

Legislative Council

Tuesday, 2 November, 1976

Assent to Bills—Leave of **Absence**—**Land Commission** Bill (Message)—Questions without Notice—Joint Committee upon Drugs (Motion)—Prices Regulation (Amendment) Bill (**second** reading)—Local Government (Elections) Amendment Bill (second reading).

The Chairman of Committees took the chair as Deputy-President at 4.28 p.m.
The Prayer was read.

ASSENT TO BILLS

Royal assent to the following bills reported:

Motor Vehicles (Taxation) Bill
Motor Vehicles Taxation Management (Amendment) Bill
Acts Reprinting (Amendment) Bill
Constitution (Ministers of the Crown) Amendment Bill
Department of Agriculture (Repeal) Bill
Federation of Parents and Citizens Associations of New South Wales
Incorporation Bill
Interpretation (Amendment) Bill
Local Government (Rating) Amendment Bill
Mines Rescue (Amendment) Bill
Miscellaneous Acts (Inspectors) Amendment Bill
Miscellaneous Acts (Transport Legislation) Amendment Bill
Second-hand Dealers and Collectors (Amendment) Bill
Technical and Further Education (Amendment) Bill
Tourist Industry Development Bill
Wheat Industry **Stablization** (Amendment) Bill
Young Men's Christian Association of Sydney Incorporation
(Amendment) Bill

LEAVE OF ABSENCE

The Deputy-President reported receipt of a communication from His Excellency the Governor intimating that leave of absence had been granted to the Hon. W. G. **Keighley** from 12th December, 1976, to 25th February, 1977.

The Deputy-President also reported receipt of a communication from His Excellency the Governor intimating that leave of absence had been granted to the Hon. **Margaret Davis** from 6th October to 26th October for the purpose of travelling overseas.

LAND COMMISSION BILL

Message

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments in this bill.

QUESTIONS WITHOUT NOTICE

FREE TRAVEL FOR POLICE

The Hon. R. B. ROWLAND SMITH: I wish to ask the Vice-President of the Executive Council and Minister for Planning and Environment a question without notice. Did the Minister for Transport and Minister for Highways state recently that he is not willing to consider conceding free travel on public transport to plainclothes members of the police force but will allowed uniformed police free travel? Was plainclothes Detective Constable Angus MacDonald recently beaten up when he tried to stop thugs assaulting a train passenger? As a policeman in plainclothes, does he still have to pay his train fare? Will the Minister make recommendations to the Government to ensure that all members of the police, whether in uniform or plainclothes, will continue to use public transport when off duty and so help to ensure the safety of passengers?

The Hon. D. P. LANDA: I am familiar with the statements made by the Minister for Transport and Minister for Highways and the unfortunate incident, involving Detective Constable Angus MacDonald, outlined by the honourable member. The policy being followed by the Government in relation to this question is exactly the same as that followed by the former Government, despite the many questions asked by the Hon. Edna S. Roper in this Chamber about incidents similar to that referred to by the honourable member. No doubt this policy arose out of the fact that a uniformed policeman is conspicuous to the public and a concession of this nature granted to him while he is travelling is only a just reward in view of his potential to assist in cases of emergency.

The Government is still of the opinion that the present policy, which was adopted by the former Government and carried on by this Government, should continue for some time whilst extending greater consideration to the particular circumstance involving Detective Constable MacDonald. However, this matter may be reviewed if it is established that this concession should be brought in, notwithstanding the attitude adopted by this Government and former governments for many years.

VALUERS REGISTRATION BOARD

The Hon. W. L. LANGE: I ask the Vice-President of the Executive Council and Minister for Planning and Environment whether he can indicate what progress is being made towards the appointment of members of the Valuers Registration Board and the operation of that board pursuant to legislation passed by the former Government in November, 1975. Does the delay in setting up the board result from any proposed changes in the composition of the board as enacted or any proposal by the Government to relax the entry standards for applicants for registration?

The Hon. D. P. LANDA: I undertake to ascertain the information requested by the honourable member and advise him and the House in due course.

PUBLIC TRANSPORT ROAD VEHICLES

The Hon. H. J. McPHERSON: I ask the Vice-President of the Executive Council and Minister for Planning and Environment whether it is a fact that the State railways have large numbers of road vehicles for the purpose of carrying men and materials to sites along the permanent way. Is this number of vehicles being increased by the provision of buses and trucks in some centres? Is the servicing, maintenance and repairing of these vehicles carried out by commercial garages at prices similar to those charged to the public?

If these are facts, will the Minister confer with his colleague the Minister for Transport and Minister for Highways, with a view to establishing, at towns where these vehicles are based, workshops with qualified railway employees to carry out service, maintenance and repairs of the department's road vehicles?

The Hon. D. P. LANDA: The honourable member was good enough to give me some intimation of his asking the question and I was able to obtain some information from the Minister. The Public Transport Commission operates a number of road vehicles for the purpose outlined by the honourable member. Many are specially constructed to convey workers as well as materials to sites on the permanent way. There has been no significant increase in the number of vehicles acquired recently. All vehicles are repaired where possible by commission staff. In some cases it is not practicable for this to be done in country towns as the number of buses and trucks in the area is not large enough to have staff stationed there to carry out maintenance work, nor would it be economical to set up workshops to service a small number of vehicles.

All repairs carried out by commercial garages for the commission are strictly controlled. The cost of any parts supplied is free of sales tax. Tyres, etcetera are purchased in country centres at the State Government contract rates. In most instances, the commercial garages are fitting only component parts prepared and supplied by a commission workshop in the city. In the Dubbo area a workshop is being set up and it will be staffed by commission employees who will undertake the maintenance and repair of road vehicles, including passenger road coaches now being operated in that area. Consideration will be given to the adoption of similar arrangements in other areas should there be any change in circumstances to justify such action.

DEATH DUTIES

The Hon. D. P. LANDA: On 30th September, the Hon. W. L. Lange asked me a question without notice concerning death duty avoidance schemes and proposals to overcome what it regarded as a significant loss of revenue to the State. I undertook to refer some aspects of the question to the Treasurer and other aspects to the Attorney-General for their advice. However, it was subsequently decided that the Treasurer would reply to all aspects of the question. I have now received the following letter from the Treasurer:

I have noted the question without notice directed to you on 30th September last by the Hon. W. L. Lange, concerning certain death duty avoidance schemes and proposals to overcome what is regarded as a significant loss of revenue to the State.

You will be aware that I made mention of the fact that the Government proposed amendments to achieve this objective when delivering my Budget Speech on 29th September, 1976. I might also add that some few

months ago the Premier did make some reference to action being taken to close off the Gorton and Robertson type schemes and this was reported in the press at the time.

As I mentioned in my Speech the Leader of the Opposition concedes the need for the measures proposed but I am still at some loss to understand why it has taken the former Government eleven years to reach this conclusion.

So far as retrospectivity is concerned the legislative amendments have not yet been finalized. However, I think the Hon. W. L. Lange might be assured that the relevant provisions will not be expected to apply in respect of estates of persons dying before the amendments are passed by Parliament. This has been the longstanding practice of successive Governments in relation to death duty amendments and I see no need to depart from this approach.

At the same time it could be that schemes carried through before date of Assent but, for example, within three years of the person's death may be brought to charge. Undoubtedly it will be claimed that the amendments are therefore retrospective. This would not be a valid argument.

As you know death duty is a law which only applies on a person's death. Accordingly, if any person enters into an arrangement which as the law then stands would result in duty being avoided it is undeniably always open to any Government to bring down legislation to negate the intended effect before any liability to duty arises, in these circumstances, on that person's death. It is a well known fact that legal advisers, more particularly in relation to schemes of duty avoidance, invariably qualify their advice to clients emphasizing that, as the law stands and subject to any later legislative amendment, certain results will be achieved or could be expected should those clients put into effect the advice offered.

With regard to the estimated revenue saving no statistics are currently maintained from which any reliable or accurate estimate can be gauged. Members of the House will realize that many of the types of schemes that have been used to successfully effect gifts, thereby reducing values of estates, never come to light. In many instances the company involved is wound up and the Commissioner of Stamp Duties who administers the legislation has no knowledge of the transaction. At the same time the Government has obtained certain information from a number of sources and it is quite convinced that many millions of dollars are at stake. Usually the more wealthy estates would be more likely to use these devices, say estates of \$100,000 and upwards, and it is common knowledge that thousands of these arrangements take place every year.

