. I commend the bill.

Debate adjourned on motion by **Mr J. J. Aquilina**.

CHILDREN (COMMUNITY SERVICE ORDERS) AMENDMENT BILL

Bill received and read a first time.

Second Reading

Mr T. J. MOORE (Gordon), Minister for Environment and Assistant Minister for Transport [3.28 a.m.]: I move:

That this bill be now read a second time.

The Children (Community Service Orders) Amendment Bill will make several significant changes to the current law and practice in relation to the imposition of community service orders on children in New South Wales. First, the inference that community service orders should not be imposed on children under 14 years of age has been removed. Second, it is no longer necessary to obtain a child's consent before a community service order can be made by a court. As community service orders are imposed in lieu of detention, it is not appropriate for a young child, who may necessarily appreciate the implication or effect of detention, to be refused a community service order and thus go into a detention centre. Similarly, it is more appropriate for a court, which is assisted by background reports on a child, to assess the most appropriate penalty to impose. For example, where the offence is one of vandalism, it may be far preferable that a child under 14 be given the opportunity to repair the damage, rather than go into an institution. These changes, together with the automatic imposition of community service orders on fine defaulters, will increase the number of children ordered to perform community service.

It is necessary to ensure that there is work available for them. Voluntary organizations are already stretched in their capacity to provide work. Amendments are necessary to widen the type of work that can be performed. The bill will amend the Act to permit the performance of work in facilities operated by the Department of Family and Community Services and give power to prescribe other statutory authorities to provide work in the future. The department has successfully operated a scheme in conjunction with the State Rail Authority, and it is this kind of expansion which is envisaged.

On 18th January, 1988, amendments were made to the Act to make provision for fine defaulters to serve community service orders rather than detention. However, some practical difficulties arose in applying that legislation to children who had defaulted in payment of their fines prior to 18th January, 1988, and in respect of whom warrants of commitment to an institution had issued. Provisions made to deal with this problem did not appear to be the most effective way to give retrospective benefit of community service orders to children in this category. These amendments will revoke those provisions and set up a more effective procedure to ensure that these children can either pay the fine or serve a community service order in lieu of detention.

The bill includes measures that will simplify the operation of the Act as well as to remove any anomalies and ambiguities contained in the legislation. These changes include, clarifying the maximum number of hours that can be

performed under a community service order; ensuring that children under detention can call up an outstanding fine—this is consistent with long standing practice to allow a person to emerge from an institution with a clean slate; and introducing a simplified process of dealing with juvenile fine defaulters who fail to perform a community service order, rather than placing unnecessary burdens on the Children's Court. Finally, a number of amendments are made by way of statute law revision.

These amendments are designed to give greater flexibility to the Act and to widen its application by increasing the number of children who can be ordered to perform community service orders and broaden the type of work available to them, thereby allowing more community alternatives to be available for children.

At 3.30 a.m. members of the Parliament are here by choice. As I said to the departmental officers who have awaited for this legislation to be dealt with, when Abraham Lincoln returned to his wife after his first term as a freshman in the United States House of Congress he said to his wife that that had been the first time he had visited an asylum run by the inmates. At this hour of the morning I thank the officers for putting up with our collective inanities, for their patience with our collective labours this evening, and for remaining until this hour of the morning. I commend the bill.

Debate adjourned on motion by **Mr J. J. Aquilina**.

PUBLIC FINANCE AND AUDIT (AMENDMENT) BILL

Second Reading

Debate resumed from 31st May.

Mr J. H. MURRAY (Drummoyne) [3.34 a.m.]: This is the second occasion within two days that a bipartisan approach has been taken on measures to improve the administration of public finances in this State. It does, however, seem unnecessary that separate bills have been introduced to amend the one Act, particularly in this week when the house is considering such a mass of legislation—and more especially at 3.30 a.m. Nevertheless, I do wish to indicate that the Opposition will be supporting this bill.

The bill essentially has two distinctly separate provisions. First, the bill provides for the establishment of a revenue equalization account in the special deposits account, and for the transfer of funds from the Consolidated Fund to that account. At present surplus funds can be transferred to a number of specific accounts in the special deposits account, for example, for computers, arrears of maintenance, and to meet commitments arising in the following year's budget. However, there is no general account to transfer surplus funds to if the other avenues are exhausted. The only alternative would be to declare an actual surplus at the 30th June, in which case the funds could not be used the following year.

This measure will go a long way towards removing the temptation of governments to spend up in good years and raise taxes in bad years. The new account will enable funds drawn from the account to be transferred to the budget in the following year. I sound a word of warning about this measure. Though this provision will go a long way to overcome some of the problems identified with section 22 payments in 1986–87 in particular—and there is a good chance that the Public Accounts Committee will look closely at such payments during the next three or four months, depending upon a decision at

9 a.m. tomorrow—there is concern that the budget result will be meaningless as an instrument indicative of efficiency or otherwise. Excess revenue can be siphoned off to the reserve, and in another year when revenue is down the shortfall can be used to top up or balance the budget. By including the transfer to the revenue equalisation reserve in the next year's Appropriation Bill, the Parliament will be rubber-stamping decisions made by public servants. Parliamentarians always should be wary of the Sir Humphrey syndrome. Although I believe in the need for this legislation, I sound that warning about its misuse.

