

Legislative Council

Wednesday, 15 March, 1978

Industrial Arbitration (Reinstatement Awards) Amendment Bill (first reading)—Dams Safety Bill (first reading)—Cognate Bills (first readings)—Sancta Sophia College Incorporation (Amendment) Bill (first reading)—Local Government (University of N.S.W.) Amendment Bill (first reading)—Lotteries and Art Unions (Amendment) Bill (first reading)—Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill (first reading)—Committee of Subordinate Legislation (Third Report)—Joint Committee upon Drugs (Progress Report)—Questions without Notice—Dams Safety Bill (second reading)—Cognate Bills (second readings)—Auctioneers and Agents (Amendment) Bill (first reading)—Statutory and Other Offices Remuneration (Council of Auctioneers and Agents) Amendment Bill (first reading)—Registered Clubs (Amendment) Bill (first reading)—Dental Technicians Registration (Amendment) Bill (Message)—Printing Committee (Fourteenth Report)—Sancta Sophia College Incorporation (Amendment) Bill (second reading)—Local Government (University of N.S.W.) Amendment Bill (second reading)—Industrial Arbitration (Reinstatement Awards) Amendment Bill (second reading)—Local Government (Amendment) Bill (Message)—Lotteries and Art Unions (Amendment) Bill (second reading)—Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill (second reading)—Sydney Cricket and Sports Ground Bill (second reading)—Government Guarantees (Sydney Cricket and Sports Ground) Amendment Bill (second reading)—Local Government (Sydney Cricket and Sports Ground) Amendment Bill (second reading)—Dental Technicians Registration (Amendment) Bill (Corn.)—Egg Industry Stabilisation (Amendment) Bill (first reading)—Marketing of Primary Products (Amendment) Bill (first reading)—Cognate Bills (first readings)—Meat Industry (Amendment) Bill (first reading)—Cognate Bills (first readings)—Justices (Amendment) Bill (first reading)—Coroners (Amendment) Bill (first reading)—Married Persons (Property and Torts) Amendment Bill (first reading)—Notice of Action and Other Privileges Abolition (Amendment) Bill (first reading)—Second-hand Dealers and Collectors (Amendment) Bill (first reading)—Tocumwal Railway Extension (Supplementary Agreement Ratification) Bill (first reading)—Scaffolding and Lifts (Amendment) Bill (first reading)—Metric Conversion Bill (first reading)—Conveyancing (Receivers) Amendment Bill (Message)—Sessional Orders (Precedence of Business)—Special Adjournment.

The Chairman of Committees took the chair as Deputy-President at 11 a.m.

The Prayer was read.

INDUSTRIAL ARBITRATION (REINSTATEMENT AWARDS)
AMENDMENT BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

DAMS SAFETY BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

UNIVERSITY AND UNIVERSITY COLLEGES (AMENDMENT) BILL
UNIVERSITY OF NEW ENGLAND (AMENDMENT) BILL
UNIVERSITY OF WOLLONGONG (AMENDMENT) BILL
UNIVERSITY OF NEW SOUTH WALES (AMENDMENT) BILL
MACQUARIE UNIVERSITY (AMENDMENT) BILL
UNIVERSITY OF NEWCASTLE (AMENDMENT) BILL

Bills received from the Legislative Assembly.

Suspension of Standing Orders

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

That so much of the standing orders be suspended as would preclude the following bills being debated simultaneously and for questions with regard to the several stages for the passage of such bills through the Council being put on one motion at each stage, but that such bills be considered separately in Committee of the Whole: University and University Colleges (Amendment) Bill, University of New England (Amendment) Bill, University of Wollongong (Amendment) Bill, University of New South Wales (Amendment) Bill, Macquarie University (Amendment) Bill, University of Newcastle (Amendment) Bill.

First Readings

Bills read a first time together and ordered to be printed, on motions by the Hon. D. P. Landa.

12938 COUNCIL—Cognate University Bills—Coal Mine Workers Bill

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

SANCTA SOPHIA COLLEGE INCORPORATION (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

LOCAL GOVERNMENT (UNIVERSITY OF NEW SOUTH WALES)
AMENDMENT BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

LOTTERIES AND ART UNIONS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION)
AMENDMENT BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

COMMITTEE OF SUBORDINATE LEGISLATION

Third Report

The Hon. H. J. McPherson, as Chairman, brought up the Third Report from the Committee of Subordinate Legislation.

Ordered to be printed.

JOINT COMMITTEE OF THE LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY UPON DRUGS

Progress Report

Motion (by leave, by the Hon. C. Healey) agreed to:

That the Joint Committee of the Legislative Council and Legislative Assembly upon Drugs have leave to present a progress report, together with minutes of proceedings and evidence.

The Hon. C. HEALEY: On behalf of the Chairman I bring up and lay upon the table a progress report, minutes of proceedings and evidence of the Joint Committee of the Legislative Council and Legislative Assembly upon Drugs for whose consideration and report this subject was referred on 2nd November, 1976.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

DRAFT ENVIRONMENTAL PLANNING BILL

The Hon. Sir JOHN FULLER: I direct a question without notice to the Vice-President of the Executive Council and Minister for Planning and Environment. Did the Minister, in answer to a question in this House on 1st June, 1977, state that a draft environmental planning bill would be available for public perusal and discussion "later this year"—that is, later in 1977? Will the Minister inform the House what has happened to this draft bill and whether it is likely to become available for public scrutiny later in 1978?

The Hon. D. P. LANDA: The Leader of the Opposition is an expert in planning bills that had rather a difficult time getting to and through Parliament.

The Hon. Sir John Fuller: I brought forward a lot more legislation in quicker time than the Minister has done.

The Hon. D. P. LANDA: The honourable member may or may not be correct in that regard. I suppose it is a question of the effectiveness of the legislation. With regard to the environmental planning bill, it has been finished in draft form and submitted to other Ministers whose portfolios touch this area of responsibility. Within the past few days I have received comments from all the departments affected. I expect the matter to go before Cabinet within the next few weeks. Then it will be made available for public discussion. I apologize quite unashamedly for the fact that it has taken slightly longer than expected. However, the draft measure is proceeding effectively now and will be available during what looks like being a quite lengthy adjournment of the Parliament for the public to discuss it and make submissions in relation to it. As there was no chance that this measure would be dealt with during this session of Parliament, it has not been a matter of urgency.

I assure the Leader of the Opposition that the aim is to bring it forward in the next session of Parliament after detailed discussion and consultation with the community. It is a major piece of legislation. As the honourable member would know, it was quite a feat to go through the various amendments that he as Minister proposed in relation to the planning legislation of this State. Without hesitation the Government was pleased to accept many of the matters raised by the honourable member in his bill that did not pass through the Parliament. Of course, the Government has made numerous other changes flowing from the difference in policy and philosophies between this Government and the former Government. I am sure the honourable member and the community will find the bill of interest. I look forward to consultation with the community on the bill.

PARRAMATTA PARK

The Hon. W. J. HOLT: My question without notice is directed to the Vice-President of the Executive Council and Minister for Planning and Environment. Is it true that on 8th March on the adjournment of this House I raised the matter of the deformation of The Crescent in Parramatta Park? Did the Minister inform the House that he would take up the matter with experts in the field? Has the Minister taken up the matter with experts in this field? If so, who are those experts and has he received a report from them? If a report has been made, what do the experts advise? Further, what action does the Government propose to take to prevent disfiguration of this historic natural area?

The Hon. D. P. LANDA: The answer to the first part of the honourable member's question is, yes. In relation to the remainder of his question, I suggest that it be placed on notice so that a detailed answer may be prepared.

EXPRESSWAYS

The Hon. W. R. SCOTT: My question without notice is directed to the Vice-President of the Executive Council and Minister for Planning and Environment. Does the Minister agree with the statement, reported on yesterday's news media to have been made by Mr Harry Quinn, Sydney subbranch secretary of the Transport Workers Union, that the Wran Government faced a strong possibility of losing the next election if it did not change its policy on freeway construction? Is the Minister aware that Mr Quinn and his fellow unionists have joined the swelling ranks of people and organizations who support the Opposition's claim that massive traffic jams are an indication of the standard pattern for the future should the Government not change its policies?

The Hon. D. P. LANDA: I do not need to read yesterday's newspapers to know the views of my good friend Mr Harry Quinn from the Transport Workers Union of New South Wales in relation to freeways. He has strong views in favour of the construction of freeways. When one considers his position in the union that is engaged almost completely in road transport, that is not unexpected and it could hardly be classified as an impartial point of view. However, I know that it is a sincerely held point of view and it is one that he has communicated to me in quite some detail and explicitness. Any prognosis about the Government's losing an election because of the decision not to proceed with certain freeways of an inner-urban nature would have to be considered in the light of the fact that at the last election it was made clearly known to all that it was the intention of the Labor Party, should it be brought to office in the State, to do exactly that. It was made clear also that at the same time it would step up its funding and commitments to both the public transport system, the existing

road network and those freeways which, on the best transport and planning advice, it considered necessary and beneficial to an efficient transport system in the State.

Following those election policy statements and the return of the Labor Government, the Government has been engaged in detailed investigations of the whole freeway question. Though the Government clearly recognizes the need to provide an adequate road network as part of a balanced transport system, it is opposed to inner-urban freeway proposals that would devastate residential areas. The Government has now announced changes to the previously proposed route of the northwestern freeway which, in addition to providing a more realistic road development proposal, will save 2 070 homes along the former freeway route.

Let me stress that the New South Wales Labor Government is not anti-freeway. Any person who has a sincere concern for transport policies could not be—and that includes me. On the question of the role of inner-urban radial freeways, there is no dispute on the need for freeways connecting major town centres and extending into country areas and linking capital cities. There is no question about that either in my mind or in the mind of any other person concerned with efficient transportation. The New South Wales Government is not anti-freeway. It has simply sought to remove what have been for years and years just lines on maps constituting freeway projections, sometimes up to thirty years ahead and even further, and replace that somewhat unrealistic approach with broader-based transport planning to meet community needs in the years immediately ahead. It is useless to offer what was offered by the previous Government—a multi-coloured map with lines on it that would rival the most sclerotic appearance ever as a transportation policy to serve it over the next decade.

To meet the more immediate needs the Urban Transport Advisory Committee, known as URTAC, is conducting an ongoing, in-depth review of transport corridors in the metropolitan area. The Government has recently approved of a number of corridors recommended for retention by that committee. So it is nonsense to suggest that there is a wholesale scrapping of freeways. URTAC has recommended the retention of quite a number. To meet the shorter-term need of improving traffic movement in Sydney, the Traffic Authority has been undertaking a major traffic management programme, which includes extending priority roads and clearways, a co-ordinated traffic signalling system, more transit lanes, and tidal traffic flow arrangements.

It must be clear to the honourable member, who is attached almost inseparably to the motion moved by the Hon. E. P. Pickering, that even he would have to recognize that the Government is looking at transport needs in a most comprehensive and efficient way. The end result—it will not be a quick result, because anyone who offers an immediate panacea for the State's transport problems is either a meddler or a fool; the answers will be forthcoming but will take time—will represent a combination of all the approaches that are now being adopted by the man who will take his place in the history of the State as the greatest transport Minister and transport planner that the State has ever known, the Hon. P. F. Cox. I am sure that in the decade or so ahead we shall see, as we are seeing with the considerable purchase of buses and rolling stock that the Minister for Transport and Minister for Highways has been able to achieve, an improvement in our total transport fabric to the betterment of the whole citizenry of New South Wales.

DENTURE MARKING

The Hon. D. P. LANDA: On 7th February I was asked a question without notice by the Hon. D. D. Freeman concerning denture marking. I have been advised by the Minister for Health that identification of the dead is considered a most

important matter. Establishment of identity is not only a passive sort of comfort to the relatives which is of no small significance in itself, but often is a requirement in the settlement of legal entanglements. Teeth, either natural or artificial, are often the only surviving identifiable parts of a body found at the site of some deaths, particularly those caused by fire. Even after fire, dentures are usually reasonably intact and characteristics of the denture and so on can often provide a forensic odontologist with a tool for identification.

The placement of a code marking on a suitable, indestructable material which is currently available would increase the chance of positive identification even further. In government institutions, the name of the patient is inserted in the denture under clear acrylic where possible. This has been of considerable assistance in identifying dentures which have been mislaid by the patients. It has also given immediate identity in at least one case of a person who had been a patient of an institution during a period of his life. Through the Australian Dental Association, the private dentist has been requested to place his registration number on suitable material, within the substance of the denture. This procedure, again, has assisted in identification of difficult cases of persons whose remains are incapable of identification by other means. There have been some objections by members of the public to being labelled in this way and it is considered that mandatory coding could be interpreted as infringing a person's civil liberties. The value of coding is undeniable and greater efforts should be made to educate the public in this regard. Dentists, and later dental prosthodontists, should request permission from each patient to incorporate an **indestructable** code marking in each denture and should refrain only when **requested**.

INTERCHANGE EMPLOYMENT SCHEME

The Hon. D. P. LANDA: On 14th February the Hon. P. S. M. **Philips** directed a question without notice to me relating to an interchange system being commenced by the federal Government with business organizations. I have received advice from the responsible Minister in the other place, namely the Premier, and he has informed me that the New South Wales Public Service Board has had an exchange scheme with private enterprise in operation since 1972. In fact, New South Wales pioneered this scheme in Australia. Up to ten exchanges are envisaged for 1978.

These exchanges are generally for periods of three to six months but in particular instances have extended for much longer periods. They have proved very valuable both to the public service and to business. Organizations that have participated in the scheme include: Australian Wire Industries, A.M.P. Society, St George Building Society, Consolidated Goldfields Aust. Ltd., Thomas Nationwide Transport Ltd., The Zinc Corporation Ltd., James Hardie & Co. Pty Ltd., Bank of New South Wales, A.N.Z. Bank, Australian Fertilizers Ltd., Coopers and Lybrand, and Alcan Aust. Ltd. Exchanges are also taking place between the New South Wales public service and other public services throughout Australia and with the Fiji Public Service Commission.

WORKERS COMPENSATION

The Hon. D. P. LANDA: On 14th February the Hon. R. B. French asked a question without notice relating to fees charged by medical practitioners for reports on the condition of injured workers. The honourable member requested that I refer to the Attorney-General his suggestion that the Workers' **Compensation** Act should be amended to require an insurer, upon request, to provide the worker with copies of the treating doctor's report. I have been advised by the Attorney-General

that he considers the honourable member's proposal to have considerable merit. Unfortunately, it would seem that at times there are always some medical practitioners who will charge exorbitant fees for the type of report in question.