Until the proposals are placed before Parliament there is little that I can add.

GRAZING IN KOSCIUSKO NATIONAL PARK

The Hon. D. P. LANDA: On 7th October, the Hon. W. J. Holt asked me a series of questions concerning grazing in Kosciusko National Park. I undertook to obtain information from the Minister for Lands, who has provided the following answers *seriatim* to the honourable member's questions:

1. The Minister for Lands has announced that relief **grazing** will be permitted in Kosciusko National Park subject to firm conditions on period, numbers and appropriate controls, and subject to the concurrence of the Soil Conservation Service of N.S.W.

2. A Plan of Management for Kosciusko National Park was approved in 1974.

3. The reference to grazing in the said plan states "Prohibit grazing within the Park (except where required for specific **management** purposes) . . ."

4. Section 81 of the National Parks and Wildlife Act (1974) does require the person or persons in whom the cam, control and **management** of a park has been vested to implement the provisions of that Plan.

5. Grazing will only be permitted on that part of the foreshores of the **Blowering** Dam contained within Kosciusko National Park, and subject to the conditions outlined above.

In addition to providing relief to starving stock, this action has **park** management value in **inhibiting** the **growth** of noxious weeds, notably black-**berry** and St John's **Wort**.

6. Special consideration was given to the Plan of Management in making this decision. The area **selected** is very restricted, unlike the area approved by the previous Government in 1972 which created serious damage to the Park and inconvenience to Park staff. In making this **decision** the Minister has exercised the greatest care to ensure that the mistakes made in 1972 will not recur.

JOINT COMMITTEE: UPON DRUGS

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [4.45]: I move:

1. That this House agrees to the Resolution embodied in the Legislative Assembly's message of 12 October, 1976, relating to the appointment of a Joint **Committee** to review and report on the effects of drugs of dependence, other than alcohol or tobacco, in common use in New South Wales and other related matters.

2. That the Representatives of the Legislative Council on the Joint Committee be the Honourable K. H. Anderson, the Honourable M. A. E. Davis, the Honourable C. **Healey** and the Honourable H. J. A. Sullivan, and that Tuesday, 9 November, 1976, at **3.30 p.m.** in Assembly Committee Room No. 2 be the time and place for the first meeting.

3. That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

In recent years the problems associated with the use and abuse of a wide variety of drugs have attracted increasing attention—from the medical profession, social welfare agencies, the news media, the public and governments. I am sure that there is today not a member of this House who is not concerned with the problem and who has not, directly or indirectly, been made aware of the grave hardship, illness, suffering and waste of human potential resulting from the abuse of drugs. **As** is inevitable when an evolving and changing society attempts to grapple with the problems inherent to the social process, a great deal of information, research material and experience is produced and a great many differing attitudes emerge, often based on conflicting sources.

We are all aware that the incidence of drug abuse is increasing, that it is a world wide problem and that there is no easy solution. As legislators we are aware that, especially in areas of social concern such as this, our decisions, to be effective, must be based on a judicial appraisal of the known facts and be sensitive to the human issues involved. Yet the existing resource **information** on the many aspects of the misuse and abuse of drugs, existing and proposed protection, preventative and control measures, counselling, treatment and rehabilitative services is quite understandably scattered, diverse and varied. Our own attitudes are also undoubtedly coloured by personal experiences, prejudice and, I think we should admit, ignorance. For example, the news media spend a great deal of time drawing attention to the problems associated with hard drugs, presumably because of the drama that illegal use and possession adds to the sordid and tragic scenario. I certainly do not wish to underrate the appalling **traffic** in hard drugs and the dangers they pose to many young people.

Although the news media dwell on this problem and we are all quite ready to be appalled at the frightening details of dirty needles and squalid death, many thousands more people are addicted to analgesics. Each year analgesic abuse is costing thousands of lives in Australia. It is costing this State alone many millions of dollars. However, it has attracted little legislative attention. The city of Newcastle has the highest rate of kidney disease in the world. It is not a coincidence that it also has the highest consumption a head of analgesics in the world. Sydney's western suburbs are not far behind. Analgesic abuse is not a problem confined to the middle aged. The average age of patients with kidney and heart diseases directly attributable to powders consumption is steadily decreasing and is now round the **30** years mark. Research in Newcastle has revealed that sufferers have often already started their children along this pitiable path.

We must direct our attentions to the widest perspective of drug abuse and not be confined to those problems that necessarily involve the law. A great deal of research is being done in this area, as in other areas of drug abuse, but I believe the Government of New South Wales can play a vital role in appraising information, promoting further educational and rehabilitative programmes and controlling through legislation the availability of drugs. The previous Government, to its credit, was aware of this and in August last year established a joint parliamentary committee of inquiry into the various aspects of the use and misuse of drugs. The committee began accumulating and collating a great deal of valuable information when the elections curtailed its work. The Government believes that the **committee** should continue its work. To put that wish into effect a similar motion has been passed in another place.

In establishing a further committee the Government has examined the terms of reference of the previous committee and decided that to an extent they were too limiting in respect to the following item:

Drugs of dependence in common use in New South Wales that are prohibited drugs, drugs of addiction and restricted substances within the meaning of the Poison **Act** 1966.

The Government considered that this definition excluded consideration of drugs not classified under the Act, unsuitable for inclusion in the Act, but **undoubtedly** in common use in New South Wales. With this in mind the clause has been replaced with the words "drugs of dependence". In examining the need for any further extension of the terms of reference it was necessary to determine whether alcohol and tobacco should be included. The Government decided that if **some** limitation was **not** applied the committee could become devoted to these two areas and for this reason they have been excluded from the terms. However, this should not be seen in any way as a negation of the seriousness of the problems caused by these two substances which are

in fact the most commonly abused drugs in New South Wales. Rather it was **thought** they should properly be dealt with separately and ways of instigating this are now being discussed.

I commend the motion and believe that the **findings** of the proposed joint parliamentary committee of inquiry will provide the resource material and conclusions necessary for the Parliament and the various departments of the Government to act responsibly in relieving the tragic toll in human life and potential **loss** at present being wrought by the misuses and abuse of drugs.

The Hon. Sir JOHN FULLER (Leader of the Opposition) [4.50]: The Opposition supports the motion, but regrettably we did not see a copy of it before the Minister moved it in the House a moment or two ago. This would not have happened in the past. The Opposition, having been responsible when in Government for setting up a similar committee in August last year, supports the concept and also the change in the terms of reference following experience gained by the former committee, which worked from August last year almost to the present time.

It is interesting to look back at the general support shown by all political parties, not only in this place but also in another place, for the establishment of this committee and the work of the former committee. The community as a whole has accepted that drug addiction and dependence have become one of the most serious social problems of the day. The Minister said that it is a problem that has an **influence** on all sections of the **community**. I believe the influence on the junior section of the community must be of serious concern to **all** of us. The older people should be able to learn from experience but the young ones growing up should be protected and educated in the use of drugs.

I appreciate the fact that I have just received a copy of the motion moved by the Minister. Some members of this House made worthy contributions to the deliberations of the former committee. The Hon. Margaret **Davis**, the Hon. H. J. Sullivan and the Hon. C. Healey did considerable work for that committee. The knowledge that they gained from its working since its establishment last year is of great value. We believe that the committee's work should be continued. The inclusion of the Government Whip on the committee is commendable. We on this side believe that the extended terms of reference will prove of tremendous value.

I emphasize that the seriousness of this subject should be accepted by the committee, which should endeavour as a matter of urgency to come up with positive recommendations to the Government. The work of the committee should not be allowed to drag on and on without its making positive recommendations for action. One has only to look at what has happened in various parts of Australia in the past few months to realize that drug addiction is a critical problem for the community as a whole. The Legislature of New South Wales, both this House and another place, will be happy to accept positive and sensible recommendations from the committee.

The Opposition supports the motion. We hope that members of the committee will find the essentials and present at least an interim report that will enable the Government to take positive action.

The Hon. MARGARET DAVIS [4.53]: I thank members of my party for nominating me to join this committee. I pay tribute to the previous Government for appointing the earlier committee, and in particular to its chairman, Mr **Allan** Viney, M.L.A., for **his** good direction, and to the Hon. C. Healey and the Hon. H. J. **A.** Sullivan, who were also privileged to serve; on that committee. I congratulate this Government on re-establishing the committee and widening the terms of reference.