In rushing through this amendment, it is obvious that the Government wishes to use this provision for this year's Budget. That is, the healthy position in which the Labor Government left the State Budget. A surplus of \$619 million at the end of March, some \$536 million above that of the previous year, will result in a budget surplus this year. During the past three weeks I have not heard reference to that surplus, but I reiterate that I am sure the Treasurer and Premier, when he makes his financial statement will continually allude to that budget surplus of \$619 million. The Government obviously considers it necessary to have the flexibility to use that surplus to assist next year's budget. No doubt we will hear more in tomorrow's economic statement. As I said, the Opposition endorses the approach of having greater flexibility in the budget process.

I should like to raise one other issue with the Government. The bill provides for the details of the transfer of funds to the revenue equalisation account to be included in the Appropriation Bill for the following financial year. Such transfers will of course also be included in the public accounts for the year in question. I seek the Government's assurance that such information be also included in the monthly financial statements it releases on the budget position, particularly in relation to June, the month when the statement for the complete financial year is made. The Opposition believes that would be in the interests of accountability of public finances, which both sides of the House have always supported.

The other major provision of the legislation is to apply the auditing provisions of the Public Finance and Audit Act to the accounts of all subsidiaries of statutory authorities. Those subsidiaries will also be required to be audited by the Auditor-General. The Auditor-General has previously raised concerns in his yearly report on the growing number of subsidiary organisations being established by statutory bodies. In particular, he was concerned about their accountability and the doubts over his legal ability to audit those bodies. It is important that I quote the Auditor-General's Report. New members especially should realize that a large body of government activity is undertaken outside the perusal of members of Parliament. This bill will at least allow the Auditor-General to have some supervision. The Auditor-General made the following comment:

In recent years there has been an acceleration in the trend to greater public sector involvement in companies, partnerships, joint ventures and trusts.

This trend is causing concern not only to me but to other Auditors-General throughout Australia. The major problem is in the area of accountability to Parliament. No mechanism exists which enables Parliament to exercise direct control or scrutiny over these arrangements. It seems to me it would be even difficult for the responsible Minister to effectively oversight them.

Some statutory bodies are getting further away from being accountable to Parliament. Methods used include: "sponsoring" a private company whose directors have no connection with the statutory body but which is staffed by officers of the body; creation of subsidiaries; registration of companies interstate and overseas; taking part in a joint

venture under a trust deed with a private sector trustee nominally in control of the trust, where the statutory body held at least 50% of the trust units and the joint venture capital; and appointing a trustee to operate a scheme for which the statutory body handles the day to day transactions as agent for its appointed trustee.

Obviously that sort of scheme would suit Ron Brierely well considering some of the methodology that has been undertaken of late. This requirement of the bill will bring the subsidiaries within the Act as it applies to the parent organizations. This is obviously an appropriate mechanism to ensure the oversight and accountability of those organizations. Though this measure could be seen as possibly intruding on the flexibility of statutory authorities and their freedom to establish subsidiary bodies to further their operations, the concern of Parliament and parliamentarians for accountability and financial propriety is paramount. In conclusion, I restate the Opposition's support for these amendments.

Mr LONGLEY (Pittwater) [3.42 a.m.]: I speak briefly in support of this bill and particularly with regard to the revenue equalisation account as proposed within this measure. That is a provision of great significance; to let it pass without particular comment would be a great pity. The bill will insert a new section 22A in the principal Act to provide for the creation of a revenue equalisation account within the special deposits account. The purpose is to establish a mechanism to equalize the effect on the State's finances of fluctuations in budget receipts from year to year. The measure will allow the Treasurer to transfer money from the Consolidated Fund to this new account in a year of buoyant receipts, to be used to support the budget when required in a subsequent year.

Subsection (4) of new section 22A provides that any transfer to the Revenue Equalisation Account under these arrangements will be included in the following year's Appropriation Bill and hence will be subject to parliamentary scrutiny. New subsection (5) provides that any moneys in the account can be drawn upon only by way of transfer back to the Consolidated Fund. This particular measure will go a long way to removing the temptation faced by governments to spend up in good years and raise taxes in bad years—a point noted by the Opposition. The coalition Government's commitment to reducing levels of debt and taxation are clearly evidenced by the measures contained in the bill. This legislation will assist in achieving the Government's goal of lessening the tax demands on the people of this State.

It is interesting that the Opposition claimed credit for the \$619 million surplus. It was precisely with those sorts of surpluses in mind that the Government framed this legislation. The former Government's claim to credit for the surplus has been repeated despite the fact it had no legitimate claim in that respect. The money was derived principally from a buoyant stock market and a buoyant property market, and this led to increased stamp duty receipts over which State governments have no control. These provisions will allow surpluses in excess of estimates to be put into the Revenue Equalisation Account so that the true financial position can be clear to all, and we will not have these quite fatuous claims by the Opposition that when in office the Labor Party so managed the State's finances that it left the State in a good financial position.