The charging of such fees, or the refusal to supply a report without pre-payment of such fee can, and does, cause serious obstruction to a worker wishing to pursue his rights to compensation. Whenever either practice occurs, unnecessary cost and delay are caused and such additional costs are ultimately met by the community. The Attorney-General has informed me that officers of his department are examining a number of proposals for amendment to the Workers' Compensation Act, some of which if adopted will reduce the cost of medical evidence in workers' compensation proceedings.

The imposing of a liability on the insurer to supply treating doctors' reports in its possession as suggested by the Hon. R. B. French appears to be more practical and less costly than the present system of the insurer reimbursing the worker for the cost of duplicate reports. No doubt the result of the Attorney-General's ongoing deliberations on this matter will be brought before honourable members in the appropriate way in the near future.

SMALL BUSINESSES

The Hon. D. P. LANDA: On Tuesday, 7th February, the Hon. T. S. McKay asked me to confer with my colleague the Minister for Decentralisation and Development and Minister for Primary Industries with a view to advising him in regard to the Small Businesses' Loans Guarantee Act. I undertook to take the matter up with the Minister in another place and am now able to advise the House of the current situation regarding the implementation of the Act.

It is ten months since the Small Businesses' Loans Guarantee Act, 1977, received assent. I understand that in that period extensive discussion has taken place between representatives of the banking institutions, the people who will provide the loan funds, and officers of the Minister's department with a view to producing a simple but effective system by which applications for guarantees under this Act can be processed expeditiously. The scheme is designed so that a minimum of extra work will be required of the businessmen and there will be no necessity for large increases in legal and other staff of the department. I understand that good progress has been made towards the acceptance of a standard form of guarantee document which will be acceptable to all parties. I advise the honourable gentleman that a statement regarding the implementation of the scheme will be made in the near future.

DAMS SAFETY BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [11.34]: I move:

That this bill be now read a second time.

I seek the leave of the House for the second-reading speech to be read by the Deputy Leader of the Government, the Hon. Edna S. Roper, on my behalf.

Leave granted.

The Hon. EDNA S. ROPER (Deputy Leader of the Government) [11.35]: The basic objective of the bill is to ensure the safety of dams and thereby counter the possible loss of life or property which could take place in the event of a dam failure. In recent years there have been some notable dam failures overseas, including two in particular which both occurred in the United States of America. The first took place in 1976 and involved the failure of the Bureau of Reclamation's Teton Dam in Idaho on the occasion of its first filling. As a result of this failure eleven lives were lost and accompanying property damage was to the value of about \$500 million. Even more recently, in November of 1977, a private dam in Georgia failed, killing thirty-four people. In fact, when viewed on an international basis no fewer than 3 614 lives have been lost since 1959 as a result of dam failures throughout the United States and Europe.

The State of New South Wales has been singularly fortunate over the years in the operation of its dams, and there have been very few cases of failure. Indeed, the record throughout Australia has been quite good, with only one case of an Australian dam failure involving fatalities. This took place in Tasmania as long ago as 1929 following the collapse of a mining dam. However, there have been one or two incidents in New South Wales which serve as a reminder that problems can occur. Although the Local Government (Safety of Dams) Act of 1974 in effect placed the responsibility of dams owned by local government authorities with the Department of Public Works, it is clear that all-embracing legislation is now necessary, particularly in the light of recent overseas failures.

The Government believes that it should now assume an even more positive role, by making legislative provision for all dam owners, whether they be public or private, subject to independent expert surveillance on the safety of their dams. The legislation before the House will ensure that these objectives are achieved. Any failure of a dam could well have extremely serious, if not catastrophic, consequences. The Government therefore takes the view that the proper management of dams in New South Wales not only is a matter of public safety and security in relation to life and property, but indeed is vital to the maintenance of domestic and industrial water supplies.

At present the majority of dams that are being constructed are becoming larger, thus accentuating the degree of damage that could result from a failure. Moreover, the most suitable dam sites have, for the most part, been developed earlier in the State's history, leaving the more difficult sites for the construction of future dams, thus again tending to increase the potential hazard. To compensate for this position the Government believes that it is necessary to make provision to oversight all dam owners, including the various public authorities that own and operate dams in this State. This supervision would extend to their activities in the design, construction, modification and operation of dams. It is proposed to provide statutory recognition of the body set up to exercise these functions.

A number of important objectives are involved in this proposed legislation. The first is to ensure that dams already constructed throughout New South Wales are properly maintained. The second is to ensure that future schemes conform to sound engineering principles. The third is to ensure that modifications to dams for purposes such as increased storage capacity take full account of the stability of the existing structure.

At this point I should like to emphasize strongly that the Government has the highest regard for the engineering services provided by various State authorities, who are recognized experts in the field of dam engineering. It also has a very high regard for the private consulting engineers who have practised in this field. Nevertheless, human nature being what it is, mistakes can occur and occasionally bad judgement may prevail, as we have seen by the overseas experience. As a result the Government is now proposing a co-operative of the State constructing authorities, and the

engineering profession generally, to ensure that the works that either they or some other person operate or undertake have been subject to expert and independent review. Although New South Wales has a first-class record in dam safety, the State would be most unwise if it did not recognize the climate of concern that now extends throughout Australia, and indeed throughout the world, to ensure that dams receive adequate surveillance.

The Dams Safety Bill will ensure that all of the dams throughout New South Wales are brought into line with this concept. The bill will set up a statutory committee of experienced dam engineers from the Department of Public Works, the Electricity Commission, the Hunter District Water Board, the Metropolitan Water Sewerage and Drainage Board and the Water Resources Commission, together with two nominees of the Institution of Engineers, Australia. During debate on the matter in the lower House the Government agreed to the appointment of a representative from the Mines Department to the committee. The proposed committee is essentially an advisory body and will be under the control and direction of the Minister. It is intended that the committee have the power to require the owners of dams to provide information concerning their dams, and where necessary to produce plans or other associated documents related to the design and construction of their dams. Failure to comply might result in a fine of up to \$1,000 if this were considered to be warranted by a magistrate's court. The normal legal processes of appeal would apply.

The committee would also take into account the activities of persons or organizations other than the dam owner, where such activities might be placing the dam in jeopardy. In effect, the bill is proposing a general oversight procedure that will operate at all times over the dams which are listed in a schedule to the bill. Dams may be added to or removed from the schedule, and in this context, dams include proposed dams. The Dams Safety Committee will act purely as an advisor to the responsible Minister, and will be subject to the direction and control of the responsible Minister. In the special case of mining being carried out adjacent to a dam, the inspection of mineworks by the committee may be carried out only in company with the relevant chief inspector of mines, or his nominee. Where such an inspection involved the issue of a notice requiring the cessation of a mining operation or of work in a mine, this would require the approval of the Premier.

The committee will have the power to inspect any dam, and may undertake works relative to any prescribed dam with the Minister's approval. Where the owner cannot, or will not, carry out such approved work, and especially under any state of emergency which may be proclaimed, the committee may carry out the work itself, or enter into agency arrangements with any department, authority or person to carry out approved works and to recover the cost of such works from the owner.

I want to make it clear that the bill is not intended to cover the structures commonly known as farm dams, other than those which may be of a large size and are located in critical situations, such as above centres of population. Mining interests are also to be protected. The committee cannot interfere with mining. However, if it is of the opinion that work being carried out in a mine might jeopardize the safety of a dam, it can report the matter to the Premier who can authorize a notice to cease the dangerous activity. The Premier may seek and obtain such other expert advice as he considers appropriate. He may consult his colleague the Minister for Mines, or anyone else, before making a decision.

Honourable members and the public are entitled to know why the Government has in effect rejected the recommendations of the Reynolds inquiry into coal mining under stored waters. Mr Justice Reynolds' findings of January, 1977, were, in brief that it is in the public interest that mining be permitted as this can be done without

endangering the security of the stored waters, so long as the mining is carried out with proper safeguards; and, also, that there should be a reserve power for the Mines Department to prohibit mining. The Metropolitan Water Sewerage and Drainage Board has expressed "complete and unqualified opposition to the findings and recommendations set forth in the Commissioner's report". The board informed the Government that it wished to be absolved from responsibility for the consequences in the event of the recommendations of the commission being implemented.

It is important to note that the board states that the Commissioner "is in error in forming the opinion that the board abandoned its submission, that there was a danger of catastrophic losses of water involving possible destruction of property and loss of life". I am also advised that the Board's expert witnesses continue to hold opinions that serious risks may be involved in implementing the Commissioner's proposals, and that apprehension is also felt by expert dam engineers in other State government organizations and possibly by others. In these circumstances, it is likely that there will be considerable public apprehension if the extraction of coal under stored water proceeds without considerably greater assurances.

The residents of the South Coast have a right to definite guarantees that the safety of their lives and property is not at risk and also that there is not a risk of serious disruption to their water supply. Unfortunately, it is not possible for the Government, at least at this time, to give such unqualified assurances. For instance, Mr Justice Reynolds states that "in the end, the answers must be an exercise of judgment based upon a consideration and evaluation of the many and varied opinions of men expert in their particular fields in so far as they are based on established fact. It is not appropriate in this context to speak of guarantees". In addition, in dealing with the possibility of seismic disturbances of a magnitude which are very likely to cause fissures—that is, 6.5 on the Richter scale—connecting stored waters to mine workings below them, he cites estimates of 400 and 900 years as the "return times" for such an event. Although this is a long period there is no guarantee that such an event may not occur at any time, and the period is much smaller than that currently adopted by some dam authorities for flood recurrence periods of 1 in 10,000 years for design of major dams.

It cannot, therefore, be denied that there could be some risk of the nature envisaged by the board in permitting the mining. It must, however, be accepted that the risk is indeterminable in precise terms. Since guarantees cannot be given to the public it would then be up to the Government to show that, notwithstanding the risks involved, it is in the public interest to permit the mining to take place.

Mr Justice Reynolds' report does not make it clear how mining under the stored waters of part of the Sydney water supply is in the public interest as distinct from the mining companies' interests. The amount of coal available for extraction from under stored waters, if the commissioner's findings are adopted, is only a small proportion of the total amount available within the present colliery holdings. There are also large reserves nearby. No real case seems to have been made as to what public benefit will derive from mining coal from under stored waters as compared to mining it from elsewhere. The Government believes that this legislation governing the safety of dams will ensure the necessary confidence of the Government, and the public, that lives and property are not at risk by either the construction and operation of dams and their storages, or the actions of other parties that might endanger the safety of such works.

In all the circumstances, the Government has decided that all applications to mine in the vicinity of Nepean, Avon, Cordeaux, Cataract or Woronora dams, are to be considered individually by the Department of Mines. When considering each application, the department will have regard to advice from the Dams Safety Committee.

The Hon. Edna S. Roper]

In the event of the department and the Minister for Mines not accepting that advice, the matter will be referred to the Minister for Public Works and the Minister for Mines. If agreement still cannot be reached, the matter will be referred to the Premier who will make the final decision. In essence, the Dams Safety Committee will be a watchdog, a security measure. It will not make the final decision. The actual decision to carry out work or to cease mining will be made by the Premier when mines are involved, and by the Minister when mines are not involved.

In the case where the safety of a dam is considered to be in jeopardy, the time factor is critical, and hence there are no mandatory provisions for appeals or hearings before taking action. If the Minister, or in the case of mining the Premier, considers that there is time for a review by a subcommittee involving experts from other fields, then there is provision for the setting up of such committee. Where urgent action is essential, either the Premier or the Minister can act on any appropriate advice available. The Dams Safety Committee is not concerned with the environmental or planning aspects of dams, but only with safety. The committee is not taking over or trespassing upon functions of any other authority.

The direct costs involved in setting up and maintaining the Dams Safety Committee will be limited substantially to any fees due to its members. Technical and engineering advice and reports would be provided free of charge to the committee by the several State government dam authorities, within their existing staff ceilings. The executive and administrative staff required directly to service the proposed committee will be supplied by the Department of Public Works, again from within its existing allocations and staff ceilings.

I now turn to the clauses of the bill. Clauses 1, 2, 3 and 4 deal with its title, commencement, divisions and interpretation. The operative provisions of the bill commence on a date to be proclaimed. Clause 5 provides that the Crown is bound. Government-owned dams will be subject to surveillance in the same way as privately-owned dams. Clause 6 provides that the existing legal responsibility of dam owners for the safety of their dams continues. The bill, when enacted, will not relieve them of responsibility.

Clauses 7 and 8 create the eight-man committee of experienced engineers. They will be nominated by the Electricity Commission of New South Wales; the Metropolitan Water Sewerage and Drainage Board; the Water Resources Commission; the Hunter District Water Board; the Minister for Public Works; the Minister for Mines; and two by the Institution of Engineers, Australia. The committee will be subject to the control and direction of the Minister, and the members will be part-time members. Clause 9 empowers the Minister to appoint as chairman a member of the committee. Clause 10 provides for schedule 2 which deals with the constitution and procedure of the committee. Clause 11 provides the back-up for the committee. It will not have a staff of its own but will use the facilities of the Department of Public Works or, by agreement, the facilities of other departments or public authorities. Clause 12 enables the Dams Safety Committee to set up subcommittees to consider and advise the committee on particular matters. Clause 13 establishes an account with the Treasury.

Clause 14 specifies the functions of the Dams Safety Committee. These are basically surveillance of the prescribed dams to ensure their safety and to report to the Minister any potential danger. Clause 15 empowers the committee to give a formal notice to an owner of a prescribed dam requiring him to keep records or make observations or provide information to the committee concerning his dam. Should the owner fail to do so, the committee may keep the records or make the observations and sue the owner for the costs. Clause 16 and clause 17 permit the committee to inspect and

examine any dam or its environs. There are the usual provisions for reasonable notice and compensation for any damage caused and, in the case of an inspection of a coalmine, the inspector must be accompanied by a person nominated by the Chief Inspector of Coal Mines.