It seemed at first that there would be problems that **would** prevent some members of the previous committee from **serving** on the new committee, and it is to the credit of the Minister for Health that the new committee has been re-constituted **as** it has. I look forward to working with the Hon. Kathleen Anderson, who is a welcome addition to our committee. I understand that on our side of the House one of our new members, the Hon. Peter Phillips, has recognized expertise in the field that we are to study, and I understand that the committee may call him as a valuable witness when it reconvenes. While I was overseas I visited what I believe to be a most modern drug **referral** clinic and obtained valuable information on its *modus operandi*. I look forward to serving on the new committee as proposed by the Minister.

The Hon. H. J. A. SULLIVAN [4.56]: It is a matter of form, perhaps, but I should like to associate myself with the reference that the Hon. Margaret Davis has made to the work of the chairman of the former committee, Mr **Allan** Viney, the honourable member for Wakehurst in another place. I think all members of the committee **would** pay tribute to him for his dedication to the task of chairing that committee, **his** incredible capacity for work and his understanding and appreciation of the problems that were referred to that committee. He gave absolute attention to those problems and also great leadership to the committee. The record would be incomplete **if** I did not associate myself with the Hon. Margaret Davis' remarks. It was a pleasure to have been associated with her in our work on that committee. No committee of members of all parties from both Houses could have worked **with** more enthusiasm and dedication than did the former committee. It was a delight to find that at all times party considerations were cast aside. There was no political intrigue or bitterness, only a mutual desire by all members of the committee to try to find answers to a problem that is pressing and worrying to the whole community.

The inclusion of the Hon. Kathleen **Anderson** on the committee will be a pleasure for all members of the committee. We know that she will bring a vast experience, deep sincerity and dedication to the problems of youth, and indeed of the community at large, to the workings of the committee. She will be most welcome. I know that members of the new committee will have the same feeling of mutual concern under the chairmanship of another person, as we did under Mr Viney on the earlier committee. I think the leader of my party for having nominated me to the committee, and the Minister for accepting that nomination. I know that the Hon. C. Healey will express exactly the same sentiments as the Hon. Margaret Davis and I have done following our experience on the former committee.

Drug addiction is a depressing and worrying problem for which to which there is no easy answer. While serving on the committee it was a delight to find that so many people from a wide cross-section of the community were willing to give up their time and give the ~~committeè~~ the benefit of their expertise on drugs. They were able to comment freely and openly, express their opinions, and in some instances give an account of their own experience of drugs. We learnt much from them. I have no doubt that the new committee, which has been appointed under this Government, will have a similar experience. It is a credit to the Government that it has appointed this new committee and made the terms of reference a little wider. The committee may well find some answers. Even **if** it does not, it will make a worthwhile contribution to a solution of the problem. The Parliament should be grateful for the work of Mr Viney **as** chairman of the former committee. If his successor on the new committee can guide us with similar enthusiasm, the workings of the committee will be of benefit **to** the State of New South Wales.

The Hon. C. HEALEY [5.0]: I support the remarks of the Hon. Margaret Davis and the Hon. H. J. A. Sullivan, and place on record my appreciation of the work done by other members of the previous committee in relation to this most

important investigation. The new Government is aware of the problem of drugs, and has reconstituted a joint parliamentary committee to continue an inquiry into that matter. The Leader of the Opposition said that the previous committee had intended to issue an interim report, but that an election intervened. I believe that in an effort to alleviate the drug problem and educate persons to deal with it the reconstituted committee will present an interim report based on months of investigations by the former committee. It has been suggested that the committee's inquiry might drag on for some time. I do not say that drag is the right word but a considerable time will be needed before the committee can make its final recommendations. I am sure also that however long it takes the committee to produce a **final** report, that report will be above party politics and designed to benefit the whole community.

The Hon. Sir **ASHER** JOEL [5.3]: I am not a member of this distinguished committee.

The Hon. D. P. Landa: The Hon. Sir **Asher Joel** should not let that stop him.

The Hon. Sir **ASHER** JOEL: I willingly accept the Minister's invitation to say a few words on a subject of paramount importance to the entire community, even though it has been dealt with adequately by previous speakers. Perhaps I can amplify their remarks from my personal experience with individuals concerned with matters relating to the **drug** problem.

Only last week I sat down with a well-known member of our community whose son is a drug addict. This man does not seek personal publicity for being involved in efforts to deal with the drug problem, but speaks publicly on the situation in general terms. The story he unfolds is tragic. He has gone out of his way to establish, almost single-handed, two centres dealing with drug problems. I sincerely hope that when the parliamentary committee is investigating ways and means of ameliorating the drug situation, it will make practical suggestions, not academic ones, about how finance should be found to provide ancillary services to those already available through government agencies.

The big problem with drugs is not their addictiveness but that, basically, in most cases their use is the symptom of some sociological problem. We live in a society where tensions and pressures compel persons to seek means of escape. Today those means are only too readily available. Recently I saw police file figures showing that there is an increase in the use of hard drugs as opposed to marihuana. That state of affairs requires deep investigation. On recent visits to the United States of America I was surprised at the growing number of people in that country who urge **the de-criminalization** of the use of marihuana. That is another matter at which our parliamentary committee will no doubt look.

Drug taking is a problem of massive proportions inflicting, as it does, hardship upon **all** those who are affected by it. I attended a police court in San Francisco that was dealing with young drug addicts. The young people in question filled an area adjacent to the courtroom. They were youngsters aged from 12 to 18 years. They had been stripped of their boots, shoes, belts, ties, and anything else that could be used as an offensive weapon or as a means of escape by strangling one another or by committing suicide. One had to see the large number of youngsters involved to appreciate the enormity of the problem. One saw a young boy stand up before the magistrate and deny he was taking drugs, but when the magistrate said to **an** attendant, "Roll up his sleeve" it was possible to see puncture marks on his arm. Also, when a court official took the socks off a young lad, one could see the puncture

marks between his toes. The seriousness of the situation was driven home also when a boy denied he was a drug addict, but his mother, a **negress**, stood up at the back of the court and said to the magistrate, "Put him away. He is a drug addict, and I can no longer do anything with him."

These are harrowing situations. They are due, primarily, not to addiction for the sake of addiction, but to escape from the pressures of modern life. When I look through the terms of reference of this important committee, though having a full appreciation of the contribution made by members of the former committee, I am somewhat distressed that no reference is made to the need to investigate not merely drug addiction, but the sociological and physiological reasons for it. It is the sociological effects of drugs on the community that concern me most.

Ours can never be a perfect society. Such a goal is beyond the ability of man. We can merely make our society better. When I hear honourable members on both sides of the House say that this committee transcends party politics, I can only express the hope that that will be the effect of the committee's final recommendations, that it will have regard to poverty in our midst, to depressed housing, to congestion, and to the other factors that confront us in modern living. Although the committee may not be able to find solutions, it might be able to suggest palliatives. Solutions are probably beyond us all. I believe that the committee, distinguished as it is by the membership of dedicated men and women from both sides of the House, can make a reasonable and perhaps a major contribution to the solution of the problems that face the community. It is a committee that has not merely the support of every honourable member but, indeed, the prayers of all the community.

The Hon. R. G. **MELVILLE** [5.10]: In making my contribution to this debate I shall tread warily in the steps of honourable members who have spoken before me. Yesterday week it was my duty, as deputy sheriff, to sit on the bench with Judge Cross who was presiding at the sittings of the criminal division of the District Court in Kempsey. On that occasion about twenty-two youngsters appeared before the court to appeal against the severity of **fin**es imposed upon them by the lower court. The many wonderful, bright young people of this nation deserve the re-establishment of the drug committee and the widening of its powers. They deserve this commendable effort to solve the many problems that confront them. If the proposed committee can do something towards that end, it will have made a wonderful contribution to the welfare of these young people.

Many first offenders are not deserving of the full force of the law. If the proposed committee can come forward with some worthwhile findings, it will help to alleviate much of the distress that is seen in the criminal jurisdiction of the District Court. I commend the former Government for setting up the original drug committee and I commend this Government for reconstituting the committee and expanding its terms of reference. I express the fervent hope that the work of the committee will help many young people upon whom Australia will depend for much in the future.