As members of the coalition parties have said on many occasions, the Labor Party's financial management of this State was nothing short of abysmal and appalling. The State debt alone is enough to condemn the previous Government out of hand. As the Premier, Treasurer and Minister of Ethnic Affairs said earlier, that debt is of the order of \$26 billion. Only a couple of weeks ago I said in this House that the former Government had made

substantial mistakes in telling the public about the extent of that debt. Its mistake in telling the people of New South Wales that the debt was between \$200 million and \$300 million less than the reality of \$24.9 billion at the last Budget, shows its mismanagement of financial affairs and its managerial incompetence.

This legislation will remove from governments the temptation to set up hollow logs by the transfer of funds to spurious accounts so that when receipts in a given year run ahead of expectations that money could be set aside in a special account for future computer purchases, and so on. If those purchases are not subsequently made, the hollow logs, having been filled, are once again hollowed out in a fashion that eludes clear reporting and accountability to the public. This legislation is designed specifically to let the public know what the State Government is doing. It will obviate the nonsense of the Labor Party continuing to claim credit for something over which it had no control. Certainly the former Government deserved no credit for its financial management. This provision is directed precisely at windfalls. For that reason in particular, I support the legislation.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [3.47 a.m.]: I thank the honourable member for Pittwater and the honourable member for Drummoyne for their contributions to this debate. I acknowledge the support of the Opposition for this measure. I support the comments made by the honourable member for Pittwater that the surplus of \$619 million—a figure that I cannot vouch for—is part and parcel of the legacy left by the former Government on its vacation of office on 19th March. As the honourable member for Pittwater said, that surplus results from stamp duty receipts exceeding the amounts stated in the budget. No government could accurately predict the activities of the stock market in framing a budget at the commencement of a financial year. That is an extremely difficult matter to forecast. The surplus funds result not from a conscious decision of the former Government to work towards a surplus. It is a case of good luck, not good management.

The bill will lay open, as it were, the manner in which each department operates and will disclose the overall results. It will not be a case of fiddling the books, as has happened previously. In the past various dubious means have been used to hide the true result. As a result of this legislation the accounts that are tabled will show what was carried over from the previous year and what will be taken into account when the allocations are made for the year in hand. In that regard, this legislation will result in a far more accountable system. The honourable member for Drummoyne has correctly pointed out that a number of joint ventures and a number of statutory authorities have sponsored private ventures the accounts of which have not been audited by the Auditor-General. That leads to suspicion. When that happens the public cannot be sure that everything is above board. Again, this legislation will overcome those problems and will ensure a proper checks and balances system is in place. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PRISONS (AMENDMENT) BILL**Second Reading**

Debate resumed from 31st May.

Mr LANGTON (Kogarah) [3.51 a.m.]: I join with the Minister for Industrial Relations in paying tribute to the former Minister for Corrective Services, the late Dr Ray Aston, who died so tragically after only one day in this House as a Minister. The Corrective Services Commission was set up in 1978 in response to the recommendations of the Nagle Royal commission. The Nagle Royal commission was established by the former Government in response to the appalling record of the previous Liberal Party-Country Party coalition Government and its administration of prisons between 1965 and 1976. That appalling record culminated in the Bathurst gaol riots in 1970 and 1974. In his Royal commission report, Mr Justice Nagle said that the administration of prisons during that time failed because of the inability of the department to recognize and to handle the rapidly changing nature of the prison population. He said the administration believed that in the 1970s they could apply the same principles to the conduct of prisons and prison management as were applied 90 years earlier when those prisons were first constructed. Mr Justice Nagle also documented the tragic consequences of that style of administration. Anyone who has read the Nagle Royal commission report will know only too well about the institutionalized reception biff at both Grafton and Bathurst gaols. One would know also about the continued beatings that took place at those gaols, particularly at Grafton—a little exercise known to the prison officers as using a little psychology. The Prisons Commission which was recommended by Mr Justice Nagle in his Royal commission report was proposed to remedy the situation. He said:

The structure is too vulnerable to the possibilities of an undesirable autocracy and of administrative incompetence at a senior level.

There is no doubt that in the past ten years there have been problems in the Corrective Services Commission. However, the Opposition does not believe that those problems were such as to require the complete abolition of the commission or that the abolition of the commission was a way to deal with the shortcomings outlined in the report produced by Ernst and Whinney. Will the Minister advise me and the House what the previous Minister meant when he wrote to the Premier on 7th April and said:

A report by the outside management review team on the structure and administration of the Department of Corrective Services has recently been received. However I did not find it very impressive.

Perhaps the Minister might provide the House with the full report prepared by the consultants so honourable members will know what they saw as problems and what were their recommendations. The management review was basically an efficiency review. Prisons are not like any other institution. They are not very bright or cheery. They create particular problems, that are not easily solved, but they involve human lives. Probably 26 000 persons a year have some contact with prison—11 000 through being sentenced to prison and 15 000 through being admitted to probation and parole. Whether those people are prisoners or are on probation or parole they are human beings and should be treated as such.

The commission that was established seemed to be, and I believe was, a visible commission. It comprised five commissioners and two part-time commissioners who represented the community. They were not public servants

and therefore were in a strong position to be critical of what they saw. They were critical of the system in a way that was of benefit to the community and reflected community attitudes.