Clause 18 deals with the situation where a work or activity being carried on or proposed to be done in the vicinity of a dam may endanger the safety of the dam. The committee may give a written notice to the dam owner to take certain action and, with the Minister's approval, the committee may give notices to third parties to cease the work or activity. There are special provisions for notices to cease coalmining. Clause 19 and clause 20 deal with inquiries into matters concerning the safety of a prescribed dam. Clause 21 and clause 22 are the most important clauses in the bill. They fill a real gap in the law. They will enable the Government to step in and take action to stop a potential disaster or to take immediate action to minimize damage caused by failure of a dam. In such cases, the Government may have to act quickly and the Minister is empowered to make an order in writing declaring a state of emergency. He would then direct the Dams Safety Committee to take specified action, for example, to take charge of the dam, release water and repair a fault.

Clause 23 enables the committee to sue the owner of the prescribed dam for the costs involved in taking the emergency action. It would be a matter for the courts to decide what costs were reasonably incurred. Clauses 24, 25 and 26 deal with contracts and agreements relating to the committee's functions. Clause 27 enables the Governor by proclamation to amend the list of prescribed dams in schedule 1. Clause 28 is the usual delegation clause. Clause 29 provides for authentication of documents. Clauses 30 and 31 provide a penalty of up to \$1,000 for failing to comply with a notice given under the Act. Clause 32 provides for regulations. Schedule 1 lists the prescribed dams. Schedule 2 makes provisions for the constitution and procedure of the committee. I commend the bill to the House.

The Hon. E. P. PICKERING [11.55]: For two basic reasons we on this side of the House view this measure with grave concern. I shall demonstrate the validity of those reasons in the course of my speech. First, we believe that the real purpose of this measure is to enable the Government to avoid and discredit the findings of the Reynolds inquiry, which was set up to investigate whether in the public interest mining should be allowed under the stored waters of the South Coast. Second, many aspects of the legislation are so badly conceived that, if implemented, it will fundamentally weaken the whole measure; so it could not fulfil its stated purpose, which is to protect the structural integrity of dams and reservoirs in this State.

As the great public debate on this bill is centred on the question of coalmining on the South Coast, it is appropriate that at the beginning of my speech I should invite the attention of honourable members to the fact that I am employed in the coalmining industry on the South Coast. The company for which I work has no leases under the dams which were the subject of the Reynolds inquiry, and it was not represented before that inquiry. The Opposition agrees with the stated aims and intentions of the bill. It is probably desirable to set up a statutory committee to examine dam safety. However, the real intention of the bill is to control coalmining between a government department and a government instrumentality—the Department of Mines and the Metropolitan Water Sewerage and Drainage Board. It is on the question whether coal should be extracted from beneath the reservoirs Woronora, Cataract, Cordeaux, Avon and Nepean. I do not in any way denigrate any member of any water board or any civil servant. Indeed, I have personal knowledge of some members of water boards in this State, and for good and cogent reasons I have a high

regard for them. The water board is concerned that if coalmining takes place under stored waters the structural integrity not only of vertical walls but also of floors of the dams could be jeopardized.

The water board contends that as a result of mining activity there could be catastrophic loss of water from the dams. Because these mines have their adit below the level of the dam, the water board believes that it would be possible as it were, to pull the plug from a dam and release the contents of stored water through the mine workings and on to the South Coast. In the process every miner in the mine might be drowned, and other persons and property on the South Coast grievously affected. The water board argues that if mining under dams jeopardizes the structural integrity of the dams, as a responsible body it would have to look for alternative dams for water supply to the metropolitan area of Sydney and the Wollongong region. That is clearly and consistently the position of the water board. On the other hand, the Department of Mines also has a responsibility to this State. That department is well aware that under these reservoirs are 470 million tonnes of high-grade coking coal. This resource has a value, on current export prices, of some \$20,000 million.

The Department of Mines, being aware of the needs of the mining industry, realized that the medium and long-term viability of the South Coast coalmines and the steel industry will eventually depend upon these reserves. The Department of Mines is equally well aware that some mines now face quality problems in export of coal, particularly to the Japanese steel market, and will continue to do so unless they are able to gain access to the quality of coal contained under the dams in their leases. Last, I think this point must be made: the Department of Mines has, above all, an enormous responsibility to the citizens to protect the safety of the coalminer. Having worked in the coalmining industry for twenty years I venture to say—I think without any honourable member being able to deny the statement—that with the possible exception of the Australian Atomic Energy Commission establishment at Lucas Heights no industry is so heavily regulated by government decree as the mining industry. Simply because it is intrinsically a dangerous industry the Department of Mines does everything in its power to ensure the safety of the coalminer. It would be less than responsible for any honourable member even to hint that the Department of Mines has subjugated its responsibility for the coalminer working in the mine today.

Given the background of that dispute, which has gone on for something like seventy years, on 11th July, 1974, the Minister for Public Works at the time, under section 146 of the Metropolitan Water, Sewerage, and Drainage Act, set up a judicial inquiry by appointing Mr Justice R. G. Reynolds, a judge of the Court of Appeal, to look into this matter. The Government of the day set for Mr Justice Reynolds the following clear and precise terms of reference:

- (a) whether, in the public interest, mining should be permitted under or underground in the vicinity of the stored waters of Nepean, Avon, Cordeaux, Cataract and Woronora reservoirs; and
- (b) if so, to what extent and subject to what conditions.

Mr Justice Reynolds applied himself to that most important task for something like three years. He reported back to the Government on 7th January, 1977. The cost of the inquiry, both directly and indirectly, to the public purse amounted to something like \$3 million. During the course of his inquiry Mr Justice Reynolds, with his staff, travelled extensively overseas to view overseas experience with regard to mining under waters. His itinerary was set for him by both the Department of Mines and the

Metropolitan Water Sewerage and Drainage Board. He visited the United Kingdom, Belgium, Canada, Italy, France, West Germany, the United States of America and Japan. The first paragraph of his report which is titled "Overseas Experience" reads:

Mining under the sea has been undertaken in England, Canada, Japan and New South Wales, as well as in several other parts of the world. In Canada it has continued for over a century and, far from being experimental, has in these countries become a commonplace. In Great Britain sixteen collieries are producing 13.21 million tonnes of coal a year from beneath the sea and 483 million tonnes remain in reserve.

During the course of the inquiry oral and written submissions were made by the Department of Mines, represented by Mr Rogers, Q.C. The Metropolitan Water Sewerage and Drainage Board was represented by Mr Sinclair, Q.C. That board also made written and oral submissions. Four coalmining companies made submissions to the tribunal. They were Australian Iron and Steel Pty Limited; Huntley Colliery Pty Limited, a government-owned instrumentality; Bellambi Coal Limited; and The Broken Hill Proprietary Limited. The inquiry was wide-ranging; I could not hope to cover its full extent today. It covered matters of geology and hydrology. Field experimental tests were conducted and so were computer analyses. The matters raised by the Hon. Edna S. Roper with regard to seismology and other problems were fully investigated. At the end of the inquiry, following an extensive expert inquiry in which the moral integrity of Mr Justice Reynolds was at no stage challenged by any party, His Honour reported as follows:

The following are my findings and recommendations:

1. I would answer the first question in the terms of reference in the affirmative. I have formed the opinion that in the public interest——

Let me stress that——

in the public interest, the relevant mining should be permitted because the valuable resource of coal reserves may be mined without endangering the security of the stored waters if the mining is carried out with proper safeguards.

His Honour went on to detail those proper safeguards. They are too extensive for me to quote at length today but, in principle, they amounted to this: that provided a mine had an overhead cover of sixty metres, coalmining could proceed using a form of mining known in the industry as bord and pillar. It was further recommended that if there were an overhead cover of 120 metres, another type of mining activity which allows for greater extraction of coal—which allows for 49 per cent of the coal to be recovered—could be entertained. That is known as panel and pillar. His Honour then went on to define the area of coal that comes within these recommendations. It was an area of coal that in effect was encompassed by a line drawn from the high-water mark of the dam at 35 degrees into the ground, and where that struck the coal seam everything contained in what His Honour referred to as the marginal zone would be under the control of the report.

Mr Justice Reynolds went on to recommend further—quite sensibly—that no mining of any nature could ever be conducted under the vertical dam wall. Again, a zone was created round the dam so that there was not a shadow of doubt that the structural integrity of the vertical retaining wall would not be impaired. His Honour further went on to recommend that all mining activity would be carefully examined and controlled by the Department of Mines and that there should be plenty of inspections and so on, and if any colliery should breach the recommendations it may be subject to heavy fines.

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It is only fair to acquaint honourable members with some of the conclusions to which His Honour came with regard to submissions made to him by the water board. I shall quote from page 104 of the report, titled, "Conclusions and Recommendations". Mr Justice Reynolds said:

The Board has submitted that unless it can be guaranteed that there will be no loss of water there should be no mining and has on a number of occasions sought to disclaim any responsibility for anything that might occur as the result of mining under or near its reservoirs, an attitude which is understandable. Many theoretical propositions have been advanced to the inquiry on behalf of the Board which have, in the end, in the light of practical experience in the Southern Coalfields and for other reasons, to be discounted as being unrealistic and out of perspective.

Further down, His Honour said:

In its earlier submissions the Board urged that there was danger of catastrophic losses of water involving destruction of property and loss of life on the coastal plain. This possibility arose from the relative levels of the mine adits and the water levels in the reservoirs.

In all the mines concerned there is an adit below the water level in the relevant reservoir. If an inrush occurred into a mine the loss of storage might not be confined to the amount of water required to flood the mine fully but could extend to such amount as would reduce the storage level to the adit level or, indeed, could result in a total loss of water. This being so, a dangerous flow to the plain below, it was said, could be envisaged.

As the Inquiry proceeded it was recognised that such fears were quite unrealistic at the depths of cover and with the systems of mining proposed. In the end the submission was abandoned and in the light of the evidence it came to be submitted by the Board that the danger lay in the insidious depletion of stored waters by the loss of "invisible water", i.e., water percolating to the mine roof in such amounts that it was not detectable by the human eye but which became significant in total as a proportion of the safe draft of the reservoir. Groundwater moves very slowly and changes in the pattern of groundwater entry into the mines should be monitored and the cause investigated.

Having regard to the extent of this inquiry, those comments must be accepted in this Chamber as having some relevance to this debate. The findings made by Mr Justice Reynolds were of little comfort to the coalmining industry or the steel industry for this reason: they were extremely conservative, to say the least, and have been considered as such by all mining fraternities throughout the world. In his report Mr Justice Reynolds stated that he deliberately took a very conservative approach. To illustrate that point, let us take one of the coalmines involved. Bellambi Coal Company Ltd operates the South Bulli Colliery on the South Coast. If that mine were operating in the United States of America under the U.S. Bureau of Mines guidelines on this matter, provided the colliery had a total overburden of 350 feet it could extract 80 per cent of the coal reserves under the dam. It has 1 000 feet of cover but, under the Reynolds guidelines, will be entitled to extract only 49 per cent. That will mean a loss of some 10 million tons of reserves to the coalmining company and 1 000 coalminers will not have a job for about ten years. That demonstrates the tremendously conservative nature of the Reynolds report.

Honourable members will recall that I gave as my first reason for the Opposition's concern in this matter the fact that the bill had been drafted to frustrate and discredit the Reynolds inquiry. I draw the attention of honourable members to a

press release issued by the Deputy Premier, Minister for Public Works and Minister for Ports after the Reynolds inquiry. As far as I am aware this was the first public utterance with regard to the legislation before the House today. He said:

The State Government has adopted a new policy concerning the mining of coal deposits under Sydney's Water Board dams.

The policy was announced today by the Deputy Premier and Minister for Public Works and Ports (Mr Jack Ferguson).

No general approval for mining under stored waters will be granted, but all new applications from mining companies will be considered on their particular merits.

Mr Ferguson said a new body to be known as the Dams Safety Committee would be established . . .

He then went on to describe the body that we are discussing. In the very first public utterance on this bill, the Deputy Premier, Minister for Public Works and Minister for Ports in a press release containing eight paragraphs, in almost every paragraph referred to coalmining as the cause of and justification for the bill. That tends to support my first contention, that this bill has been drafted to frustrate and **discredit**—avoid, if you like—the findings of the Reynolds inquiry. On 15th December the Metropolitan Water Sewerage and Drainage Board issued a press release regarding **this** bill. I shall quote some excerpts from it. It stated:

Members of the Sydney Water Board today wholeheartedly supported the State Government's decision to adopt a new policy in relation to coal-mining under the Board's South Coast dams

The Government's decision follows its consideration of the findings of a Commission of Inquiry . . .

That was the Reynolds commission. Later it states:

It says the Commission's findings were virtually "a total rejection of the Board's submissions and evidence presented to the inquiry through eminent and experienced consultants and its own specialist officers".

That further public utterance clearly ties up the purpose of the bill to mining under dams on the South Coast. In a way this press release bordered on the irresponsible. I say that for two reasons. The press release said also:

The Water Board claims that the Commission erred in suggesting that the Board had abandoned its claim that mining under stored water could present a danger of catastrophic losses of water and possible destruction of property and loss of life.

I referred to the comment made by Mr Justice Reynolds. That is an important statement because, although it uses the word erred, in effect it says that the commission was wrong in coming to that fundamental and important conclusion. I have taken the time to examine why Mr Justice Reynolds came to that conclusion. I am led to **believe** that when the tribunal was winding up its activities and final submissions were being put to it, Queen's Counsel representing the water board made no comment whatever about the catastrophic loss concept. In other words, throughout the course of the inquiry, as Mr Justice Reynolds said, the suggestion was made to start with and as the evidence came in it was withdrawn. Members of the legal profession in this

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Chamber know the significance of not including one's major objection in one's final address to a tribunal of that nature. That is why I say that that paragraph borders on the irresponsible. The press release continues:

It says that inspections overseas of the sites of catastrophies at Vaoint Gorge (Italy), Malpassant Dam (France) and Baldwin Hills Dam (U.S.A.) had drawn attention to the "incredible speed with which the final destruction of stable materials and structures occurs when water seeps into fractures in highly stressed strata materials".

Anyone reading that press release would be perfectly entitled to conclude that those catastrophies were the result of the structural material under the dam being unfit for mining, particularly as the press release all the way through refers to mining. I have with me a document which the Minister may examine which clearly shows that what happened to these dams was not connected with mining. I believe it was released by the New South Wales Department of Mines. It states:

None of the dams is connected with mining. Baldwin Dam is located over a series of unstable faults in the San Andreas fault.