The Hon. J. J. **MORRIS** [5.12]: I congratulate the former Government on establishing the previous drug committee and I congratulate this Government on reconstituting it and extending its terms of reference. However, the committee should extend its inquiry a little further. I am concerned with the effect of drugs on not only the boys and girls of this State but also the women—particularly married women—who, upon visiting their doctor, are told that they have a nervous disorder and should take **valium** or **serepax**. I am concerned about this problem as both a member of Parliament and a member of the community. I have no doubt that the new committee will inquire into this problem, particularly as it affects women in the western suburbs of Sydney and other working-class areas of the State.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.14], in reply: I thank honourable members for their support of the motion. Though I regret that notice of the motion was short, I could not help observing that the paucity of that notice did not have any inhibiting effect upon the eloquence of honourable members.

The Hon. Sir John Fuller: Do not take it as a precedent.

The Hon. D. P. LANDA: I certainly shall not take it as a precedent, and if the converse is a likely eventuality in the future, I assure honourable members that they will be given plenty of notice. As honourable members have said, this problem transcends party divisions both in this Chamber and throughout the whole of the community. It is important when we discuss this matter—as we have done to a limited extent today—not to allow ourselves the luxury of wallowing—if I might use that term, with respect—in isolated personal experiences. What we are looking for is detailed scientific advice that can be used in a rational and expert way when tackling a problem that has spread beyond the courtrooms of this State, into the community—indeed into the very fabric of our economic and social lives. To that end, I am sure that the committee's report will be awaited by honourable members with high expectation that it will be one of great expertise and benefit to the people of New South Wales, as indeed the previous committee foreshadowed its report would be.

Motion agreed to.

Message

Motion (by the Hon. D. P. Landa) agreed to:

That the following message be forwarded to the Legislative Assembly:

Mr Speaker—

The Legislative Council having had under consideration the Legislative Assembly's Message dated 12 October, 1976, agrees to the Resolution embodied therein relating to the appointment of a Joint Committee to review and report on the effects of drugs of dependence, other than alcohol or tobacco, in common use in New South Wales and other related matters.

(2) That the Representatives of the Legislative Council on the Joint Committee be the Honourable K. H. Anderson, the Honourable M. A. E. Davis, the Honourable C. Healey and the Honourable H. J. A. Sullivan, and fixes Tuesday, 9 November, 1976, at 3.30 p.m. in Assembly Committee Room No. 2 as the time and place for the first meeting.

(3) That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

PRICES REGULATION (AMENDMENT) BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.17]: I move:

That this bill be now read a second time.

The bill seeks to amend the Prices Regulation Act, **1948**, for the purposes of constituting a Prices Commission and to amend the Statutory and Other Offices Remuneration Act, **1975**, for the purpose of determining the remuneration and allowance payable to the chairman of the commission. The short title of the bill is the Prices Regulation (Amendment) Act, **1976**. Honourable members will be aware that legislation for price control in New South Wales is currently provided under the Prices Regulation Act, **1948**. Under the Act, the Minister has a discretion to declare any class of goods or services for the purpose of fixing a maximum price which is left to the absolute discretion of the Prices Commissioner. The Minister's only further discretion is limited to suspending an order by the commissioner for a period of up to twenty-eight days. The commissioner, however, has the final decision as to the price.

Various interpretations over the years has tended to establish the view that for all practical purposes the Prices Commissioner and his staff cannot disclose any information obtained in the course of their official duties to any other person including the Minister. Such secrecy provisions preclude open inquiries. The Government's concern at the lack of consumer representations not only in past pricing determinations made by the Prices Commissioner but in the pricing of goods and services generally is well known to honourable members. Evidence of this concern is shown in the Government's intentions to introduce an important amendment to provide for the Prices Commission to hold public hearings at which interested parties may contest applications for price increase and to have, except in special circumstances, access to information submitted in support of such applications.

Certain features of the Prices Regulation Act are entirely at variance with present Government policy of price fixing and/or prices justification. The Government is firmly of the view that it should carry the discretion for determining what price or rate is justified for goods or services, if the public interest so demands and not, as in the past, be left at the discretion of one person, regardless of that person's integrity. The authority to fix prices, subject to this discretion, should be placed in the hands of a Prices Commission. There should also be provision for applications for price increases to be contested by interested parties. In order to achieve these objectives it is necessary to amend the Prices Regulation Act, **1948**, by replacing the position of Prices Commissioner and the powers he exercises with a Prices Commission exercising similar powers and increased to the extent that public hearings will be permitted.

One of the most important amendments contained in the bill, therefore, provides for the Minister to oversight determinations by the Prices Commission should public interest so warrant, and the provisions of section **24** prove inadequate under the circumstances. Provision for such discretion by the Minister is not unique. The Prices Commission would be placed in a situation not unlike that of the Industries Assistance Commission. As honourable members are fully aware, decisions of this authority are subject to review by the federal Government. This situation applies also under the South Australian Prices Act with the responsible Minister acting on recommendations made by the Commissioner for Prices and Consumer Affairs in that State.

Another important amendment contained in the bill is the provision establishing a three-man Prices Commission appointed by the Governor for a renewable term of three years, comprising a chairman, suitably qualified and employed full-time on these duties, and two part-time members—one person a representative of consumers and the other a person experienced in commerce or business. The positions of Prices Commissioner and Assistant Prices Commissioners under the principal Act will be abolished. The term of office for all commissioners will be for three years and a person above the age of **70** years will not be eligible for appointment. This age limit is not unusual in statutory appointments.

In constituting a full-time **commission**, the Act will contain amendments of a general nature providing for the appointment of commissioners, their term of office, the conditions leading to their removal from office and the circumstances in which a vacancy in their office occurs in addition to other related matters. Should a public servant be appointed to act as full-time commissioner it will be necessary to preserve all former rights. The Statutory and Other Offices Remuneration Act, 1975, will be amended to determine the remuneration and allowances payable to the full-time Commissioner. Remuneration of the two part-time members of the commission shall be determined by such *per diem* sitting fees and expenses as are applied to similar statutory appointments. Conduct of meetings of the Prices Commission will be provided for. The circumstances will be specified under which public inquiries shall be held, the persons who may be parties to those inquiries and the procedures to be followed.

I should like to emphasize that it is not the Government's intention to introduce price control on a wide range of goods and services. The amendments are being introduced to eliminate the element of secrecy which has surrounded price reviews in the past. The Government believes that the interests of consumers will be best served by providing for a more open system to allow consumer groups and others to present their views and for the new commission to be able to function to carry out investigations into complaints against excessively high prices. Should it be believed that a company is overcharging or that the consumer is being charged unreasonable prices the Minister shall have the power to request the commission to investigate such matters.

A public inquiry may be ordered by the Minister, where he deems it necessary, to be held to ascertain whether certain goods or services should be declared and a price fixed for them. The commission will have power to carry out a full investigation and will report to the Minister on what appropriate action is required. It is hoped that companies and others will adopt a co-operative attitude by accepting the findings of the commission in respect of prices. Public hearings shall be held by the Prices Commission and interested parties may contest applications for price increases and, except in special circumstances, have access to information submitted in support of such applications. The exception provides that the commission may, at its discretion, limit access to information or hear evidence in camera where it is appropriate for confidentiality of information to be preserved.

The same powers of investigation as are presently held by the current Prices Commissioner and his officers will be given to the **commission** and its officers. It will be necessary to preserve the prices regulation orders already in force prior to the commencement of the amending Act by including an appropriate provision. Penalties will be increased, particularly where more serious breaches of the Act are committed. In these circumstances, proceedings will be taken before the Supreme Court sitting in summary jurisdiction rather than in a court of petty sessions.

In introducing the amending legislation, the Government will eliminate the undesirable features of the principal Act and will set up machinery for reviewing prices within the community aimed at ensuring that the best interests of consumers are taken into consideration. Only where it is deemed necessary, or where companies do not co-operate, will the commission actually fix prices for goods or services. This action should not be construed as criticism of the Prices Commissioner or his staff. It is, rather, a criticism of the present system under the principal Act. The Government believes that a price review system which does not allow for public inquiries but places the regulating of price fixing in the hands of one person to be entirely unsatisfactory in this present consumer society.