The Government proposes to appoint a director-general and concentrate all the power in the hands of one man, which was the position prior to 1976. A perusal of the Minister's second reading speech shows that he will appoint regional managers who will be responsible for all the department's functions in respect of institutions in their regions, as well as providing administrative support. I wonder how the Minister rationalizes his planned devolution of administrative and correctional powers to regional managers and at the same time lines that up with the statement by the Premier on 24th May that these reforms will give the Minister for Corrective Services greater direct control. The two cannot go together.

The Opposition is concerned also about the abolition of the Corrective Services Advisory Council. I have some knowledge of the activities of the council. I studied the council's activities and also had a family association with the council. My father, Arthur Langton, was a member of that council for two years, from 1979 to 1981. Mr Justice Nagle pointed out that prisons are not observed by outsiders. He correctly noted that such observers were needed to provide the community with a view of what was happening in the prison system. The council, like the Corrective Services Commission, had as its members representatives of the community. They were able to judge whether prisons were being administered in the manner the community wanted and, at the same time, were able to prevent some of the excesses seen under the previous administration. The Opposition believes the abolition of the Corrective Services Advisory Council will strip the community of its windows into New South Wales gaols.

The Opposition applauds the recognition given by this bill to official visitors. They have done an extremely effective job. I particularly congratulate a former commissioner of the Corrective Service Commission, Frank Hayes, who initiated the concept of official visitors in 1985. The Opposition has deep concern about clause 8B, which deals with the disclosure of information. That clause reads:

An Official Visitor shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made—

And then it goes on to list five subclauses. A great deal of information comes to the knowledge of official visitors. We are concerned partly because the wording we see in this legislation is almost identical with that contained in clauses in other bills yet to come before us. First, if the Government is honest in its endeavour to bring forward freedom of information legislation, why is it providing these non-disclosure of information clauses? Second, is this really a cover for what will be contained in the freedom of information legislation when it is brought forward? Are we to see something there that is akin to what occurs in federal legislation? Section 38 of the Commonwealth Freedom of Information Act 1982 states:

A document is an exempt document if there is in force an enactment applying specifically to information of a kind contained in the document, prohibiting persons referred to in the enactment from disclosing information of that kind, whether the prohibition is absolute or is subject to exceptions of qualification.

Because we have now seen this wording in several pieces of legislation coming before the Parliament it is our concern that we shall see a similar exclusion clause in the freedom of information legislation to be brought forward in this House, and that that will negate any of the essential provisions of the freedom

of information legislation. But, as for this specific bill, the Opposition believes there is no need for a secrecy clause. Certainly, we agree that there is need for a privacy clause, but not for a secrecy clause. We see this as being that type of clause. We have no argument against those parts of the bill that talk about the banking and investment of money held on behalf of prisoners, or the provision for the lawful custody of a prisoner transferred to or through the Australian Capital Territory, and that which enables the transfer to New South Wales of prisoners from Norfolk Island. In fact, these measures were initiated by the previous Government, and some complementary Commonwealth legislation had been already organized during the term of that Government.

Proposed new section 45A relates to the use of dogs. I have no objection to dogs being used in a prison to detect drugs, and not only dogs, for if one studies prison reform around the world one will find that a number of animals are used to detect drugs in many places, particularly in prisons. Animals used for that purpose include pigs and hamsters, which require less upkeep and cause less trouble than dogs. Police dog handlers will tell you that dogs are used basically for one reason, for sniffing. I do not believe that the provisions of proposed section 45A will work to maintain good order and security in a prison. Nevertheless, I wish the Minister for Corrective Services and his administration good luck in trying to achieve that.

One of the most urgent matters in New South Wales prisons relates to the use, abuse and smuggling of drugs. The previous Government took action to try to crack down on the use of drugs in prisons. We increased cell searches and formed the immediate action team to conduct sudden raids to detect illegal drugs. We increased the staff of the drug detection unit, and instigated stricter supervision of visits. With that history, we certainly would not oppose any action that would contribute in any way to the reduction of drug use in gaols. But we do have concern for the announcement by this Government that it would randomly test urine samples of 10 per cent of prisoners. That is a monumental backdown for the coalition's pre-election commitment to randomly test urine samples of all prisoners.

That aside, we recognize other mechanical difficulties with these types of tests. I am not being overcritical in pointing out potential problems. To my knowledge, problems have already occurred. For example, the tests presently performed are not conducted by medical officers but by prison officers. This could lead to an incorrect sample being taken. No control is exerted over the destination of the sample. Do we know that they all go to the Oliver Latham laboratory, or elsewhere? On the way there, could they get mixed up? My information is that such samples have been mixed up already. Such tests are notoriously unscientific. When we looked at methods of detecting drugs among drivers we found that some drugs leave traces in blood, particularly in urine, for some months. We trust that that system will work but we will be monitoring the operation of section 25 (4A) to ensure that the purpose of the provision is served and that it leads to a reduction of drug usage in prisons.