A dam structure should never have been built there. The document continues:

The Vaoint Dam disaster was caused by a huge landslide when water, due to heavy rain seeped into and saturated calcareous deposits along the reservoir valley. Malpassant Dam failed because a concrete dam design was chosen, instead of an earth wall dam recommended twenty years earlier by the geologist who undertook the feasibility studies.

I repeat, what happened to the dams mentioned in the water board's press release had nothing to do with mining. To include them in that release is questionable. On the weight of this evidence, there should remain little doubt that the bill is drafted to avoid and to discredit the Reynolds inquiry. I believe that this is an unprecedented step, and an attack upon the honesty and integrity of a justice of the Supreme Court of this State who is also a member of the Court of Appeal.

If the Government is genuinely concerned about the safety of the citizens of this State in relation to mining under stored waters, it should consider information that is contained in this report, which clearly indicates that, while we are here this morning talking about this matter, the Government and private enterprise employ miners to mine under Lake Macquarie and under the sea with depths of cover less than suggested by Mr Justice Reynolds. Having been down coalmines on many occasions, I am sure that no coalminer in the State would disagree with me when I say that, if a man is to be drowned in a mine, he would not care whether it is sea water or drinking water that drowns him. My serious concern is why the Government is to allow this type of mining in the northern fields but is not anxious to allow it in the southern fields.

I shall now move on to a detailed review of the bill. I said that the second reason for our concern with the bill is that in many ways it is badly drafted, in order to support the real purpose of the bill, which I have stated, rather than the stated purpose, which is the protection of the structural integrity of the dams and reservoirs of the State. It is somewhat surprising to find no definition in the bill for dam or reservoir. As dams and reservoirs will be prescribed in future, over and above the list already provided, it would seem that a situation could develop, with regard to mining at any rate, in which every small hole in the ground could constitute a dam for the purpose of thwarting mining activities.

During his introductory speech on his bill in another place the Minister there said that the committee would be an independent expert committee. Subclause (3) of clause 7 of the bill clearly states:

In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in all respects to the control and direction of the Minister.

How does the Minister tie that up with his introductory speech comments when he said, "We will create an independent expert committee"? He says that, but in the next breath he provides in the bill—which will have force—constraints upon the committee to do his bidding in every function it has, with the exception of what it might write in a report.

The Hon. J. R. Hallam: It is a reserved power.

The Hon. E. P. PICKERING: It is reserved all right. For example, the Minister might insist that this committee carry out one more Reynolds-type inquiry under clause 9 of the bill, even though these independent committeemen might well tell the Minister that they are perfectly content to abide by the rulings and findings of the eminently independent Reynolds tribunal. That is perfectly possible under the bill as it is now framed.

Clause 8, which is the most important part of the bill, relates to the composition of this so-called independent committee. There are to be eight members, four at least of whom will be drawn from government departments that are responsible for the construction and operation of dams. I am sure most honourable members are well aware of the frailties of human nature. It is not my personal experience that if one wishes to make sure that something is being done properly one asks the people who are responsible for conducting the exercise to check themselves. For example, the concept of independent auditors in the Companies Act comes to mind. It seems indefensible to create a committee of eight, four of whom are certainly responsible in their own right, in one way or another, for the care and construction of dams. This could be deliberate.

One member to be appointed to the committee will be a person nominated by the Minister administering the Public Works Act. That is provided for in clause 8 (2) (e). A strict interpretation of that clause would mean that it could be anyone. However, the Minister in his introductory speech in another place said clearly and categorically in *Hansard* that the person he will be nominating will be from the Department of Public Works. If that is correct, and if his word in another place can be believed, there will be five members of this independent committee who will be looking after matters for which they are responsible. Two members of the committee could be regarded as truly independent; they are the two members who will be nominated by the federal council of the Institution of Engineers, Australia. As the Deputy Leader of the Government in this House pointed out in the second-reading speech, an amendment has already been made in another place to the constitution of the committee by the addition of a person from the Department of Mines. Down in the other place, the Minister responsible for the carriage of the bill referred to that action as democracy at work. As he now has in his favour at least five to three, it is a democracy that he could well afford.

The committee is said to be responsible for the structural integrity of the dams and reservoirs of this State. I invite the attention of honourable members to the fact that any dam has two retaining walls. First, it has a vertical wall, which is generally

constructed of steel, concrete or earth. Then there is the floor of the dam, which is normally constructed by nature. I put it to honourable members that the structural integrity of both these walls is vital to the dam and to each other. Indeed, the water board's concern about mining under stored waters is largely due to its concern about the structural integrity of the floor of the dam—that is, this so-called concept of pulling the plug. Despite the fact that the committee has that dual responsibility, until such time as the bill was amended to include a person from the Department of Mines, **not** a person on the committee had any technical competence in the field. Indeed, under clause 8 (3) there was a constraint which, in effect, meant that they could not. Clause 8 (3) provides:

A person **shall** not be nominated for appointment as a member unless he is an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering.

I suggest that needed on the committee are people who are experienced in geology, mining, engineering, hydrology and a host of other fields, to think about the structural integrity of the floor of a dam. Why are these people avoided on a committee that is to protect these dams? I believe the reason is clear. This legislation has been drafted to avoid the Reynolds report and, therefore, these people are excluded.

The Minister in the other place is reported in *Hansard* as having said that no one in the Department of Mines is capable of satisfying the requirements of clause 8 (3). In other words, the Department of Mines does not have a dam engineer. One wonders how a person will be appointed under clause 8 (1) (f) if that appointment is in direct conflict with subclause (3) of that clause. **One** wonders also why there have **been** no consequential amendments to overcome that situation. I believe the Government should consider the composition of the committee **carefully**, along the lines of recommendations made recently by the Institute of Engineers, Australia. On 27th January last the institute, in its journal *Engineers Australia*, reported:

The safety of dams is now a major issue in many countries. In Australia this is being looked at by an inter-departmental committee and it may ultimately lie within the jurisdiction of public authorities. In the UK the Institution of Civil Engineers conducts its own examination and certification of engineers from either government or private practice who are approved as "proof engineers" for the purpose of certifying the safety or otherwise of major water retaining structures. Achievement of this certification requires interview and examination and it does not relate to the particular avenue of the man's employment. This appears to be a proper role for a professional institution to take and it relates to the competence of individuals rather than to the competence of employing authorities.

The weight of that comment from the institute must rest heavily upon the Government. The spirit of that comment by a responsible body has been completely negated by clause 8. Clause 18 in subclause (3) provides that if mining activities threaten the structural integrity of a dam, work may be caused to be ceased by order of the Premier. It is interesting to note that under the terms of the bill the Minister for Mines will not be consulted in relation to this sort of thing. Despite the fact that in the other place the Deputy Premier, Minister for Public Works and Minister for Ports asserted that there will be this type of consultation between the two Ministers, there is no provision in the bill to the effect that the Minister for Mines will be involved on this aspect.

One wonders why there is this quite basic conflict between what the Minister said in another place and what the Deputy Leader of the Government in this House said today. So far as I can ascertain, there is no provision requiring that the Minister

for Mines be consulted. The matter would go to the Minister for Public Works and then straight to the Premier. How can the Premier or any future Liberal Premiers have the knowledge and expertise to make decisions of this nature? I refer honourable members to the fact that provision is made for this sort of problem to be solved in respect of the Metropolitan Water, Sewerage and Drainage Board; those matters are rightly referred to the Governor-in-Council, which in effect is the Cabinet.

Clauses 19 and 20 provide that an inquiry may be conducted if the committee should think it necessary. These two clauses have been described by eminent legal people as a recipe for a kangaroo court. I believe the measure is cleverly designed to provide a cloak of respectability for a Minister whose desire is to ensure that the next independent inquiry into mining under stored waters on the South Coast comes up with what the Minister regards as the right answer. Let me direct some specific questions to him. Is the manner in which any inquiry or examination is to be carried out specified in this bill? Why are there no provisions for the committee to be assisted by persons having judicial or other special skills and expertise? Why is there no protection for witnesses or the committee against the laws of defamation? Why is there no provision for affected parties to be heard or represented? In cases of dispute on fact why is there no provision with regard to the law of evidence? Why will the committee be given access to important and confidential information but not required to protect it, bearing in mind also that the committee is not bound by any oath or similar commitment? The committee will have power to administer an oath so why is not the committee itself bound by an oath? Why is there no right of appeal?

The Minister in another place said in his second-reading speech that there was a right of appeal to the Supreme Court and the Deputy Leader of the Government in this House repeated that statement today. I have no legal qualifications, but I am advised that eminent legal people who have studied this bill cannot find any provision to this effect. Clause 28 relates to the power of delegation. Subclause (1) of that clause provides:

(1) The Committee may, by resolution, delegate to—

(a) a member; or

(b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

That means that the committee may delegate its entire responsibilities and authority to, say, the water board. In many ways that is laughable in its simplicity. I should like also to ask questions of the Minister regarding some aspects of schedule 1 which in effect prescribes the dams affected by this measure. A number of major dams in this State are not covered by this measure. Probably it will be said that these dams are subject to joint control by New South Wales and other States. Despite that, if we are concerned about the structural integrity of dams, storages such as the Tantangara Dam, the Adaminaby Dam, the Jindabyne Dam, the Hume Reservoir, the Lake Victoria Reservoir and the Menindee Lakes storage should also be investigated by this committee so that the safety of citizens of New South Wales who live near them might be ensured. I am led to believe that the Lake Victoria reservoir has 32 miles of earthen bank, but it is not mentioned in this bill.

I believe that I have demonstrated that the two cases I put up are valid. Despite all I have said, honourable members should recognize however, that irrespective of this particular legislation the New South Wales Government, through the Minister for Public

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Works and Cabinet, has total and absolute control over whether mining will, or will not, proceed in any form whatsoever under any water board dam in the State. They draw that power from the provisions of section 55 and 146 of the Metropolitan Water, Sewerage and Drainage Act. Therefore, our concern is not to force the New South Wales Government to mine under stored waters. That is not within our power, nor should we wish to do so if it were. Rather, our concern is that this measure has been designed and contrived to discredit and void the Reynolds inquiry, and to replace it with another form of inquiry which, as I said earlier, may well come up with the right answer for the Government.

I conclude by reading a telegram that I received from a person who I would hardly describe as one of my best friends—the President of the Miners Federation, Southern Districts. The telegram reads:

Miners Federation, Southern Districts, requests deferment of bill on mining under stored waters until all the parties have been heard on this matter. Loss of mine employment in the industry at this time will be disastrous to the whole community.

(Signed): Miners Federation,
Southern Districts.

I move:

That the question be amended by the omission of the word "now" with a view to the addition at the end thereof of the words "this day six months".

I commend the amendment to the House.

[The Deputy-President left the chair at 12.45 p.m. The House resumed at 2.15 p.m.]

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [2.15], in reply: The Government is dealing with public safety. In the minds of reasonable and concerned people who do not have a barrow to push or do not have riding instructions, when the lives of people and the safety of water supplies, cities, towns and dams are involved it is better to err on the side of caution. It is disappointing that a responsible member of this legislature should put his own and his party's opinion in this matter above the expert consideration given to it by the government departments that deal with its day-to-day administration. Members of government departments have a much greater responsibility both statutorily and in their own individual sense—be they the Under Secretary of Mines, Minister for Mines or the Under Secretary of the Department of Public Works or his equivalent. If a mistake is made, they are the people who are answerable. Their careers will then be on the line. They are the people from whom the public expects a response. The public demands that everything possible be done to ensure the safety of members of the community, be they mineworkers, people living in villages near dams, picnickers near dams or people working on and about dams. The Hon. E. P. Pickering has in effect said that he and those who support him on the amendment know more than the officers who have spent a lifetime studying the safety of dams and mining operations.

The honourable member might have some basis for his stand if the controls envisaged by the bill were draconian and totalitarian and not subject to any independent scrutiny. They are neither draconian nor totalitarian; they are subject to scrutiny. It is misleading for the honourable member to suggest that they are not subject to scrutiny and that the Government has failed to take into account the recommendations of a committee of inquiry under Mr Justice Reynolds to examine the question of mining under stored waters. Of course, any responsible government would examine those matters. The Government has no particular axe to grind in favour of mining or against it. If anything, everyone knows that continued mining of the State's coal and

other mineral reserves represents a bounty not only for mineowners but **also** for the Government and the people of New South Wales. The Government is not proceeding on the basis that it wants to stop something that will be a great source of job creation and revenue for the State of New South Wales. It is doing what any prudent government would do—any government that is not motivated by base, avaricious and heartless lack of concern for the safety of others.

The Government is setting up a Dams Safety Committee. It should have been in existence a long time ago. Indeed, if it had been in existence some of the accidents that have occurred in and around dams in this State might have been avoided; it might have had the expertise on hand to deal with these matters more quickly than they were dealt with at the time; and it might have built up an army of co-ordinated expertise.

The Hon. E. P. Pickering: What accidents?

The Hon. D. P. LANDA: I am glad the honourable member has asked me that. On 28th August, 1974, a massive rockfall swept down the spillway of the Burrinjuck Dam.

The Hon. E. P. Pickering: But that was over a spillway.

The Hon. O. M. Falkiner: That was an act of nature; it had nothing to do with engineering.

The Hon. E. P. Pickering: The Minister does not know what he is **talking** about.

The Hon. D. P. LANDA: The Hon. E. P. Pickering does not know what he is talking about. His remarks indicate that he has not looked at the bill. The Dams Safety Committee will be concerned not only with engineering works in and around dams, but also with the whole question of safety associated with dams. The Hon. E. P. Pickering suggests that we are discussing only **coalmining**.

The Hon. E. P. Pickering: What about underneath the dams?

The Hon. D. P. LANDA: I am talking about the whole subject of safety of dams. I shall come to coalmining under dams when I deal with the report by Mr Justice Reynolds; at the moment I am talking about the broad subject of safety of dams. Discussion on that subject takes more than a minute or two but I shall come to the coalminers' interests soon. The people who gave the Hon. E. P. Pickering his instructions will get their pennyworth in a minute. I have said that there have been accidents—not many, thank goodness—in and around dams. The honourable member asked me for examples. I have told him, first, about Burrinjuck Dam. Another incident was at the Spring Creek reservoir, where thousands of acres of land would have been affected if the wall had broken. It was said that an avalanche of water would have spread over thousands of acres of rich grazing land and covered the **Mitchell** Highway and other roads. Dams are not blessed by our Creator. They are not impregnable; there will always be the possibility of fault. Does the honourable member suggest that there should be a list of accidents before a dams safety committee is needed?