I should like to turn now to a detailed explanation of the various provisions of the bill. Clauses 1 and 2 deal with the short title and the commencing date, respectively,

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as are necessary for the operation of the legislation. Clause 3 lists the schedules under which the Act and other relevant Acts are amended and shall be dealt with in more detail.

I come now to the most important section of the amendments which are contained in schedule 1. Item (1) of the first schedule incorporates existing definitions and defines certain terms necessary for the operation of the Act under the **amending** legislation. Item (1) (f) has been introduced to preclude the commission from making orders with respect to the rental of any land or premises.

The attention of honourable members is drawn to item (2) of the first schedule. It is one of the important amendments to the Act. Section 4 of the principal Act is amended by this item by omitting it and replacing it with a new section. Under the new section a Prices Commission is constituted, consisting of a full-time commissioner and two part-time commissioners appointed by the Governor. Consumers shall be represented by the appointment of one of the part-time commissioners and the other shall be a person experienced in business or commerce. The full-time commissioner will act as chairman and will be paid remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975. The appointment will be for a period of three years **and** a person above the age of 70 years is not eligible for appointment. **The** Government believes this age limit will not detract from the performance of the commissioners and is an age limit not unusual in statutory appointments.

Other subsections are standard provisions for this type of commission and deal with the removal **from** office, vacating of office, filling casual vacancies, appointment of acting chairman and alternative commissioners and fees. The procedures for calling meetings of the commission are set out in one subsection. The commission itself will determine the conduct of business at these meetings. The subsection goes on to state that a quorum shall consist of the three commissioners. A decision of a majority of the commissioners present will be the decision of the commission. I turn now to item 3 of the first schedule. Sections 5 and 6 of the principal Act which deal with the appointment and powers of the Assistant Prices Commissioner and advisors are repealed by this item. These provisions are no longer required as both the positions of Prices Commissioner and Assistant Prices Commissioner will be abolished with the introduction of the Prices Commission.

I should like to draw to the attention of honourable members the important item (4) of the first schedule. There are three alternative methods under the new section by which an inquiry may be commenced: first, for the purposes of determining whether goods or services should be declared, the Minister may either direct the chairman to furnish a report to him or alternatively direct the commission to hold an inquiry and furnish a report to him with respect to the goods which are specified in the direction. The direction shall be complied with by the chairman or commission as the case may be; second, in respect of goods which have already been declared for purposes of determining whether it should **fix** a price, the commission itself may hold an inquiry unless the consent of the Minister is obtained to dispense with the holding of an inquiry; or third, a seller or a supplier of goods or a person who carries on a service and the price of whose goods and services has already been **fixed**, may make an application to the commission in respect of those goods and services. The commission then has a discretion to refuse the application or to hold a **public** inquiry.

Advertisements will be required to be published by the commission in the **Government Gazette** and daily newspapers before it commences an inquiry. Any person may apply to be a party at the inquiry and if the commission is of the opinion that the person has a substantial interest it shall grant the application. Any party may appear in person or by his agent, counsel or solicitor and any party may give evidence or call

witnesses to give evidence. Evidence shall be given in public on oath or affirmation. Inquiries shall be held in public and submissions in the inquiry shall also be made in public. However, confidential evidence may be taken by the commission in private if it considers it desirable to do so. Evidence may ~~be~~ given by witnesses before the commission by tendering a written statement which may be made public by the commission if it considers that it is not of a confidential nature. If it thinks fit the commission also has power to require or **permit** a party to the inquiry to make a written submission. The commission is not bound by the rules of evidence. The purposes of the inquiry is for the commission to inform itself, not to act ~~as~~ an intermediary between parties or to act ~~as~~ a judicial body.

Item (5) of the first schedule effects an important amendment to section 20 (1) of the principal Act. The **commissioner** shall, before publishing in the **Government Gazette** an order referred to in subsection (1), provide a copy of the proposed order to the Minister. The proposed order is not to be published until the Minister has exercised a discretion to allow the commissioner to publish it or has directed the commission, in the public interest, not to publish the proposed order. As mentioned earlier, the purpose of the amendment is to enable the Minister or the Government to prevent the publication in the **Government Gazette** of an order fixing maximum prices, if it is in the public interest to so act. The Government **firmly** believes that, where circumstances so dictate, it should carry the **final** discretion for determining what price is justified.

By item (6) of the first schedule section 28 (1) is updated and the overall meaning is not altered. Section 40 of the principal Act was originally introduced as a war-time measure. Because this section has no application in normal economic conditions, it is to be repealed by item (7) of the first schedule.

Item (8) of the first schedule will delete section 48 of the principal Act, which was a war-time measure and is not applicable in normal conditions. Item (9) of the first schedule will update section 51 (3) by inserting "television" **as** an alternative means of communication. Item (10) of the first schedule will repeal section 55 of the principal Act and replace it with a section which **permits** the commission, as distinct from the commissioner, to delegate its powers and authorities.

I now turn to item (11) of the first schedule. Section 56 of the principal Act is amended by taking out specific reference to certain Acts and replacing this with a general provision, "any other Act", rather than spelling each Act out individually. This blanket cover is preferable because of the large number of Acts that currently give various government authorities powers to establish prices for certain specific commodities. Item (12) of the first schedule amends the administration policy, which was originally prepared for wartime economic conditions, by updating section 58 of the principal Act. Reference is made to goods in short supply, a specific wartime problem which would not normally occur under current economic conditions, and the amended reference to goods and services essential to the community will cover all situations at the present time. In view of the current Government policy of extending the existing price control legislation subsection (c) of this section is no longer applicable. However, the attention of honourable members is drawn to the point that the main purpose of the amending legislation is to enable the commission to carry out investigations into prices where it is believed overcharging is occurring to the detriment of consumers; it is not an attempt to introduce price control on a wide range of goods and services.

Item (13) of the first schedule changes the maximum penalties under the principal Act whereby a body corporate ~~was~~ liable to a penalty not exceeding \$2,000, while
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any other person was liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both such penalty and imprisonment. It has been decided under the amended legislation to increase the penalties and to allow the more serious offences to be brought within the jurisdiction of the Supreme Court sitting in summary jurisdiction. These new penalties are proposed: if the matter is heard in petty sessions a corporation shall be liable to a penalty not exceeding \$2,000 and an individual to a penalty not exceeding \$1,000 and/or six months imprisonment. However, if the offence is more serious and is brought before the Supreme Court a corporation shall be liable to a penalty not exceeding \$10,000 and an individual to a penalty of \$5,000 and/or twelve months imprisonment.

It is now proposed to turn to amendments under schedule 2 which are consequential amendments to the Prices Regulation Act, 1948. Schedule 2 lists amendments to various sections of the Act which are consequential to the major amendments establishing a Prices Commission in lieu of a prices commissioner and include such items as changing the term commissioner to chairman or to commission, where appropriate. Amendments to section 57 (3) of the principal Act require that records need be kept only for six years.

Having completed schedules 1 and 2, I now turn to schedule 3 which refers to proposed amendments by way of statute law revision. Item (1) repeals section 1 (3) of the principal Act which is no longer applicable. Item (2) repeals section 2 of the principal Act which is no longer applicable. Item (3) omits the definition of Commonwealth regulations which is no longer applicable. Item (4) repeals sections 15 (3) of the principal Act which is no longer applicable as it relates to Commonwealth regulations. However, the commission retains power to enter premises and inspect documents under sections 15 (1) and 15 (2). Item (5) repeals section 17 (1) (d) of the principal Act which once again relates to Commonwealth regulations. Item (6) omits reference in section 20 (12) to the Commonwealth regulations and permits production of the *Government Gazette* containing an order published in pursuance of the section to be evidence that the order was at the date of publication of the order approved by the commission or a body or association recognized by the commission. Item (7) of schedule 3 repeals section 60 (2) of the principal Act and the provision inserted, whereby section 41 of the Interpretation Act, 1897, applies in respect of regulations, as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

I turn now to schedule 4. The Statutory and Other Offices Remuneration Act is amended by this schedule by inserting the words "Chairman of the Prices Commission." Under this amendment remuneration of the chairman shall be fixed in accordance with the above Act. Item (6) is a savings provision which, where necessary, preserves any orders made under section 20 of the principal Prices Regulation Act which allows for the determination of maximum prices in force immediately before the date appointed and notified under section 2 (2) to be deemed to be an order made under section 20 of the Prices Regulation Act, 1948, as amended by this Act. I am sure that all honourable members will support these amendments which are designed to provide further protection for consumers in the State of New South Wales and to facilitate and strengthen the existing laws in this most important area of price control. I commend the bill to the House.