The clause of the bill of most concern to the Opposition is proposed section 26G, which seeks to remove the right of a prisoner to appeal to the District Court against the decision of a visiting justice. Mr Justice Nagle reported at some length on the matter of appeals to a District Court against a decision by a visiting justice. He noted that in July 1977 the Court of Criminal Appeal had decided unanimously that a penalty imposed by a visiting justice constituted a punishment within the realm of section 122 of the Justices Act and that therefore the prisoner was entitled to the right of appeal to the District Court. In fact, he said it was a major advance that should not be nullified by

any legislative intervention. He also noted abuses of the system prior to the decision in 1977 by the Court of Criminal Appeal to permit appeals to the District Court. He said:

Although some proceedings have been fully recorded, most depositions seen by the commission were sadly lacking in detail. Some of them made no note of the names of witnesses or the evidence but merely recited the names of the prisoners, the nature of the offences, and the penalties imposed. This is quite inadequate. It is possible that such laxness was caused by the deposition clerk's confident knowledge that the visiting justice was the final arbiter, and that no higher tribunal would be likely to examine the record.

If that is to be the case, we must strongly oppose that clause. We believe that under any system of natural justice any person charged in the lower court has the right of appeal. In this case we believe that anyone penalized by a visiting magistrate has the right of appeal to the District Court. We will move an amendment to that clause in Committee.

Mr PARK (Tamworth) [4.10 a.m.]: The object of the Prisons (Amendment) Bill is basically to abolish the Corrective Services Commission of New South Wales and the Corrective Services Advisory Council. In doing that the bill provides for the appointment and functions of the director-general and four deputy directors-general of corrective services. The bill also provides for the appointment and functions of official visitors to prisons and will remove the right of appeal of a prisoner against a decision of a visiting justice. The bill will facilitate further the transfer of prisoners to or through the Australian Capital Territory and from Norfolk Island, and will enable dogs to be used to detect drugs and to maintain good order and security in prisons.

I want to pay a tribute to the former Minister for Corrective Services, the late Dr Ray Aston, who achieved more in eight weeks in that difficult portfolio than the former Government did in almost 12 years. He inherited a mess: gaols largely in a state of disrepair, overcrowding to dangerous levels, little, if any, forward planning, widespread corruption, an unacceptably high incidence of drug taking and lack of discipline.

I do not entirely blame the former Minister for Corrective Services, Mr John Akister, for that situation. He tried hard, but he lacked the competence of Dr Aston. John Akister met with the same obstruction from the Corrective Services Commission as Ray Aston did. The difference was that Dr Aston did something about it. The Corrective Services Commission has been remote from its staff, operating behind a closed door, assessable by appointment only. When the Government came to office Dr Aston did not receive one page of briefing notes, and the lack of respect and co-operation shown by the commission was almost incredible. The new Minister quickly realized that it would not work. In the short time that Dr Aston was Minister he won the respect of his departmental and personal staff and of prison officers and authorities. He worked untiringly in the public interest and for the introduction of subjective reformation of the New South Wales prison system. The Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier in his second reading speech said that the abolition of both the Corrective Services Commission and the Corrective Services Advisory Council was recommended by the recent management and strategy review of the Department of Corrective Services carried out by independent consultants Ernst and Whinney Pty Limited. Those consultants were appointed by Mr Gerry Gleeson, Secretary of the Premier's Department, with the approval of the former Premier, Mr Unsworth.

As I have said, the late Ray Aston found the Corrective Services Commission structure unworkable. I have never been in favour of the

commission, and I could never understand how the former Minister for Corrective Services, Mr Akister, put up with it. But, then, he seemed to go along with just about everything recommended by the Nagle Royal commission report. In his second reading speech the Minister said also that the present commission structure was unworkable. He pointed out that the chairman of the commission was also the department head, and though all members of the commission have equal voting rights, the commissioners report to the chairman as department head. At the same time, the commission is subject to the direction and control of the Minister, but the chairman may be outvoted by the other commissioners, which all adds up to a ridiculous situation. The bill provides for the appointment of a director-general and four deputy directors-general with specific areas of responsibility. Following the passage of the proposed legislation the department will undergo some restructuring to improve efficiency and accountability and will be regionalized. The Corrective Services Advisory Council will also be abolished, but as the council is a part-time body only and few matters have been referred to it in recent times, that provision in the bill must be in the interests of improved efficiency. I emphasize again that abolition of the advisory council was recommended by Ernst and Whinney.

The bill provides for the appointment of official visitors to prisons, and will establish a statutory basis for their operations that have continued since May 1985 when they were appointed on a trial basis at a number of gaols. The other major provision of the bill is that the decision of visiting justices will be final. There is no doubt that the present system has been abused with the result that the District Court has been clogged up and the cost to the public purse cannot be justified. Further provisions in the bill concerning the transfer of prisoners from Norfolk Island and to or through the Australian Capital Territory will streamline procedures and again save costs. The Minister in his second reading speech referred to a determination by the Government to crack down on the entry of drugs into prisons. There is no doubt that drugs have found their way into gaols by way of visitors, and tighter controls and the use of dogs must be commended.

While my wife and I were in the United Kingdom in 1985 we visited the high security prison on the Isle of Wight. We were most impressed by the use of Alsatian dogs both for security and drug detection. We were immediately aware that prisoners in the prison were much more afraid of the dogs than they were of armed prison officers patrolling the gaol's perimeter fences. Drugs have caused enormous problems in our prisons and have made the maintenance of discipline much more difficult. Mass urinalysis, introduced by the late Dr Ray Aston, was Liberal Party-National Party policy stated during and before the recent election campaign. Increased powers of gaol superintendents in relation to that program will help to control the drug problem in prisons and re-establish a satisfactory code of discipline. Section 37 of the Act will be amended to give prison officers the same powers of arrest as a member of the police force.