The Hon. E. P. Pickering: The Minister is suggesting that no one is looking after them?

The Hon. D. P. LANDA: I am suggesting that they are looked after; but the matter has now become the subject of some controversy between the people who want to extend mining operations under them.

The Hon. T. R. Erskine: We are not talking about the dam wall.

The Hon. H. J. McPherson: The Burrinjuck Dam wall was not fixed.

The Hon. E. P. Pickering: Could the Dams Safety Committee have prevented that incident at the Burrinjuck Dam?

The Hon. D. P. LANDA: What do honourable members see wrong in having a dams safety committee?

The Hon. E. P. Pickering: If the Minister had been in the House when I gave my speech he would know.

The Hon. D. P. LANDA: My comings and goings in this Chamber do not depend on whether the honourable member is speaking. I often go when he is speaking, but my entering the Chamber has nothing to do with his speaking. The matter under consideration does not concern only the mining of coal under stored waters. The Government is conscious of the issues involved. The bill will do nothing to inhibit the proper mining of coal under stored waters. All it says, in effect, is that the Dams Safety Committee must be satisfied about the safety of these operations.

The Hon. E. P. Pickering: That is correct.

The Hon. D. P. LANDA: What could be wrong with that?

The Hon. E. P. Pickering: The composition of the committee.

The Hon. D. P. LANDA: So the honourable member now agrees with the principle of the bill, but he opposes the composition of the committee?

The Hon. E. P. Pickering: There has already been an extensive inquiry into the matter.

The Hon. D. P. LANDA: It was an inquiry into seven dams. Does the honourable member suggest that they are the only dams with which this bill is concerned? I remind him that there are 146 dams in the State of New South Wales. He is nodding his head now that he realizes the facts. Irrespective of whether I was inside or outside this Chamber when he was speaking, I remind him that there are 146 dams in this State. A dams safety committee is long overdue. The honourable member showed his hand when he said that he is concerned about the constitution of the committee.

The Hon. Kathleen Anderson: Because he is not on it.

The Hon. D. P. LANDA: That is right. There can be no argument about the principle of establishing a dams safety committee. Any responsible government would be proud of a bill like this. I ask the Hon. E. P. Pickering why he has any objection to a dams safety committee.

The Hon. E. P. Pickering: The Minister should have listened to my speech.

The Hon. D. P. LANDA: The honourable member now wants to **resile** from his own remarks. I shall remind him of that later. What is his objection? I remember he complained that the inquiries to be held under clauses 19 and 20 would amount to a kangaroo court. I shall examine the provisions dealing with the people who will comprise this committee.

The Hon. T. R. Erskine: The Minister has a mass of papers there.

The Hon. D. P. LANDA: I certainly have, because this is a most important measure. The Hon. E. P. Pickering and other members of the Opposition who will vote with him to defer the bill will have a lot to answer for if an accident should occur following some extension of activity in or about one or more of the dams in this State. These mishaps are unlikely, but they are possible.

What would the honourable member do if some tragic catastrophe occurred? Would he suggest that a public apology should be made about something that could have been done but was not done because of the honourable member's approach to the matter? The bill requires that the committee shall consist of eight part-time members appointed by the Minister. It provides that one member shall be a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act. Does the honourable member suggest that it is wrong that that commission should be represented on the committee? Another member shall be a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act. Does the honourable member object to that provision?

A third part-time member shall be a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act. Does the honourable member suggest that that commission should not have a representative on the Dams Safety Committee? The bill provides also that a part-time member shall be a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act. Does the Hon. E. P. Pickering suggest that is wrong? Another part-time member shall be a person nominated by the Minister administering the Public Works Act. Does the honourable member object to that? The remaining part-time members shall be two persons nominated by the federal council of the Institution of Engineers, Australia, and a person nominated by the Minister administering the Mining Act. Does the honourable member seriously suggest that those persons are not qualified for appointment to this committee?

Is not this the kind of committee that any government should be proud to put together. This committee avoids the possibility of those authorities which have responsibility for a particular dam suppressing information, intentionally, inadvertently or negligently, because of some thought—not a very creditable one—that perhaps they will be blamed for some act. The committee will consist of experts who will want to know the answers. We have learned in this House that when it comes to appointing experts: no one in New South Wales can do it better than the Hon. E. P. Pickering. He is an engineer and, of course, with engineers everything is possible.

The Hon. R. B. Rowland Smith: I thought that applied to lawyers.

The Hon. D. P. LANDA: With lawyers all things are solvable but not necessarily possible. One does not need to search far to see where engineering has not succeeded in avoiding disasters, even in our lifetime.

The Hon. T. R. Erskine: That applies to lawyers, too.

The Hon. D. P. LANDA: I would not agree with that. Lawyers do not build bridges that collapse or dams that crack. Lawyers are not responsible for the many engineering failures that are well known to us all. I understand that engineers cannot even keep the tiles on the Opera House roof. Should they fall down the whole credibility of the engineering profession will be in doubt.

The Hon. E. P. Pickering: That is the architect's responsibility.

The Hon. D. P. LANDA: Architects designed it. Engineers said it was possible to build it in that way.

[Interruption.]

The DEPUTY-PRESIDENT: Order! Though I think that the interchanges and interjections are for the most part good humoured, as the spokesman for the Opposition was heard in silence, it is only fair that the Minister in reply should have the same opportunity to be heard.

The Hon. D. P. LANDA: Thank you, Mr Deputy-President. One does find it extremely difficult when there are a number of interjections. We should look seriously at what is involved in postponing this legislation for six months. It would delay the examination by the committee of the 146 dams in New South Wales. That places a heavy responsibility upon this Parliament should anything untoward occur in the meantime. When this bill is enacted, nothing will be done that is not appealable to a court. Should a mineowner or a landowner or some other person be of the opinion that an order made under the provisions of this bill is unreasonable, he will have a right to test the situation in the Supreme Court. He will have the right also to object to the question of reasonableness if he is prosecuted. Such prosecution would rest upon the fact that the act on which he is charged is unreasonable. Should that fail to succeed, the charge itself would fail. Is not that the fairest way to deal with these matters?

The setting up of this committee will not mean an end to the recognition of people's rights. It is a prudent measure to protect the safety of dams, the safety of employees and the safety of people who depend upon the water supply flowing from those dams. The Hon. E. P. Pickering suggested that an inquiry under clause 19 is tantamount to a kangaroo court. The fact is that it is not even a court. Obviously the honourable gentleman borrowed that phrase from another place. The provisions do not allow for the gaoling or fining of people. The committee cannot decide liability or award damages. It conducts an inquiry into matters relating to the safety of dams and it makes recommendations to the Minister. There is no prohibition on legal representation. There is no denial of natural justice. Subclause (5) of clause 20 specifically provides protection for any person who gives evidence in good faith and believes the truth of the information or the evidence. These inquiry provisions are almost identical with those of the Energy Authority. There is nothing whatsoever sinister about them. What could possibly be wrong with making recommendations to the Minister?

The honourable member reached the height of his impertinence when he challenged the experience and competence of civil engineers in the field of dams. It was an interesting chairside discussion—but in reality it was an attempt to obfuscate his real tactic. There is no question about the validity and expertise of people who advise this committee. Let us rid ourselves of that thought. The real gravamen is that the honourable member wants to delay the bill for six months in the hope that Parliament will be prorogued and the bill will lapse and that will be tantamount to its rejection. The Opposition does not have the courage to reject the measure. It adopts this back-door technique in the hope that the bill will lapse or that, if anything occurs during the delay, honourable members opposite can say that they are not to blame, because all they were doing was deferring it.

Let us not have any pussy-footing about what the tactic is. It is that exactly. It is akin to rejecting the bill and will be seen as that. During that six-month period or longer honourable members opposite had better speak to whoever they speak to in their praying moments and hope that nothing happens in relation to the safety of our dams. I join them fervently in that hope. It is unlikely. I do not delude myself into thinking that something will happen next week or the following week but, if it does, honourable members opposite will have a lot to answer for to the people of New South Wales.

Any person challenging the validity of the notice may apply to the Supreme Court of New South Wales. Any person who wants to do something may do it at the risk of a fine being imposed and can challenge that fine in the court as having been imposed on unreasonable grounds. The bill is a straightforward one which deals with a vital matter of public safety. It does not negate the findings of the Reynolds inquiry. It does not deny the committee the option of considering all the

recommendations of the Reynolds inquiry which was an inquiry into only seven of **our** dams. It allows the committee the full gamut of consideration of every possible expert. Honourable members should bear in mind that it was His Honour Mr Justice Reynolds who said—I am not quoting him verbatim—that during his inquiry he did not consider it necessary to go outside the evidence offered by the disputants. That should give honourable members, as legislators, cause to worry a little. Despite the length of time taken by the inquiry and the visits to **oversea** sites, the recommendations of the Reynolds inquiry were taken wholly and solely from the disputants.

The Hon. E. P. Pickering: That is not correct.

The Hon. D. P. LANDA: It is **correct**. I shall read from page 3 of the report of Mr Justice Reynolds:

I did not think it appropriate to seek information or views independently of the disputants and to ask for funds to do so.

The Hon. E. P. Pickering: The disputants brought in experts from **all** round the world, including some from the National Coal Board in England.

The Hon. D. P. LANDA: At their own discretion.

The Hon. E. P. Pickering: Those experts are not employed by the companies.

The Hon. D. P. LANDA: They were witnesses of the disputants. The inquiry did not seek them. Those people came to the inquiry and went from it at the wish of the disputants. The Hon. E. P. Pickering said that what I had read was incorrect. It is exactly what Mr Justice Reynolds said in his report. This committee will not be so limited. That is proper. It is a matter of public safety—of people before coal or other minerals, and of the water supply before those things. It is idle for the Hon. E. P. Pickering to say that mining is already **taking** place under seas or lakes and nothing has happened. Perhaps that matter needs some investigation. It certainly has none of the ramifications of **mining** under stored waters or the safety of dams, all of which have far greater repercussions in terms of the people who live in and about those areas and who depend on the dams for their water supplies.

Though it may be important to consider the other matters raised by the Hon. E. P. Pickering in relation to mining under other waters, those matters do not in any way inhibit what should be done by the committee. It is idle and dangerous to attempt to truncate the Government's responsibility to the people of New South Wales and their safety or the efficiency and reliability of water systems throughout the State. The Hon. E. P. Pickering and those who support him in this tactic to prevent the bill from becoming law, take upon themselves a heavy responsibility. The Government requests them to reconsider their positions.

Question—That the word stand—put.

The House divided.

Ayes, 21

Mrs Anderson
Mr Baldwin
Mr James Cahill
Mr Coulter
Mr Ducker
Mr French
Mr Hallam
Mr Healey

Mrs Kite
Mr Landa
Mr McMahon
Mr McPherson
Mr Melville
Mrs Roper
Mrs Rygate
Mr Serisier

Mr Thom
Mr Thompson
Mr Turner

Tellers,
Mr Johnson
Mr Moms

Noes, 30

Dr de Bryon-Faes
 Mr Connellan
 Mr Darling
 Mrs Davis
 Mr Duncan
 Mr Erskine
 Mr Evans
 Mr Falkiner
 Mr Freeman
 Sir John Fuller
 Mr Holt

Major Humphries
 Mr Keighley
 Mr Kennedy
 Mr Lange
 Mrs Lloyd
 Mr Manyweathers
 Mr Moppett
 Mr Percival
 Mr Philips
 Mr Pickering
 Mrs Press

Mr Raines
 Mr Scott
 Mr Rowland Smith
 Mr Solomons
 Sir Edward Warren
 Mr Willis

 Tellers,
 Mr Calabro
 Mr Orr

Question so resolved in the negative.

Amendment agreed to.

Motion as amended agreed to.

UNIVERSITY AND UNIVERSITY COLLEGES (AMENDMENT) BILL
 UNIVERSITY OF NEW ENGLAND (AMENDMENT) BILL
 MACQUARIE UNIVERSITY (AMENDMENT) BILL
 UNIVERSITY OF NEWCASTLE (AMENDMENT) BILL
 UNIVERSITY OF NEW SOUTH WALES (AMENDMENT) BILL
 UNIVERSITY OF WOLLONGONG (AMENDMENT) BILL

Second Readings

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [2.55]: I move:

That these bills be now read a second time.

I seek leave of the House for the second-reading speech to be read on my behalf by the Deputy Leader of the Government.

Leave granted.

The Hon. EDNA S. ROPER (Deputy Leader of the Government) [2.56]: These **amendment** bills contain provisions to **amend** the Acts of incorporation of the six universities in New South Wales. The **various** amendments contain several important measures and a number of measures that are intended to facilitate administrative procedures at the universities. The opportunity is being taken also to make minor revisions to the Acts to make them more appropriate for current circumstances and practice. One of the important measures in each bill is concerned with the **introduction** of a provision to make it clear that each university governing body may make by-laws relating to fees and charges payable in respect of student organizations and in **respect** of such other matters as the governing body may determine. **The** other important measure concerns the introduction of a provision for three universities under which one member of the governing body **will** in future be a member of the non-academic staff of the university. The Acts of incorporation of the other three universities already include such a provision.

The purpose of the first **bill** before honourable members is to amend the University and University Colleges Act, 1900, and I should like to turn to a detailed explanation of the provisions of the bill. The short title is given in clause 1. Clause 2 specifies the commencement provisions. Amendments to the principal Act are dealt with in a series of schedules to the bill. Clause 3 lists these schedules and outlines the function of each. By means of clause 4 the provisions included in the schedules amend the principal Act.

One of the changes being introduced provides for the Minister, instead of the Governor, to appoint certain fellows to the senate of the university. By clause 5, persons appointed to the senate by the Governor are enabled to continue in office for the remainder of the term for which they were appointed by the Governor. Clause 6 validates any fees and charges levied by the university prior to the date of commencement of the provisions relating to these matters included in schedule 3, in case there is any doubt regarding their validity.