The Hon. T. S. McKAY [5.35]: I am sure all honourable members are grateful to the Minister for his lucid explanation of the bill, both as to its intent and as to the mechanism by which such intent is to be achieved. However, I find I am unable to accept the Minister's submission as to the need at this time for such legislation or the benefits to the community that he contends will flow from its proclamation. There can be no argument that the exigencies of a great war alter to a radical extent the

purposes to which a nation's productive capacities are directed. In the grim struggle for survival all energy is concentrated on the production of materials needed for the war effort, plus the basic requirements of the work force and the community at large.

Needless to say, following the inevitable rules of supply and demand, in circumstances of scarcity opportunities are presented to those engaged in the production and sale of commodities to turn a pretty penny. The Commonwealth Government had no hesitation in imposing price control at the outbreak of war in September, 1939, and the public as a whole had no hesitation in accepting price fixation as being necessary to stabilization of the economy and as a check on inflation. Soon after Japan's entry into the war in the Pacific area, the Commonwealth Government introduced what was then generally accepted as being an economic concomitant of price fixing, namely wage pegging. In addition, rents and interest rates were also fixed.

For the sake of those honourable members—not the Hon. W. C. Peters and other senior members in this Chamber—who will not recall those days personally, let me add that overall the system achieved its objective primarily because the nation was utterly united in the face of the direct threat to its survival. There were some, who might be regarded as collaborators with the enemy, who exploited the control system to their own quite considerable pecuniary advantage by profiteering both in commodities and in the few luxuries available. In short, however, the circumstances justified a system of controls and because it had the support, though grudging and grumbling at times, of the vast number of **Australians**, it worked.

With the end of the war, the Commonwealth relinquished its grip on wage and price fixation, not only because of uncertainty as to the High Court's attitude but also because the proposal to continue the controls was soundly defeated by referendum in 1948. So it was back to the States. In New South Wales in 1948 the prices commissioner inherited from the Commonwealth control over some 50 000 items, but over the years such control has dwindled to two items, bread and petrol. The principal reasons for the virtual discontinuance of State control were twofold. The first was the result of the referendum as indicative of public opinion, and the second the gradual withdrawal of Commonwealth subsidies.

To make the system work, the Commonwealth subsidized prices to the tune of some £40 million annually, a staggering figure if converted to the currency values of the present time. In the absence of both the power and the capacity to raise the funds for the subsidies, the States were dependent upon the Commonwealth for continuation of subsidies at a reduced rate until the ultimate abandonment of all but a few controls once again allowed business competition to take their place. We heard no more of price controls until the Whitlam Government's referendum of 1973 wherein citizens were invited to express an opinion whether they favoured (a) price fixing and (b) whether they favoured wage pegging, both to be carried out by the Commonwealth. The questions were separate. I think the national answers made it quite clear what the public thought of the matter. Public experience was that controls had failed, except under the most compelling circumstances, none of which existed at the time of the referendum.

I might add here a note based on personal experience of price fixation. Soon after the war quite a lot of work was done by members of the New South Wales bar and of other bars in respect of prosecutions of persons who breached the prices regulations. I suggest that although most of those prosecutions were successful, they were only the tip of the iceberg. What was going on was far beyond the capacity of the law to police, particularly without public support. By then the public had lost interest in price control, and considered that prosecution for charging prices above

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the prices fixed was merely a distortion of the law of supply and demand and, **shall** we say, a niggling provision that did not command public respect **as** a whole.

It might be claimed that to fix prices has a bearing on the rate of inflation. That was not convincingly borne out by the wartime operation, for the price of many commodities rose in the period from when controls were imposed until they were abandoned, and rose by as much as 50 per cent in some instances, in line with the 50 per cent increase in the basic wage over the war years. In addition, as I have mentioned, the taxpayers contributed some £40 million annually to subsidize prices, without which prices would have been substantially higher. When one considers the extent of the personal contribution by taxpayers in an effort to keep prices down, despite which prices rose, one has some doubts whether the exercise was anything more than a partial success. However, it would be wrong, because at that time the success of controls was partial only, to condemn their use. One can but speculate as to the extent to which both prices and wages would have increased, and in consequence inflation also, without those controls, but there is no doubt in my mind that all figures would have been higher.

Might I suggest that price fixation in peace time, as now proposed, affords a protection to those who are either dishonest or inefficient. Please note; I do not say that all to whom controls apply are either dishonest or inefficient. To deal first with the former, let me say that the manner in which evidence is presented to the commission is, in certain instances, the result of much expert loading of costs to support a higher price than is justified. I might add that a similar loading takes place before prices tribunals set up under separate legislation, which is to the detriment of the public—a matter that might well be investigated by a government that claims to be consumer oriented.

Inefficient enterprise accepts the security of a set price, which reduces the incentive to lower costs of production and, in consequence, the cost to the consumer. In brief, under a system of price control industries operate in an unreal economic environment, their affairs directed by bureaucracy rather than by competition. With the best will in the world a bureaucracy cannot operate as efficiently as management striving for economic production under the whip of business competition.

It is not without interest to refer to portions of the debate in another place when legislation to take over price control from the Commonwealth was being dealt with in 1948. In that debate the Hon. W. F. **Sheahan** had this to say:

Any Government that will not vacate the price fixation field as soon as it can will be damned, and deserves to be damned, because it is the desire of everyone who has exercised his mind on this matter **to** vacate it.

He went on to say a little later in the debate:

This Parliament and this Government consist of members who are just as conscious of their duty to protect the community as are those members who sit on the Opposition 'benches. We have no love for price control as such, when prices of commodities are fixed in a capricious manner, and when **an** army of officials is employed in its administration. It is not the desire of any member of this Government unnecessarily to continue price control. **I am** certain that the Minister is taking **this** power as a personal power so that **he** may be subject to control and to the criticism of members of Parliament who may desire a particular type of goods to be decontrolled. In such cases there will be as many members on the Government side of the House as on the Opposition benches to urge the Minister to decontrol the prices of such goods.

He went on to say:

I am of the opinion that the Government will ultimately vacate the field of price-king altogether and allow things to take their normal economic course, but that cannot be done today because of the acute shortage of goods.

That is a situation which, I might add, is not in evidence now. Later in the debate the Hon. Abe Landa had something to say on this topic which is germane to our considerations now. He said:

On the question of whether the operation of **this** measure should be limited to six months, I should say to the Opposition that that is hardly long enough because the Act would not come into force until September, after which it would continue to operate for only three months. I am not against limitation, because my view is that price control can and will be abolished at such time as the country reaches a state of production in which there are enough goods to go round.

After an interjection he added:

I should say that the Government that **attempts** to retain controls beyond that stage would be **foolish**. Competition in respect of the articles produced in itself will bring price levels within the means of the people. Any Minister or Government that imposes controls after that stage has been reached would be committing political suicide.

To which one can only add, amen. If it came about that prices fixed in New South Wales under this measure were used as a guide to the setting of industrial awards in this State, I suggest that the unreality of such prices would be communicated to the awards and thus would prove to be more inflationary than those at present used which result from traditional economic processes, that is supply and demand and competition between traders. Yet in spite of public opinion, the inevitable **difficulties** posed by section 92 of the Australian Constitution—and these are considerable—and the record of failure of control except under the most compelling circumstances, none of which **at** present exist, the Government sees fit to amend an Act virtually moribund through both disuse and disrepute.

It might well be that the Government is merely bringing an Act already in existence—but of very little application—up to date in readiness for use if required. This would be supportable. However, the changes tend to indicate an intention to **implement** its provisions. Should this come to pass, I am confident it would be even less successful than wartime controls accepted by a nation under foreign challenge. We on this side of the House do not oppose the bill—we did not see fit when in office to **repeal** it—but for the reasons I have outlined we do not support it. We merely regard it as a legislative mistake.