Finally, following a recommendation in the Martin report, the bill will permit magistrates to visit and examine any prison at any time. The Act provides that only judges of the Supreme Court and District Court can carry out those functions. I congratulate the Minister for bringing forward the bill, which I regard as one of the most important packages of reforms to the prison system that honourable members have been asked to consider for many years. The former Government, almost religiously, followed the recommendations of the Nagle Royal commission, but honourable members must remember that those recommendations are now a decade old and are not necessarily valid today. The Department of Corrective Services will be more efficient as a result

of the proposed legislation. The system will embrace a normal chain of command that will be more direct and more conducive to a proper standard of discipline. I support the bill.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [4.17 a.m.], in reply: I have noted the comments made by the honourable member for Kogarah in his partial support of the bill. He said that only one matter really concerned him and the Opposition, yet, at the same time, when speaking to the bill he commented on a number of aspects and raised a number of doubts about those various aspects of the bill itself. It should be noted that the restructuring and the manner in which corrective services in this State are administered follows a management and strategy report that was submitted to the Government by Ernst and Whinney Pty Limited. That report was commissioned by the former Government in the middle of last year, so it is not something that this Government has jumped into for the purpose of going down a particular course. It is simply following the recommendations of an independent inquiry conducted by Ernst and Whinney. It should be noted also that the recommendation of those consultants was that the commission structure—five commissioners, with the Commissioner for Corrective Services having only one vote in five—was unworkable. Again I draw the attention of the honourable member for Kogarah to the comments of Ernst and Whinney in relation to the Corrective Services Advisory Council. They said that it would appear that the council has very little effect on those it is set up to help, and that that was admitted by members of the council themselves. They regarded it as not being effective and a waste of time and, again, on the independent inquiry of those consultants, they agreed with the comments of many of the councillors.

The honourable member for Kogarah said that the employment of regional managers conflicted with the ability of the Minister to control the operations of the prison system. I invite the honourable member to ask many of his colleagues who were Ministers in the former Government whether they regarded the employment of regional managers as an interference with their ability to control their various departments in a management-orientated fashion. I am sure he would be informed that that concept is more in keeping with management efficiency than the present system, which is unwieldy.

I concur with the comments of the honourable member for Tamworth about urine testing, which was introduced by the former Minister for Corrective Services and former member for Monaro. It was one of the last acts of that former Minister in the administration of the prison system. The measure was introduced just prior to the announcement of the State election. It was incomplete and inadequate; it never really came into effect. The proposal received the support of the honourable member for Kogarah on the basis that the former Minister for Corrective Services introduced it. In those circumstances I fail to understand why the honourable member for Kogarah now casts doubts upon the accuracy of urine tests. Initial urine tests have proved to be 97 per cent accurate and no charges are laid on the basis of initial tests. Further tests are taken under strict conditions and samples are sent to an independent analyst. When 100 per cent certainty is obtained, charges are laid. I shall not address the matter of visiting justices. The honourable member for Kogarah foreshadowed an amendment to that proposal so I shall address the matter in Committee.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 2

[Miscellaneous Amendments]

Mr LANGTON (Kogarah) [4.24 a.m.]: I move:

That at page 13 all words on lines 4 to 13 be omitted.

The Opposition opposes this schedule. Royal commissioner, Mr Justice Nagle, recommended, among other things, that the procedures adopted by the visiting justice should be as close as possible to those adopted in the Court of Petty Sessions. He recommended further:

The recent decision of the Court of Criminal Appeal that an appeal lies to the District Court from decisions of visiting justices avoids the necessity for this commission to recommend legislation and provide for such an appeal.

The submission by the Public Service Association Prison Officers Vocational Branch that the Government should nullify that decision by legislation should be rejected.

That recommendation was supported further by *The Queen v. Clifford*, reported in Volume 1, New South Wales Law Reports 1980, at page 314, in which it was held that the District Court has jurisdiction to entertain an appeal from the determination of a visiting justice of a complaint made pursuant to section 24 (1) of the Prisons Act. In his second reading speech, the Minister said:

There is no doubt at all in my mind that prisoners with the assistance of the Prisoners' Legal Service or the Legal Aid Commission have often abused due legal process by appealing against decisions of visiting justices.

How can it be said that due legal process is abused when one is exercising one's right of due process? It does not make sense for the Minister to put that proposal forward. The Minister said also that it will cost the State tens of thousands of dollars in transport and legal expenses when prisoners fail to prosecute appeals. In any appeal process for many reasons prosecutions are not proceeded with. Prisoners charged before the visiting justice must await the preparation of a transcript of proceedings before deciding whether to proceed with an appeal. The Minister said further:

In cases where the visiting justice has imposed a penalty of only a reprimand and caution that is, effectively no penalty at all—an appeal has been lodged to the District Court against the sentence.