The amendments are contained in schedules to the bill. Schedule 1 provides for an amendment to the principal Act which is consequential upon an amendment included in schedule 6 by which an additional part, part **VIII**, is inserted into the Act. Schedule 2 deals with amendments related to part **II** of the Act which relates to the incorporation and constitution of the University of Sydney as well as to its governing body, the senate. Item (1) provides for the responsibility to approve alienation of land to be transferred from the Governor to the Minister. The amendment is one of several involving the transfer of certain functions from the Governor to the Minister. Similarly, by item (2) (a), the power to appoint fellows of the senate is transferred from the Governor to the Minister. Item (2) (b) is concerned with the composition of the senate. The amendment increases the group of full-time staff members who elect from among themselves eight fellows of the senate. The proposal is that the group include persons upon whom the university has conferred certain academic titles and who are members of the full-time **staff** of a prescribed institution or organization. Item (3) is an amendment consequential upon the amendment in item (2) (a).

Item (4) (a) provides for the omission of a provision of the Act whereby a fellow of the senate is deemed to have vacated his office if he transfers his place of residence to another State. Two anomalies will be overcome with the deletion of the provision. Paragraphs (b) and (c) of item (4) are amendments consequential upon earlier amendments. The final amendment **dealing with** the composition of the senate is contained in item (5) whereby the Minister, instead of the Governor, is empowered to fill a casual vacancy of a fellow appointed under section 7 (1) (a) of the Act by the Minister.

Item (6) clarifies the power of the university senate regarding university staff. The deletion of section 14 (1) of the principal act will put it beyond question that the senate has wide powers with respect to staff. Because the section to be deleted specifies **only** appointment and dismissal it raises doubt about the power of the senate to deal with staff in any other way. Item (7) is concerned with the procedure adopted by the university in setting down its standards for matriculation and entry.

Schedule 3 of the bill amends part IV of the Act, which is concerned with endowment and finance. Honourable members will be aware of recent legal challenges here and in other States to the powers of a university to impose membership fees for student organizations in the university and pass the money so collected on to those bodies. In view of these challenges it must be made clear that the Senate of the University of Sydney has the power to make by-laws with respect to fees and charges.

The Hon. Edna S. Roper]

Without **affecting** the generality of this provision, the section specifies a number of fees and charges that the university may impose. These include fees to be paid in respect of an organization of students or of students and other persons.

On 28th February, 1978, Mr Justice Rath, in the Equity Division of the Supreme Court of New South Wales, made a declaration that the University of New South Wales has the power to impose fees on students at that university for the purpose of paying the whole or part thereof to the Students' Union of the University of New South Wales. **Although** the wording of the relevant provisions is not identical for all universities, they are sufficiently similar to assume that the University of Sydney does have the legal power to impose such fees. Nevertheless the Government wishes to put the matter beyond any doubt and to have identical provisions in all six Acts of incorporation regarding this matter. The new provision retains a subsection providing for exemption from, or deferment of, payment of fees and charges.

Schedule 4 of the bill makes minor amendments to part V of the principal Act which deals with exhibitions, lectures and matriculation. These amendments are associated with amendments in schedule 2 which provide for the senate to make by-laws with respect to the matriculation, admission and enrolment of students. Schedule 5 provides for the Minister, instead of the Governor, to approve the establishment of **a** university **college** outside the Sydney metropolitan area and to appoint an advisory council, on the nomination of the senate, in respect of the college so established. Schedule 6 introduces a new part to the University and University Colleges Act to provide for the acquisition of land. The purpose of these provisions is to improve the **mechanisms** under which land is acquired for the university. These provisions follow the same pattern as those in the Colleges of Advanced Education Act, 1975. That **summarizes** the provisions of this bill.

I turn now to the University of New England (Amendment) Bill. This bill contains provisions relating to fees and charges and the acquisition of land **similar** to those contained **in** the University and University Colleges (Amendment) Bill. It also deals with other matters, some of which are peculiar to the University of New England. I shall discuss these as I go through the provisions of the measure.

Clauses 1 to 5 are similar in purpose to clauses 1 to 6 of the previous bill. Schedule 1 is concerned with amendments to the principal Act. Item (1) (a) of the schedule **amends** the description of the corporate body of the university by omitting a reference to under-graduate members and including instead the descriptive phrase "students **enrolled** as candidates proceeding to a degree or diploma at the university".

Item (1) (b) and item (4) provide respectively for exemption on grounds of conscience from membership of the corporate body of the university and from convocation. Provision for conscientious objection is already included in the by-laws of the University of Sydney and in the Colleges of Advanced Education Act. The university intends to replace its professorial board with an academic board. Item (2) (a) accordingly enables the chairman of the academic board to replace the chairman of the professorial board on the council of the university.

By item (2) (c) of the schedule the membership of the university council is increased by one, to provide for representation of non-academic staff. The provision already exists by by-law for the University of Sydney, and by the Act for the Universities of Newcastle and Wollongong, and for all corporate colleges of advanced education. Item (2) (b) is an amendment consequential to the amendment made by item (2) (c). Item (2) (f) makes it clear that only full-time members of the staff of the **university** who are not members of the academic staff are eligible to **elect a** member of the non-academic staff to the council. Items (2) (d) and (e) are amendments consequential to the amendment made by item (2) (f).

Item (2) (g) provides that the appointed members of council **will** be appointed by the Minister instead of the Governor. Items (3) (a) and (b) are consequential to the amendments made by item (2) (g). Similarly, by item (5) the university council is required to seek the approval of the Minister, in lieu of the Governor, to alienate, mortgage, charge or demise **lands**.

When explaining the provisions of the University and University Colleges (Amendment) **Bill** I dealt with the measures included in items (6) and (7) of schedule 1 of **this** measure which are concerned with fees and charges and with the acquisition of land respectively. Schedule 2 of the bill contains amendments to the existing legislation by way of statute law revision.

I turn now to the Macquarie University (Amendment) **Bill**. In explaining the amendments contained in the University and University Colleges (Amendment) **Bill** and the University of New England (Amendment) **Bill**, I referred to most of the **significant** amendments to be considered in the remaining bills. Schedule 1 of the Macquarie University (Amendment) **Bill** contains clauses dealing with redefinition of the corporate body of the university; provision for the granting of exemption from membership of the body corporate and convocation on the grounds of **conscience**; representation of full-time members of the non-teaching **staff** on the university's council; transfer from the Governor to the Minister of the responsibility to approve of the alienation of university land; clarification of the powers of the council to make by-laws **with** respect to fees and charges, including exemption from any deferment of payment; acquisition and transfer of land; and amendments consequential upon the amendments mentioned above. Statute law revisions are proposed in schedule 2.

When honourable members turn to the University of Newcastle (Amendment) **Bill** they will see that the amendments are substantially the same as those already outlined.

I now refer to the University of New South Wales (Amendment) **Bill**. The purpose of this bill is to amend the University of New South **Wales** Act, 1968, to provide similar amendments as in the previous bills. The details of **these** provisions have been explained in discussing the previous bills.

The next bill, the University of Wollongong (Amendment) **Bill**, is the last of the bills that deal specifically with amendments to the Acts of incorporation of six universities in New South Wales. No amendments are included in the schedules contained in this bill that **differ** from those outlined in relation to the other five bills. Honourable members are, therefore, aware of the purpose of each of the provisions of this bill. I commend the six bills to honourable members.

The Hon. M. F. **WILLIS** (Deputy Leader of the Opposition) [3.9]: In general terms my remarks will be applicable to all six bills. In general outline, the Opposition is in sympathy with these proposals. We are accustomed in this place to having amendments to the various university Acts brought before us annually. The Opposition believes that attention should be drawn to three matters. I shall deal with the least contentious first. So far, in specific terms, the universities have not had power to acquire land, but the amendments in these bills propose to vest this power in them, with the consent of the Minister.

On the face of it, the Government's intent appears to be in order. However, I remind the house that for two years we have been hearing about the Government's much-vaunted plans to introduce an overall measure for the compulsory acquisition of land by government, semi-government and quasi-government authorities. Though the Minister in another place last **week** made public the report of a committee which had been inquiring into this matter, I should invite to the attention of the House the

fact that it is more than two years since the Government made its intention quite clear. It is more than two years since I sat immediately behind the Hon. Edna S. Roper at a convention in Hobart and heard her vote most enthusiastically for a provision that compensation should be on just terms. I make that comment in passing. Power has been reposed in universities to clarify the situation. That is good. I take the opportunity to remind the Government of promises at constitutional conventions by several Government supporters, a number of whom are now ministers, in relation to just terms legislation.

The second point I make in passing relates to the exemption provisions in these bills. Exemption for persons at universities from membership of convocation and the body corporate on various grounds is not objected to by members on this side of the House. There is no objection to provision being made that people be exempted by the appropriate authorities upon satisfying certain clear conditions. Further, I raise the effect that this will have on the liability of the persons exempted from rules, regulations and all sorts of things that bind, and the privileges that accrue to members, and particularly graduates of universities. The position seems to be unclear. What legal consequences, if any, in terms of status, duties, responsibilities and privileges that accrue to university personnel will follow from the exemption?

The third and most contentious matter relates to fees. The Opposition offers no objection to legislative provision to clarify the powers of a university to make by-laws requiring that fees payable by students or members of the university in relation to a number of things shall be compulsory. The Opposition believes, in line with the purport of the bills, that if one seeks the privilege of membership of an institution such as a university, and all the things that flow from it, one must be willing to pay the fees which that institution, through its governing body, contends are right, proper and necessary.

There is no argument about the fact that the bills seek to clarify the power of universities, through by-laws, to make these fees compulsory in respect of the matters listed. Section 25 of the University and University Colleges Act lists the matters under which the University of Sydney may by by-law direct that compulsory fees be paid. They are fees in respect of entrance to the university, tuition, lectures and classes, examinations, residence, the conferring of degrees and diplomas; and then the first of the grey areas, the provision of amenities and services whether or not of an academic nature. That covers such things as the university unions, which at the University of Sydney provides The Union with which so many members who are graduates of that university are familiar. The University of New South Wales provides that architectural masterpiece with appalling acoustics known as The Roundhouse, with which many members are also familiar. The last matter listed in section 25 is fees for organizations of students or students and other persons. That relates to what we commonly refer to as student representative councils.

The Opposition has no objection to fees being levied compulsorily in relation to these matters, all of which except the last, might be described as coming clearly within the province of what is accepted as strictly university-within-university activities for members of the university. The last matter is in a much greyer area than the earlier ones. This matter of fees for organizations of students or of students and other persons from time to time gives rise to controversy about the political activities of the Australian Union of Students. Some activities of that body have caused considerable political polarization not only among students but also in the community at large.

Within our community, and particularly within university fraternities, a great deal is said of what is called the independence of universities. In principle the **Opposition** adheres to it. We believe that universities, if they are to serve the **community** better intellectually and culturally, must have independence. But it must be clearly understood that this independence should be within the parameters of the university's charter or the Act of Parliament appertaining to that particular institution. That right of independence does not go beyond those parameters. In other words, the university is free **to** pursue its activities as laid down by law. That is different from the **sort** of independence that has led to compulsion of attitudes in respect of the activities of the Australian Union of Students. I emphasise that the Opposition does not wish to fetter the activities or freedom of expression of students at universities. That is one of the great strengths of our universities. Young people who are the future leaders of our community should have the opportunity to think, debate and speak publicly--indeed, even at times to the discomfort of older people. I do not in any way **seek** to derogate from that right.

The Opposition believes that if money is to be collected compulsorily from students of a university those moneys must be applied only for activities of the university, within the university, and that if any organization of students, be it political, cultural or what-have-you, wishes to engage in activities beyond what might be termed the strict charter of the university it is free to do so, but must do it with what might be termed voluntarily collected moneys from members of the university community interested in that particular thing. To that end I foreshadow that in Committee on each bill I shall be moving an amendment which requires that in relation to any of the fees proposed by by-law under section 25 to be collected compulsorily the university shall have an obligation to ensure that the funds are **used** for university purposes and not directly or indirectly hived off into organizations that have objects other than those of the university, by its charter or authorizing Act.

The proposed amendment will have the effect of clarifying this area. It will remove a great deal of unrest among a lot of students because of the actions of some students who, from time to time, control particular student organizations. Concern is felt that funds **contributed** to under a compulsory arrangement will be applied to what are not strictly university purposes. I shall quote a few examples of the type of activity to which some of those funds, albeit in small amounts, have been channelled from time to time: The East Timor moratorium, a defence **committee**, the national students stoppage, and the Socialist Youth Alliance. There are many more. That kind of activity is entitled to be supported by students either personally or with their funds, but the organizations that are the beneficiaries within the university of compulsorily acquired funds are not entitled to be supported. It is not strictly within the activities of a university to pass over funds to that kind of activity. I shall move those amendments in Committee.

The Hon. MARGARET DAVIS [3.25]: I support the Hon. M. F. Willis regarding the spending of money by the Australian Union of Students. Universities were rather pleasant places to go to twenty-five years ago. There was the **Labor Club**, the **Liberal Club** and the **Newman Society**. Those with time for extra curricular activities **could** enjoy a quiet social life. It has not been so during the past four or five years. The Australian Union of Students has become a bitter, stand-over, Maoist and **Trotskyite** type of organization. I make it clear that I do not blame the **Liberal Club**, the **Labor Club** or the democratic clubs for what is going on in universities. A member of the Labor Party called Michael Danby in Victoria was one of the greatest opponents of the former policies of the Australian Union of Students. For his trouble he wound up in hospital. From their reading of the newspapers honourable

members will know that he was violently bashed one night. So I am not talking about the **Labor** Party; I am talking about the extreme left—the noisy, rowdy, rabble that makes life uncomfortable for everyone else.

I have no objection to students receiving travel concessions. I believe that if the AUS travel scheme had been properly managed as the business of a travel agent should be, it would be a good proposition for the Australian Union of Students. Though I am not a member of any university council, as some honourable members are, I was a member of the council of the Institute of Technology. Last year I was pleased when the Australian Union of Students was defeated by the Institute of Technology students who at a referendum voted to withdraw from the Australian Union of Students. I do not blame the students for doing that.

I cast my mind back three years to when Mr Bill Hartley, the information officer of the Australian Union of Students and another person toured the campuses of Melbourne and Sydney. Unfortunately they used also the Great Hall of the Institute of Technology. It was decided afterwards that there would never be another meeting like it. For the first time, blood was shed on the campus. I received an eye-witness account from a woman who was on the first floor of a building at the Macquarie University. She told me she saw what had happened. People would not come forward and testify to the police. As honourable members know, the police have no authority inside a university.