The Hon. W. G. KEIGHLEY [5.52]: I regard the bill as a most retrograde measure. As the honourable T. S. McKAY has said, there may be some excuse or apparent reason for interference with the law of supply and demand in wartime or similar exigency. Yet, as the honourable member said also, it is highly doubtful whether it worked in those conditions, considering that there was a 50 per cent increase in prices during the period of price control. In addition to that, the amount of the subsidy to put price control into practice was, in today's money values, about \$400 million—an expensive exercise. My observations shortly after price control ended—but when companies were still conscious of the possibility of price control—were that firms tended to run their businesses with as much a view to possible justification as to **efficiency**. This led to such devices as the creation of quite artificial sections of a business so that each section could validly be expected to earn its own profit and thus bolster the profit of the whole operation.

Some businesses—one might say those that had foresight—tended to resort to constant revaluations of capital which, because they could be substantiated, supported an appropriate level of profit. Thus price control acted to endorse high margins and maximum profits, rather than to contain them. Naturally such a specialized field, which has so many contrivances available, calls for a fairly specialized department with large numbers of public servants. This, in itself, is not conducive to a lower cost of living—and the Minister will probably agree with that observation. I have always observed that if prices are too high, there is one thing that will lower them, whether they relate to the purchase of a car, a carpet, electrical equipment, wool or meat. If the Government wishes to control prices in the community, let it introduce more competition, for example, in respect of the sale of bread.

Let it relax the controls on hours in which bread may be baked. Let it advocate to the federal Government the gradual lowering of tariffs. It should not support a state of affairs where, for example, shipbuilding workers are subsidized to the extent of \$9,000 a head by the rest of the community or—and I say this with respect to the Hon. J. S. Thompson—car builders are subsidized by the community to the extent of \$4,000 a head. Price control will not achieve its object; I believe that it will do the reverse. There is no substitute for competition. I conclude as I began, by saying that I can only regard the bill as a retrograde measure.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.56], in reply: The remarks made by Opposition members come as little surprise to the Government. The matter that I should ask Opposition members to keep foremost in their minds in giving fair consideration to the bill is the statement by the Minister in another place, in whose charge the measure when enacted will fall. That Minister has stated on numerous occasions that the legislation will not be used to introduce price control over a wide range of goods or services. It was apparent during the election campaign that the Premier—then Leader of the Opposition—was seeking a mandate so that if he were elected to office he could establish a prices commission to control the prices of certain goods and services in respect of which evidence was mounting to disclose a distorted market situation. That evidence, which was available to the former Government, came in various ways.

The National Roads and Motorists Association and similar bodies have expressed deep concern about the sale and merchandising of motor vehicle spare parts—and that concern is common knowledge. That market is diverse and one that could be expected to be free and subject to the stresses and reliability that active and sincere competition could bring. But in point of fact, in the view of that expert, independent body, that market did not seem to operate in that way. Similarly, a recent report by the Industries Assistance Commission revealed that there was some cause for concern in the marketing and sale of household detergents.

The Consumer Affairs Bureau of this State has received numerous complaints relating to prices charged for funerals in what should be a free market situation but apparently is one that does not operate in that regard as well as it should. Similarly, the prices charged for domestic servicing of appliances—and all honourable members would be aware of what occurs from time to time in this field—has been the subject of a great number of complaints to the Consumer Affairs Bureau. It is idle to hope that all goods and services will be marketed in our free-enterprise economy in accordance with the principles of competition; it is just not the reality.

Governments that wish to face up to their responsibility must act in the interests of consumers to eliminate overcharging and other distorted commercial practices. Given that and given the assurance by the Minister in another place that the legislation will

not be used to institute a series of price controls over a wide range of goods and services, the intent of this measure can be seen to be fair. I assure honourable members, especially the Hon. W. G. Keighley, that the Government is concerned—as any government should be—to prevent a mushrooming army of bureaucrats over-seeing an area that does not require any supervision.

Certain matters raised by the Hon. T. S. McKay require some comment. First, he stated that at a national referendum the people rejected price control. However, he failed to state that the referendum was carried in New South Wales, a fact of which honourable members may be aware. This House would be bound to take into consideration that New South Wales answered yes to the question, should there be price control? It is idle for honourable members to talk about price control on a national basis as this House, being a State House, has to answer to the people of New South Wales. Although one should hope that in a pluralistic society every market would operate freely and in the true spirit of open competition, it does not. Indeed, in many areas assistance is sought which amounts to distortion of the free-enterprise system. I refer to assistance by way of grants, tariff protection, licensing or quotas. One cannot have in this Chamber a slavish adherence to the free-enterprise system but practise these distortions and still hope to remain consistent in our thinking or to have our appreciation of the problem acknowledged by the people. It is a fact of life that there are distortions.

The people of New South Wales at the elections obviously accepted the Premier's invitation to allow him to set up a prices commission. With the assurances by the Minister in another place of a temperate approach to the measure I am sure that we can look to a speedy end to overcharging and the other anti-social acts from time to time of a few manufacturers, distributors and service suppliers. One should hope that these aspects will be eradicated following a detailed examination by an expert body. Notwithstanding the dire warnings sounded by some of its predecessors in this Chamber and in another place, the Government is willing to accept political responsibility for the measure. Needless to say honourable members opposite will wait with bated breath the next opportunity for the people of New South Wales to express their opinion on how the Government has exercised its responsibilities. I thank honourable members for their comments and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Committee and Adoption of Report

Bill reported from Committee without amendment, and report adopted. on motions by the Hon. D. P. Landa.

LOCAL GOVERNMENT (ELECTIONS) AMENDMENT BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [6.6]: I move:

That this bill be now read a second time.

The objective of the bill is to introduce certain reforms in the local government electoral system. The amendments to be effected by the bill may be categorized under four headings: compulsory voting; the popular election of mayors and presidents; proportional representation; and section votes. Although this arrangement of the

matters included in the bill is not intended to indicate the relative significance of the amendments to be effected—the provision relating to section votes for instance, while last in this list, has been required for some considerable time to correct a deficiency in the local government electoral system—it does indicate to a large degree the relative importance that public opinion has placed on the provisions.

The provision that has aroused the most **comment**, and criticism from some quarters, is that relating to compulsory voting at local government elections. The introduction of this provision gives effect to the Government's policy, declared prior to the last election, that it was intended to bring voting at local government elections into **line** with voting at State and federal elections by **making** it compulsory again. Item (6) of schedule 1 of the bill will insert into the Local Government Act new sections 74A to 74G which reintroduce compulsory voting at local government elections, and make provision concerning the enforcement of such requirements. Item (8) of the schedule makes similar provision in relation to voting at all polls which a council is obliged to **hold**.

Honourable members will no doubt be aware that provisions relating to compulsory voting similar to those now proposed to be introduced into the Act were part of the local government electoral system in this State prior to their abolition by the previous Government in 1968. The reason given for the removal of the provisions at that time was that they had never been enforced by the overwhelming majority of councils and that the law was held in contempt by many. As I have said, the new provisions are similar to those which existed prior to 1968 but they are significantly **different** in a number of ways. Generally they closely follow the corresponding provisions in the Parliamentary Electorates and Elections Act, 1912, **which** regulates the election of members of the Legislative Assembly. Since the provisions are therefore not novel—similar provisions have appeared before—I do not propose to take the time of **honourable** members by explaining their machinery in great detail. Rather, I shall restrict my comments to a **brief** outline of the way the new provisions will work **in** practice.

Although I restrict what I am about to say to elections, honourable members **might** bear in mind that the same provisions will apply to voting at polls of electors which councils are required to take in certain circumstances. Such polls may be in respect of the method of voting at elections, the provision of libraries, or the declaration of urban areas. Section 74A which is proposed to be inserted into the Local Government Act will require a person who lives in an area in which an election is held under that Act and who is entitled to vote at the election to record a vote. The other provisions to be inserted, **namely** sections 74B to 74G, are ancillary to this main provision and contain machinery for the enforcement of the compulsory voting provision.

A procedure is provided whereby a person who has failed to record a vote will, except in special circumstances, be sent a please explain notice by the returning officer. Special circumstances would exist, for example, where the returning officer is aware that the person was absent from the area on the day of the elections. The person to whom a please explain notice is directed will be required, under threat of a penalty, to return it to the returning officer who will thereupon form an opinion as to whether the reason given by the person for not voting is valid and sufficient. The council will then be required to decide whether it wishes to proceed against those persons who have failed to vote without a valid and sufficient reason.