I do not agree that a reprimand and caution is, effectively no penalty at all. Any infringement of prison discipline by a prisoner is recorded on his file and put before the Parole Board or Release on Licence Board. The conduct of a prisoner is a material consideration for the Parole Board when determining whether or not to grant parole. Any infringement in that regard may also affect a prisoner's security rating, and may have some effect on the prisoner receiving a lower classification and, therefore, whether they become eligible for parole at an earlier stage.

Although a prisoner may be only reprimanded and cautioned, the prisoner still has a right of appeal against that decision, in the same way as any member of the public has a right to appeal against any decision under section 556A of the Crimes Act. Under the provisions of the Crimes Act a defendant who is granted a section 556A recognisance has the right to appeal against that decision. It has been suggested that a huge number of appeals to the District

Court are clogging up the system. Mr John Cook, chairman of the Legal Aid Commission, said on radio recently that since July 1987 only 14 applications for legal aid have been lodged to pursue appeals against decisions of visiting justices. One could hardly say that that number of applications would clog up the courts and abuse the system.

In his second reading speech the Minister said that often when a matter comes before the court it is adjourned on several occasions. Of course matters often are adjourned on several occasions. The first time a matter goes before the court it comes up for mention only. If the prisoner is represented by counsel, on that occasion he does not even have to appear before the court, and nor do the witnesses. I think the Minister has overstated and exaggerated all of those cases in his second reading speech. In 1981 the Australian Government, under the Liberal Attorney General of the day, Peter Durack, ratified the due process rights under the International Covenant on Civil and Political Rights. It is important to examine two of those rights. Article 14.1 of that covenant reads:

Everyone shall be entitled to a fair and public hearing by a prominent, independent and impartial tribunal established by law.

Article 14.5 reads:

Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

I do not believe that this new clause is necessary. The existing clause, which was inserted with the 1986 amendments, adequately covers the rights of prisoners to appeal against a decision by a visiting justice. I ask the Committee to support the amendment.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Employment, Minister for Corrective Services and Minister Assisting the Premier [4.31 a.m.]: The Government will not accept the amendment moved by the Opposition. Let me give honourable members some further information on the sorts in which some prisoners have engaged by lodging appeals from decisions of visiting justices. These appeals first came about in 1977 following a decision of the Chief Justice, as the honourable member for Kogarah rightly pointed out. That matter was referred to in the Nagle report. For years very few prisoners lodged appeals from the decisions of visiting justices. It must be remembered that visiting justices are all magistrates.

The honourable member for Kogarah spoke about the due process rights ratified by Senator Durack, being the right to appear before an impartial judge and receive a fair hearing. I suggest that the honourable member for Kogarah is treading on some fairly dangerous ground by suggesting that visiting justices and magistrates of the Local Court—and the honourable member will find that under the provisions of the bill all magistrates of the Local Court will be empowered to act as visiting justices—will not act impartially when hearing cases in a prison. They are exercising the same powers and performing their functions in the same manner as they would in any court outside the prison system. By suggesting that magistrates wear a different hat and perform their functions differently when they are inside the walls of a prison, the honourable member for Kogarah was casting aspersions on the impartiality of all magistrates in the State.

[*Interruption*]

The CHAIRMAN: Order! The honourable member for Kogarah will have an opportunity to respond if he so wishes.

Mr FAHEY: It should be noted that a couple of years ago the Legal Aid Commission set up a branch called the prisoners legal service and, obviously to justify its existence, almost every prisoner who was convicted of a breach of prison discipline was encouraged to appeal to the District Court, even in cases where, as I said in my second reading speech, only a nominal penalty had been imposed. Suddenly the number of appeals increased from very few per year to about 60 per year. In 1986-87, 53 appeals were lodged, and already this year some 46 appeals have been lodged against the decisions of visiting justices. Each appeal involves at least two and more—likely three or four or even more—appearances before the District Court in Sydney. I know it is not easy to understand how the court system works, but the honourable member for Kogarah suggested that frequently prisoners did not attend the court until the actual hearing took place. That is not how the system works. The appeal must be prosecuted by the appellant. He appears before the court on all of these occasions, and it should be noted that it is always before the Sydney District Court, whether the offence occurred in the Maitland gaol, the Goulburn gaol, with which the chairman is familiar, or elsewhere. All of those prisoners are brought to Sydney, and that might happen four or more times in having their appeals determined.

As a matter of administrative convenience all appeals from the decisions of visiting justices are heard in Sydney, for two reasons. First, it is the wish of the Department of Corrective Services that all prisoners have their appeals determined as quickly as possible, and that would not be possible if they had to wait for the next sitting of the District Court to be held in a country location. District Court criminal proceedings are heard in some country locations one week a year only. Therefore to ensure that the matters are dealt with in a prompt fashion, they are determined in Sydney. Second, appellant prisoners often call a number of other prisoners as witnesses. Frequently these witnesses must be kept in separate metropolitan gaols for their own safety. Thus the quite ridiculous situation has now developed where not only do numbers of prisoners have to be transported individually to Sydney to have their appeals determined, but also quite often four or more prison officer witnesses have to come to Sydney to give evidence.