My main objection to the Australian Union of Students relates to how they spend funds. The Hon. M. F. Willis told honourable members of some of the things on which they spend their money. It is right and proper that money collected within a university should be used for welfare and benefits for students within that university or college of advanced education. Aid to popular liberation fronts that are not supported by the main body of students is not a proper use of funds. The rowdy minority were being elected to the Australian Union of Students. Only in the past twelve months have the students become aware of what is going on. The Australian Union of Students has changed completely in that time. Two candidates from the extreme left managed to scrape home on a ten-man executive. Previously that executive was dominated by Marxist and neo-Marxist members. The executive is now almost evenly split in relation to moderate and left-wing students. Honourable members may ask why the amendments are needed. At the moment things may be all right, but three years' ago they were not all right. Protection must be afforded for the future.

The Hon. P. S. M. PHILIPS [3.30]: It appears that universities have been able to resume land under the Land Acquisitions (Charitable Institutions) Act because they are considered eleemosynary or charitable institutions under the terms of an Elizabethan statute. Legal doubts have now been raised about this charitable status of universities and it has been decided to give them legal power to resume in their own right. Similar provisions already apply to colleges of advanced education. I do not dispute the need for land to be resumed for universities. I do feel, however, that it is highly undesirable to extend the current confusion in this area further.

I make the following points. As honourable members will be aware, at least the following Acts give the right to resume property at present: the Public Roads Act, 1902; the Closer Settlement Act, 1904; the Local Government Act, 1919; the Government Railways Act, 1912; the Metropolitan Water, Sewerage and Drainage Act, 1912; the Land Commission Act, 1976; and others including the State Coal-mines Act, 1912; the Housing Act, 1912; the Water Act, 1912; the Electricity Commission Act, 1950; the Forestry Commission Act, 1916; the Health Commission Act, 1972; the State Planning Authority Act, 1963, the Growth Centres Act, 1974, and the recent

Land Commission Act. The general acquisition powers of the Crown are **contained** in the Acts that I have mentioned but, as the interdepartmental committee on land acquisition procedures pointed out in its report tabled last week:

There are additional powers of acquisition for particular purposes contained in the Crown Lands Consolidation Act, the Closer Settlement Acts and the Public Roads Act, 1902. There are substantial differences between the acquisition provisions of these Acts and the acquisition provisions contained in the Public Works Act including differences as to the compensation that is payable in respect of the resumption of land.

Who should resume land in New South Wales? The interdepartmental committee had a view. It said:

The committee gave consideration to the question of whether it should recommend that land acquisition in this State should be carried out by one central authority. The advantage to be gained, in theory at least, would be that the requirements for land of the various public authorities could be **co-ordinated**. Thus for example if land was required in approximately the same area for a school and for a hospital the alternatives could be **con-**sidered of acquiring separate sites or of acquiring one larger site to accommodate both projects. It could well be that the cost of acquiring the one site would be substantially less than the cost involved in acquiring two separate sites. However, the committee decided against making any such recommendation because, in its opinion, the dangers of creating "bottle-necks" were far too real to be ignored. It is not that the committee is opposed to moves towards a centralized system. What it does oppose, however, is a sudden and complete change from the present decentralized system to a centralized one. If such a system is to be adopted it should only be introduced gradually.

The committee considers that the legislation it proposes is sufficiently flexible to allow this to be done.

Later in its report the committee said:

However, if it is decided as a matter of policy that there should be a single Minister to undertake executive action and responsibility in relation to all acquisitions under the Act (as is the case under the Commonwealth Act), this should be taken to be a long-term objective to be introduced gradually and at no faster rate than the increases in the number of acquisitions to be handled could be dealt with without administrative delays.

I merely comment that I think that the interdepartmental committee is excessively concerned about the problem of bottle-necks. I would agree with it, however, that if a more centralized system is to be introduced, it should be introduced gradually. I do not think that the interdepartmental committee has given any attention to the existing problems of co-ordinated land management, as it may not have felt that its terms of reference permitted it to do so. I suspect that it has placed undue emphasis on its deeds register proposal. In this regard I quote from the interdepartmental committee's report:

Consideration was given by the White Committee to the difficulty that might arise in identifying the purpose for which land of the Crown standing in the corporate name of the State of New South Wales had been acquired.

In its report that committee commented as follows:

The committee considers that the deeds registers kept in the Crown Solicitor's office will provide the necessary information in this regard. The importance of these deeds registers as a central record must, therefore, always
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be kept in mind and there must continue to be entered into them, as at present, a record of all deeds obtained on acquisition by the Crown. The present practice is to record all such deeds even though they are sent to departments and so pass out of the Crown Solicitor's custody. It is essential that this practice should continue.

The report further stated:

The present committee, however, does not consider that the deeds register kept in the Crown Solicitor's office should be looked to either as **the** only, or even the principal, record of land standing in the name of the State of New South Wales. The committee recommends that immediately upon the coming into operation of the Public Works (Acquisition of Land) **Amendment Act—**

That is the rewrite of the old Public Works **Act** which is one of the series of bills **that we** have to consider today as the criteria for land acquisitions. I emphasize **that the** committee which reported only a week ago has strongly recommended a complete rewrite of that Act, as proposed by the Opposition for quite some time in this House. The committee said:

The committee recommends that immediately upon the coming into operation of the Public Works (Acquisition of Land) Amendment Act, there **should** be established on computer an index in which would be recorded each acquisition of land by the Crown as it occurred and also, as it occurred, each **vesting** of land in the State of New South Wales under the provisions of the proposed section 147.

That is the proposed section of the new Act which this committee feels should be introduced. The report continues:

In addition to recording in the index the original purpose for which land was acquired there would need to be recorded any change in purpose that occurred in the use to which the land was put so that a record of current use by the Crown of land vested in it would always be available. Also the committee sees no reason why, in time, the index should not be extended to include the land currently held by all statutory authorities in this State. The index would, of course, have to be kept and maintained by a central authority presumably, in the view of the committee, either the Registrar General's Department or the Department of Lands.

Unlike New South Wales, the Commonwealth, as mentioned, has accepted that resuming **landholdings** requires some expertise, and it has accordingly contracted the number of resuming authorities. Specifically, under clause 66A of the Commonwealth Land Acquisition Act, which was given Royal assent on 19th December, 1973, the acquisition of all land and interest in land, including leases, for all Commonwealth departments and statutory authorities was made the responsibility of the Department of Services and Property, now the Department of Administrative Services. There are only a very few exceptions, such as T.A.A. and Qantas.

The background to this was an increasing trend of statutory authorities to enter into the market-place, and in fact compete with the Department of Services and Property to the detriment of the Commonwealth purse. It is considered that in the Department of Administrative Services there is a body of expertise skilled in the specialized business of government property dealings.

In this regard, it is interesting to note the recently announced appointment of Mr J. G. Wollaston to the newly-created post of Director, Commonwealth Property, on a three-year contract at a salary of \$36,931 a year to administer the Commonwealth's

800 000 square metres, approximately, of property. Mr Wollaston has apparently held positions with such companies as Westfield Limited, and therefore should have the requisite experience to do the job which I have described. In the light of the comments made by the interdepartmental committee, which foreshadowed that the Government must make a decision on whether to centralize property resumptions or not, I would have thought that the Government should have deferred introducing this particular section of the bill until the matter had been resolved.

According to recent announcements, the Government's situation in the land resumption stakes is, I should have thought, awkward to say the least. It results from approaching the problem in a haphazard and **unco-ordinated** way. The *Sun-Herald* of 19th February, 1978, carried this report:

State Government departments and authorities have been sitting quietly on an estimated \$100 million worth of residential land in Sydney. Some of this land **was** bought relatively recently, but much of it was acquired decades ago, and even last century. At least 4 000 housing blocks, and possibly as many as 8 000 sites, are involved, scattered throughout Sydney and suburbs . . . it involves blocks of land for which there exist no real plans this century, a matter which not even the relevant public servants have disputed.

In fairness I **also** quote this extract from the same article:

The Premier, Mr **Wran**, announced this week that a register would be set up to list all government-owned property.

I **concede** that the Government has recognized that something must be done in this area by setting up a register of government-owned property in anticipation of the interdepartmental committee's making that **recommendation**. I agree that this is a help. I do not feel, however, that it goes far enough. I submit that the Government should forthwith consider providing that land acquisition in **future** should be carried out by a central authority.

Finally, as honourable members know, I take the view that, with respect to resumptions, just terms of **compensation** are preferable to providing that resumptions be under the Public Works Act. We now know that the interdepartmental committee agrees with this, and that it has recommended radical changes to the current Public Works Act. I have noted the comments made by the interdepartmental committee on the Property compensation (Just Terms) Bill but am not convinced. Despite that, the Government **is** apparently persisting with legislation that provides for **resumptions** under the Public Works Act. For this reason, also, I should have thought that, because **of** the interdepartmental committee's recommendations, the Government should have deferred introducing this part of the bill. The interdepartmental committee report also proposes to introduce a new value-to-the-owner concept, which needs further clarification as do other aspects of the report. However, clearly the Government is at long last required to **consider** resumption procedures that are more equitable. This is to be applauded.

The Mon. L. A. SOLOMONS [3.42]: I rise to address a few remarks to the University of New England (Amendment) Bill in respect of which I seek some clarification. The Minister might, while his advisers are here, be able to assist me with a matter that has puzzled me since I first received the bill. Section 4 of the principal Act incorporated the University of New England in 1953, **and** the bill in the first part of schedule 1 slightly alters the definition of the body corporate from consisting of convocation and graduate and undergraduate members, to convocation, graduates of the university and students enrolled as candidates proceeding to a degree or diploma at the university. Then, it proceeds further by allowing, in proposed new subsection (3) of section 4 for a person to be exempted from

membership of the body corporate on grounds of what might be generically termed conscientious objection. Later there are provisions for any person **wishing** to dissociate himself from convocation on similar grounds. Then there are provisions to enable the council of the university to exempt any member from paying any fees that might be implicit by membership of the body corporate.

I cannot see the logic in some person being part of the university while he is not part of the university. Clearly exemption from the body corporate exempts him from being part of the university.

The Hon. D. P. Landa: The Act still requires that he has obligations and responsibilities.

The Hon. L. A. SOLOMONS: Yes, it seems to me that that might well be so. I do not know whether anything turns on what I am saying. Perhaps I am wasting the time of the House, but I am simply asking why there should be such an illogical approach. It is perfectly clear that, so far as conscientious objection and membership of any body is concerned, that is well covered in the amendment to section 15 and the amendment of the fee making power. However, I cannot see how it is that one can conscientiously object to becoming part of the university yet be at the university. In other words, while a student is enrolled and is proceeding to a degree or diploma, or is a member of convocation, he is neither of them. That seems to be what the new subsection (3) implies. Could the Minister enlighten me on the reason for this?

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [3.47], in reply: I thank the honourable members who have contributed to this debate. It seems that the commonly accepted view is to accept the role of universities in relation to the matters covered in these amending bills, which in a sense have received some judicial reinforcement from Mr Justice Rath. I know that all members who serve at universities will know that these bills have been prepared with the entire approval of the bodies at these universities; indeed, they are positively welcoming a clarification of the provisions that have been the subject of legal challenge in the past. Those challenges have not been what any university would like, and to put the matter finally at rest in relation to the law of the land, and to assist the administration to a great extent, these **amendments** are being introduced. Prior to dealing with the technical matters raised by the Hon. M. F. Willis and the Hon. L. A. Solomons in relation to exemption from convocation—

The Hon. L. A. Solomons: The body corporate, not convocation. I can understand the basis for the exemption from convocation.

The Hon. D. P. LANDA: Dealing first with the provisions for resumption, I am advised that these provisions continue functions that are already in existence. There are no new provisions for the Government to resume land on behalf of the universities. Under the amendment, the Minister assures himself that adequate provisions will be made by the university for compensation. The Hon. M. F. Willis said that the general question of adequate compensation for resumption is under consideration. That is reiterated by our learned authority on compensation, the Hon. P. S. M. Philips. Any results of this consideration would be kept in mind by the Minister when assuring himself that adequate compensation provisions have been made. The Government recognizes that the problem in relation to compensation has not been exhaustively solved. However, as we have had, almost *ad nauseam*, discussion on resumption in this Chamber, I shall refer these arguments to the appropriate Ministers for consideration. I know that the Hon. P. S. M. Philips is dedicated to obtaining improvements in the procedure; indeed, that will become his hallmark, and may lead to some improvement in the procedure in this State.

The other matters that give rise to concern are remarks of the Hon. M. F. Willis, reinforced in a more direct way by what was said by the Hon. Margaret Davis, in relation to the expenditure of compulsorily acquired fees be it by the Australian Union of Students or other student bodies and what protection this Parliament needs to give to universities or student bodies that they do not have within their existing capacities. I have no doubt that all honourable members would agree that, in the absence of a request from the universities or the universities' controlling bodies, it is dangerous to enact such a provision as is suggested. It would be a most retrograde step for this Parliament to butt into an area where the universities have seen no need for action. The autonomy, both academic and administrative, of universities is a prized possession valued by those institutions throughout the world.

It goes without saying that from time immemorial within universities there have been represented every possible political school of thought or persuasion, from the furthest right to the furthest left and the purely apathetic. That is the way it ought to be. It is for universities themselves to govern **how** they should deal with the machinations of those people who come within these schools of thought. These bills entrust universities with that responsibility. They provide that universities may collect these fees compulsorily, that the fees may be given to the student bodies and that the student bodies may deal with them in accordance with the by-laws. Should a problem of any serious consequence arise, it should be dealt with in accordance with the by-laws.

The Hon. Margaret Davis gave the clearest of examples of how adequately a student body itself can deal with its own members. We have seen the transition from the most extreme point of view in that major student body in this country, a view shared conclusively by a small minority in the community, now changing back through the strenuous efforts of people such as Mr Michael Danby, a member of the Australian Labor Party, bringing this body back to the position of being of a more representative nature than previously. It is part and parcel of the educative process that students themselves be afforded within their own learning institutions a means to exercise their own democratic procedures.