Where a council decides to take action in relation to any person who has so failed to vote it will be required to take action against all persons who fail to vote without a valid and sufficient reason and also against those persons who failed to return

the please explain notice. If the council decides to take action against non-voters it will direct the returning officer to send a further notice to them informing them that should they so consent they may be dealt with by the council instead of being prosecuted before a court of petty sessions. A person who so consents will be liable to have a penalty to be prescribed at an amount not exceeding \$5 imposed by the council and no further action will be taken against him. A person who does not so consent and any person who fails to return his please explain notice or who states a false reason in such notice will be liable to prosecution and to a penalty of between \$4 and \$10. An additional safeguard is provided in section 74F in respect of those persons who fail to return their please explain notices.

The Government is aware that such a failure could be the result of age or infirmity and a person who is prosecuted for this offence will be permitted by subsection (4) of section 74F to lodge a statutory declaration with the council setting out any matter which he wishes to put forward and the council will be empowered to withdraw the charge after inquiring into the matters disclosed in the statutory declaration instead of compelling the person to defend the charge in court. In effect, such a person has two opportunities, without appearing in court, to explain why he failed to vote. These provisions, as I have said, closely parallel the provisions in the Act regulating the election of members of the Legislative Assembly.

The second aspect, which has aroused more comment and misguided criticism than any other, apart from compulsory voting, is that relating to the popular election of mayors and presidents of councils. Schedule 2 contains the provisions relating to this measure. Honourable members will observe that the second schedule contains a considerable number of amendments to the Local Government Act. Most of these are amendments consequential upon the main amendment, which is made by item (4) of the schedule which will insert a new section 25A in the Act. Honourable members will no doubt be aware that the re-insertion of this provision restores the position which existed prior to the Local Government (City of Sydney Boundaries) Act, 1967. By this Act, and the Local Government (Elections) Act which was passed in the following year, the previous Government took away from the citizens of this State the right to elect by popular vote the person who was to be the mayor or president of the council—the chief executive officer of the council and the principal representative of the people of the area.

The new section 25A will require the election of the lord mayor of the cities of Sydney, Newcastle and Wollongong by popular vote and the election by the same means of the mayors or shire presidents of any other areas to which these provisions are applied by the Governor upon the application of the council concerned. Under these new provisions the mayor or president as the case may be will, disregarding an extraordinary vacancy, hold office until the next ordinary triennial elections of the council; he or she will be elected by preferential ballot in the same manner as a single vacancy is filled and will be an alderman or councillor by virtue of his office and will have all the powers, duties, liabilities and functions conferred or imposed by the Local Government Act on holders of civic office. He will be permitted to nominate for election for the office of mayor or president as well as an alderman or councillor but, in order to avoid inequality, a person elected as mayor or president but not as an alderman or councillor will not have an original vote but will, in the case of equality of voting at a council meeting, have a casting vote. The council of an area that chooses to have its mayor or president elected by popular vote, by requesting the Governor to apply section 25A to it, will not be tied to that decision for ever. It will, by the simple expedient of having the proclamation revoked or rescinded by the Governor, be able to revert to the present system of election of the mayor or president by the council.

The Hon. D. P. Landal

Item (5) of schedule 1 effects the amendments relating to the system of voting. I am sure that honourable members will be familiar with the basic principles of the three systems of voting which have at one time or another applied to local government elections in this State and I therefore do not propose to go into detail as to the relative merits and disadvantages, whether alleged or real, of the three systems. The three systems to which I refer are the first past the post or ordinary ballot system, the preferential system, and the variation of the preferential system known as proportional representation. It is sufficient, I think, for me to say that prior to the Local Government (Elections) Amendment Act, 1968, where three or more aldermen or councillors were to be elected for a ward or riding the system of election was according to the principle of proportional representation, and the system of preferential voting applied where less than three aldermen or councillors were to be elected.

Except in the three major cities of Sydney, Newcastle and Wollongong, provision was made for the taking of a poll on the question of adopting the system of voting not then in use in the area, that is, the system of proportional representation or that of preferential voting, and for the council to certify the result of the poll to the Governor. Where the decision of the poll was in favour of the adoption of the alternative system the Governor was required to apply that system by proclamation to the area. The Local Government (Elections) Amendment Act, 1968, reversed this situation so that at the present time the system generally in force is the preferential system but the Governor retains the power to apply the proportional system, after the taking of a poll by the council.

The Government believes that the appropriate system of voting at local government elections is the system known as proportional representation which provides an opportunity for minorities to be represented on a council as well as majority groups. Item (5) of schedule 1 will therefore amend section 73 of the Local Government Act to restore the position as it existed prior to the 1968 Act.

An additional requirement is that in future where a council holds a poll concerning the system of election, either on its own motion or at the request of electors, it will be required to hold the poll at the time specified in section 73 and will be required to certify the results of the poll to the Governor within twenty-eight days of it being taken. The existing section 73 contains provisions along these lines but they are not as clear as they might be. As a result of an oversight in the drafting of the bill which would have robbed the proposed amendment of section 73 of its intended effect, which was to clarify the existing provisions, in Committee I shall move an amendment to that part of the bill relating to this matter.

The final provision in the bill relates to section votes and an associated provision relating to nominations for election as alderman or councillor. The term section vote is one that has grown up in respect of elections to the Legislative Assembly conducted under the Parliamentary Electorates and Elections Act, 1912, and also in respect of elections under the Commonwealth Electoral Act, 1918, and, as honourable members will be aware, means a vote by a person who would normally be entitled to vote but whose name has been omitted from a roll in error. Under the two Acts I have just mentioned a person in this position is entitled to cast a vote, subject to certain prerequisites, but until now there has been no way in which such a person could be permitted to vote at elections or polls under the Local Government Act. As I said earlier, a provision permitting section votes at local government elections has been long overdue to remove this anomaly. Item (2) of schedule 1 to the bill will accordingly insert a new section, section 56A, which will permit a person claiming to be entitled to vote but whose name is not on the roll to vote subject to his making a declaration.

A procedure similar to that used in similar circumstances under the Parliamentary Electorates and Elections Act, 1912, has been prescribed to be followed where a section vote is claimed and before it is admitted to the ballot. Because of the different enrolment procedures under the Local Government Act, certain changes to the procedure have been necessary, the major one being that in deciding whether a voter has the requisite qualifications as an owner or ratepaying lessee of rateable land the returning officer will be permitted to act on a certificate by the shire or municipal clerk. Such a procedure is, of course, necessary because the records which would permit a returning officer to satisfy himself that a person is either an owner or rate paying lessee are the records of the council.

In addition a person claiming a vote as an occupier, as he is entitled to do under the Act, will, because of the impossibility of the returning officer satisfying himself that the person does have the necessary qualifications, be permitted to vote by a section vote only if he has previously lodged a claim to have his name included on the list of electors kept in accordance with the Act or if he is enrolled on the electoral roll for any electoral district and his place of living as described on that roll is within the ward or riding in question. The provision that is ancillary to the section vote provision concerns nominations as alderman or councillor. The requirement in the Act at the present time is that a person wishing to nominate must be on a roll of electors compiled under the Act and, notwithstanding the commonly held view which is that a person wishing to nominate must be on the roll of electors for the area in which he intends to nominate. It would seem that this would permit a person who is on any roll of electors to nominate for any other area, that is, he may nominate for any council in the State. What is clear however is that his name must be on a roll of electors compiled under the Act and if for any reason his name is omitted from the roll he will be prevented from nominating for election—a situation which has been known to arise in the past. Items (3) and (4) of schedule 1, therefore, **will effect** two amendments. First, item (3) will amend section 71 of the Act so as to make it clear that a person wishing to nominate for election as an alderman or councillor must be on the roll of electors for the area in respect of which he is to nominate. Item (4) will insert a new section, section 71A, which provides that notwithstanding the section 71 requirement a person whose nomination as alderman or councillor is otherwise in order but whose name has been omitted from the roll mistakenly or accidentally will not be prevented from nominating merely by that omission.

The Government feels that the amendments to be effected by this bill are long overdue and I can only say that it is unfortunate that eight years have elapsed before the rights, privileges and obligations of the people of this State that were taken away from them by the previous Government in 1968 could be restored. The Government's hope is that the damage to the reputation of local government in that period has not been so great as a result of that interference that it cannot be rectified by the present measures. I commend the bill to honourable members.

Debate adjourned on motion by the Hon. L. P. Connellan.

House adjourned, on motion by the Hon. D. P. Landa, at 6.20 p.m.