If a prisoner requires protection, he or she must be transported to the court by a separate vehicle under escort. It is not uncommon for more than 20 prison officers to be rostered for duty at the District Court in the one visiting justice appeal, where they are either witnesses for the Department of Corrective Services or are escort officers for the appellant and the individual prisoner witnesses. One outrageous appeal which was a riot was listed only this year involving a prisoner named Donald Henry Perks. That is an appropriate surname for this prisoner. Arising from a simple search of his cell by the gaol authorities this prisoner was convicted of a breach of prison discipline by the visiting justice. He appeared before the Sydney District Court on no fewer than six occasions, and on each occasion the Department of Corrective Services had to bring five prison officers to the court as witnesses. Those prison officers, because of subsequent transfer, were required to be brought from various metropolitan and country gaols.

At the same time, Perks charged each officer with assaulting him, and the prisoners legal service even briefed counsel to seek a stay of the District Court proceedings in the Supreme Court. So not only did these prison officers have to come to the Sydney District Court in connection with this appeal, but at the same time, they had to appear as defendants before at least three Local Courts on about half a dozen occasions. The long and short of all this is, it certainly was not short—was that upon his release Perks simply failed to

prosecute his appeal and withdrew all the informations against the prison officers. Applications for costs against Perks in both the District Court matter and the Local Court matters were refused. This clearly was an outrageous abuse of the legal process and was encouraged all the time by the prisoners legal service.

This sort of rort simply has to stop. This was acknowledged, as I am sure the honourable member for Kogarah will remember, by the former Minister for Corrective Services. About this time last year he proposed legislation to end this appeals process, but obviously he did not receive the support of his colleagues. Time and again District Court judges have expressed their dismay and disgust from the bench at the flagrant waste of the court's time in having to hear these trivial appeals. Many prisoners use this scam merely as a means of meeting their prisoner mates in the District Court cells, knowing that in normal circumstances they would not be allowed by the prison authorities to come together. If I could tell honourable members of some of the details of those meetings, I am sure that they would be shocked.

We know that this is a scam because computer checks have subsequently shown that the so-called witnesses were not even in the gaol where the offence occurred at the time it occurred. Yet those prisoners are called under subpoena to be witnesses simply to give them an opportunity to meet up with their prisoner mates. It is also not uncommon for the so-called witnesses not to be called by the prisoner even if they were in gaol. Yet the State has to bear the cost of transporting and guarding these prisoners while they enjoy their excursions from the gaol. The results of previous District Court decisions show that few of these appeals are successful. In fact, about half are withdrawn on the day that they finally come before the court for determination. This Government will no longer preside over such a scandalous waste of money.

Under the legislation introduced by the former Minister for Corrective Services, the former member for Monaro, there is no right of appeal where prison discipline offences are determined by the superintendent of a prison, but where the matter is heard by a visiting justice, a Local Court magistrate and a fully qualified lawyer—such lawyers determine more than 90 per cent of all cases in this State in the court that hears the bulk of matters that bring people into the system of justice in this State—we have this anomaly of an appeal to the District Court being provided for. There is no right of appeal against a decision of the superintendent, but there is a right of appeal against a decision of a qualified, impartial magistrate. That practice must cease, and the Government will ensure that it does.

Question—That the words stand—put.

The Committee divided.

Ayes, 51

Mr Andrews	Mr Griffiths	Mr Schultz
Mr Armstrong	Mr Hartcher	Mr Singleton
Mr Baird	Mr Hay	Mr Small
Mr Berry	Mr Jeffery	Mr Smith
Mr Books	Mr Kerr	Mr Souris
Mr J. D. Booth	Mr Longley	Mr Tink
Mr Caterson	Mr Matheson	Mr Turner
Mr Causley	Mr Merton	Mr Welsh
Mr Chappell	Dr Metherell	Mr West
Mr Cochran	Mr T. J. Moore	Mr White
Mrs Cohen	Mr D. L. Page	Mr Wotton
Mr Collins	Mr Park	Mr Yeomans
Mr Cruickshank	Mr Peacocke	Mr Zammit
Mr Dowd	Mr Petch	
Mr Downy	Mr Photios	
Mr Fahey	Mr Rixon	<i>Tellers,</i>
Mr Glachan	Mr Roberts	Mr Beck
Mr Graham	Mr Schipp	Mr Phillips

Noes, 35

Ms Allan	Mr Irwin	Ms Nori
Mr Amery	Mr Knight	Mr Price
Mr J. J. Aquilina	Mr Knowles	Mr Primrose
Mr K. G. Booth	Mr Langton	Dr Refshauge
Mr Brereton	Mr Lovelee	Mr Rogan
Mr Davoren	Mr McManus	Mr Rumble
Mr Doyle	Mr Markham	Mr Shedden
Mr Face	Mr Martin	Mr Unsworth
Mr Ferguson	Mr Moss	Mr Whelan
Mr Gibson	Mr J. H. Murray	<i>Tellers,</i>
Mr Harrison	Mr Nagle	Mr Beckroge
Mr Hunter	Mr Newman	Mr Christie

Pairs

Mr Greiner	Mrs Crosio
Mr Morris	Mr Paciullo
Mr Smiles	Mr Carr

Question so resolved in the affirmative.

Amendment negatived.

Schedule agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

House adjourned at 4.50. a.m., Thursday.