Should a body misbehave by giving money or acting in a way for which it does not have a mandate from the membership of that body, it is the first lesson in democracy that it is beholden upon the members of that body to **change the** administration of its council. If a university student learns only that during his period at university, he has obtained an education far more valuable perhaps than the technical or tertiary studies in which he is engaged. It is by the exercise of **his** democratic rights within his own organization that at the earliest possible time he **will** have proved himself to be a good citizen. Such a thing needs no reminder or no restriction from this Parliament. It will be a bad day **when** the Parliament **intrudes** into the activities of universities in such a way.

It is of the **finest** distinction for the Hon. M. F. Willis to ask what is a purely university purpose or educational purpose and what is not? I presume **the** honourable member **will** bring forward an amendment similar to that foreshadowed in the other place. Imagine the argument that will flow **as** to what comes within the **ambits** of such a provision. The legislation would give a rod to be used on the backs of student **organizations**. It is not necessary. The Hon. Margaret Davis gave us in practical terms the clearest of reasons why this is not necessary. What about payment of fees for sport associations? Is sport **axiomatically** part of university education? Many people who have attended university for years have never spent one day or even one hour in sporting activities. Many resent most bitterly expenditure of money on sport. I know of people who resent expenditure of money in this way.

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They say that **this** sort of thing is purely a matter of each person's personal leisure preference and has nothing to do with education.

The Hon. M. F. Willis: The reverse sometimes applies.

The Hon. D. P. LANDA: Yes, it is a subjective test. There is no need to interfere with universities in this way. The answer is irresistible when one sees that not one of the universities has sought this sort of provision. The honourable member himself is a member of a university council. Had he support for this **amendment**—and we know that he endeavoured to get it but was unsuccessful—he would have got it from the university at which he is a member of the council.

The Hon. M. F. Willis: The Minister's spies have reported back, have they?

The Hon. D. P. LANDA: I assure the honourable member that it is a matter of common knowledge that he has proposed this and it did not receive support from a single person. Fortunately universities have considered these things which for some **time** have been a matter of public concern. The Leader of the Opposition, also a member of the council of a university, has not suggested any such amendment. The reason is obvious. It is a matter properly left to each university. They have shown that they can properly conduct their organizations, and they need no reminder from this House.

With regard to exemption from membership of convocation and the body corporate on grounds of conscience and its implication, students granted exemption will not be members of the body corporate or convocation and will not be bound by the **responsibilities** of or allowed privilege arising from such membership.

Those people will still be bound by the Act, the by-laws and regulations relevant to them as students or **staff**, as the case may be. They will be bound to follow the rules and regulations regarding behaviour and other things. They will still have the rules applied to them relating to assignments, examinations and so on, to qualify for awards. I am informed that some persons have a religious concern that they must not be formal members of a body. They hold that view on the basis that St Paul said, "Be not yoked **with** the unworthy". Those people are happy to attend a university and take a degree provided it does not make them members in the formal or legal sense. This provides a method by which their consciences can be clear.

The Hon. L. A. Solomons: If they want to get a degree, the yoke is on them.

The Hon. D. P. LANDA: Though they do not want to be yoked with the unworthy, they do not mind being capped and gowned with them.

Motion agreed to.

Bills read a second time together.

In Committee

The TEMPORARY CHAIRMAN (The Hon. H. J. McPherson): The Committee will deal first with the University and University Colleges (Amendment) Bill.

Schedule 3

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(viii) an organisation of students or of students
and other persons; and

The Hon. M. F. WILLIS (Deputy Leader of the Opposition) [4.3]: I move:

That at page 6, line 20, the word “; and” be omitted and there be inserted in lieu thereof the words “. Provided that the Senate shall apply **all**

fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non-University purpose; and"

As I foreshadowed during the second-reading debate the Opposition will be proposing the amendment in respect of each bill. I think it is pertinent for me to comment on some matters raised by the Minister in his reply. I re-emphasize that the Opposition by this amendment in no way seeks to impair the traditional independence of universities and activities within universities.

The Hon. D. P. Landa: It will do that.

The Hon. M. F. WILLIS: The Opposition does not believe that the amendment, by way of a proviso to the by-law power being vested in universities, will inhibit the traditional independence of universities to which I have referred. It is, however, a timely reminder to the governing bodies of universities and all those who are members of universities that compulsorily collected fees should be used for the purposes of the university within the university. In his reply the Minister mentioned the confusion that would be incurred by the use of a term such as non-university. The purposes of a university are quite clearly established by the Act which incorporates the university. Anything the Act authorizes is a reasonable purpose and anything it does not authorize is not a reasonable purpose. If compulsory fees, which are really the money of tax-payers under the current system, are to be collected from students, they must be applied for the purpose of the university, authorized by its Act of incorporation.

It could be argued that if we did not put this into the bill by way of this amendment it would still be open to the member of the university to challenge the application of any funds so compulsorily acquired by the university as being for non-university purposes. I direct the attention of the Minister to the case of *Clarke v. The University of Melbourne & Ors.* A great list of matters, in the view of the court, were quite clearly not for university purposes and were *ultra vires* the constitution and powers of the student representative council which was the subject of that litigation.

The Opposition believes that it is doing the independence of universities no disservice and that it is doing the governing bodies a considerable service. They will be able to point to the proviso that the Opposition is seeking to have inserted as the authority upon which they must not permit any of these funds compulsorily acquired to be applied for non-university purposes. If the proviso is inserted in the Act a great measure of relief will be felt by the governing bodies of universities that the
Parliament—

The Hon. D. P. Landa: They do not want it. The Deputy Leader of the Opposition should not say that.

The Hon. M. F. WILLIS: They will be relieved that the Parliament has given a clear indicator, a reminder, that fees compulsorily acquired shall not be, and must not be, applied for non-university purposes. The Minister has said that the governing bodies of universities do not want this proviso. On the face of it, that may well be so; but I have personal knowledge that the Minister does not have. He is not on the governing body of a university. I know that the members of a number of university councils are concerned that some provision of this nature should exist. Quite frankly, a lot of the governing bodies of universities in New South Wales are so apprehensive about stirrings on their campuses that they do not want to raise an issue of this nature within the council. Therefore, an indication in the legislation—a reminder that the university is obliged to use compulsorily acquired fees for strictly universities purposes—is not only timely, but also, it will be welcomed by the silent majority of a lot of councils and senates of universities as well as by students.

The Hon. **L. A. SOLOMONS** [4.10]: I echo the concern expressed by my colleague the Hon. **M. F. Willis**. It may be that no overt requirement in regard to this matter was put forward by the universities when requesting amendments. However, as a member of a council I have heard echoed not once but hundreds of times concern about the power that can be exercised within universities by small, radical groups placed within universities, sometimes by interested bodies, sometimes by people who are not even members of the university, who by use of funds which are compulsorily levied on all students, are able to disrupt universities. Honourable members will remember recent occasions when tactics of utter disruption were adopted for purposes which, under no possible definition, could be regarded as university purposes.

I may take up a minor issue with the Minister on this further point, although we may not be at issue at all. Perhaps the proposed cognate section which is the equivalent of section 25 of the University and University Colleges (Amendment) Act will not specifically give the governing body of the university power to deal with expenditure of money that it has allocated after it has raised the fees. It will simply give them power to make fees payable. They may seek to exercise that control. That gives rise to the situation to which the Hon. **M. F. Willis** referred. Imagine a university these days going to its student representative council to seek to alter its constitution in some way that might change one of the long-established practices. If it did so it would have to meet tactics of utter disruption by that body. One can see why university administrations have shied away from this matter. I assure the Minister that although they may not have specifically asked for it, many university administrators in this State will welcome the amendment.

The Hon. **D. P. LANDA** (Vice-President of the Executive Council and Minister for Planning and Environment) [4.14]: This debate does no justice to the honourable members who support this amendment. I was astounded that the Hon. **L. A. Solomons** who normally is exact in his submissions, debased his argument with such loose expressions as "heard echoed in councils", "intimated by people" and "people shied away from it". I was disappointed that he dealt with a subject such as the autonomy of universities in this way, after all the lip-service that has been paid to it. The simple fact is that Parliament, by accepting this amendment, would interfere with the autonomy of universities by giving them, as the Hon. **M. F. Willis** said, a timely reminder. What does that mean? Does it mean that through all the decades that universities have existed within this State there were no radical minorities or vocal, disruptive groups? Were there none when those honourable members were at university? Were there no communists, Trotskyites, fascists or nazis when the honourable members who support the amendment were at university?

[Interruption]

The Hon. **D. P. LANDA**: They have been supported by fees which for decades have been collected, either by compulsion or through apathy from the whole student body. This intellectually dishonest argument reflects badly upon those who have been to university. Both of the honourable members who support the amendment have been to university. It is a reflection of their trust in their university. All I can suggest is that they have demonstrated the effect of the creeping years upon their own intellectual robustness. It was all right when they were students, for they could withstand these radical influences; but according to them, universities and university students of today need a timely reminder from these old fellows. They have a lot to learn.

I suggest when they were at university they would have resented any timely reminder from people sitting in Macquarie Street on how they could deal, as university students, with the radical element of their day. I hope theirs is a personal view and that it does not divide the Committee. The question comes down to this: If it were

the sort of problem in respect of which a timely reminder were needed, the universities would have dealt with it. It has to be rejected. I am sure that the Hon. **L. A. Solomons** in his more thoughtful moments will regret his observation that in some way university administrators, chancellors or councillors or whoever they may be would be intimidated by the disruption that might follow any move on their own part in this matter and that for that reason they have shied away from this timely reminder. I think the honourable member would concede that we have at the head of our great universities an **overwhelming** majority of administrators who are not intimidated, do not need a timely reminder, and would not shy away from their responsibility.

When I said that no university council had asked for this amendment the Hon. **R. A. A. F. de Bryon-Faes** said that Macquarie University had asked for it. I do not know whether the honourable member inadvertently or deliberately misled the House, but the fact is that the amendment has not been asked for. That assertion is erroneous and fallacious.

The Hon. **R. A. A. F. de Bryon-Faes**: I did not say they asked for it. They approved this idea.

The Hon. **D. P. LANDA**: By resolution?

The Hon. **R. A. A. F. de Bryon-Faes**: No, they do not have to approve by resolution.

The Hon. **D. P. LANDA**: We know that the honourable member is in favour of it but the university council has never passed a resolution on it.

The Hon. **R. A. A. F. de Bryon-Faes**: Most universities want to abide by the law.

The Hon. **D. P. LANDA**: For the past four or five years it has been publicly debated whether there should be control of the use of these funds by student bodies for so-called non-university purposes. No one has asked for this timely **reminder**.

The Hon. **R. A. A. F. de Bryon-Faes**: This is not control of university students; it is control of funds.

The Hon. **D. P. LANDA**: We are talking about funds of particular organizations **and** whether they can be used for so-called non-university purposes. The **universities** and the Government do not want this amendment. If accepted, it would open up a **whole** range of controversy about what is a university purpose and what is not. I said that there will be people who will oppose the use of these funds for things such as sport and film societies.

What is non-university? Is politics not part of a university? Are we to **shy** away from that? Is radical politics something that universities should shy away from? If they direct their funds this way, the answer lies with the members of a democratic society. The university needs no timely reminder from Parliament. I trust that the Opposition will not divide the committee on this amendment. **This** is an important philosophical question that is best left to the universities. If in their might and power the combined councils of all the universities make a submission to that effect, then of course the Government—or the people who support this amendment—would have something to go on.

The Hon. M. F. Willis knows that he floated it at the university where he was a member of the council. He could not get one supporter for it, but now he wants to get it through Parliament. I applaud the zeal that has induced him to flog this dead horse. The matter is best left with the universities. The Government opposes the amendment.

Question—That the word stand—put.

The Committee divided.

Ayes, 20

Mrs **Anderson**
Mr **Baldwin**
Mr James Cahill
Mr Coulter
Mr **Ducker**
Mr French
Mr **Hallam**

Mr **Johnson**
Mrs Kite
Mr Landa
Mr **McMahon**
Mr Moms
Mrs Roper
Mrs Rygate

Mr **Serisier**
Mr Thom
Mr Thompson
Mr Turner
Tellers,
Mr Healey
Mr Melville

Noes, 34

Dr de Bryon-Faes
Mr Calabro
Mr Connellan
Mr Darling
Mrs Davis
Mr **Duncan**
Mr **Erskine**
Mr **Eskell**
Mr Evans
Mr Falkiner
Sir John Fuller
Mr Holt

Major Humphries
Sir **Asher** Joel
Mr Keighley
Mr Kennedy
Mr Lange
Mrs **Lloyd**
Mr **MacDiarmid**
Mr Manyweathers
Mr Moppett
Mr Orr
Mr Percival
Mr Pickering

Mrs Press
Mr **Raines**
Mr **Sandwith**
Mr Scott
Mr **Rowland** Smith
Mr Solomons
Sir Edward Warren
Mr **Willis**

Tellers,
Mr Freeman
Mr **Philips**

Question so resolved in the negative.

Question—That the words be inserted—put.

The Committee divided,

Ayes, 34

Dr de Bryon-Faes
Mr Calabro
Mr **Connellan**
Mr Darling
Mrs Davis
Mr **Duncan**
Mr Erskine
Mr **Eskell**
Mr **Evans**
Mr Falkiner
Mr Freeman
Sir John Fuller

Mr Holt
Major Humphries
Sir **Asher** Joel
Mr Keighley
Mr Kennedy
Mr Lange
Mrs **Lloyd**
Mr **MacDiarmid**
Mr Manyweathers
Mr Moppett
Mr Percival
Mr **Philips**

Mr Pickering
Mrs Press
Mr **Raines**
Mr Scott
Mr **Rowland** Smith
Mr Solomons
Sir Edward Warren
Mr **Willis**

Tellers,
Mr **O n**
Mr **Sandwith**

Noes, 20

Mrs Anderson
Mr Baldwin
Mr James Cahill
Mr Coulter
Mr Ducker
Mr French
Mr Healey

Mrs Kite
Mr Landa
Mr McMahon
Mr Melville
Mr Morris
Mrs Roper
Mrs Rygate

Mr Serisier
Mr Thom
Mr Thompson
Mr Turner
Tellers,
Mr Hallam
Mr Johnson

Question so resolved in the affirmative.

Amendment agreed to.

Schedule as amended agreed to.

The TEMPORARY CHAIRMAN: The Committee will now deal with the University of New England (Amendment) Bill.

Schedule 1

The Hon. M. F. WILLIS (Deputy Leader of the Opposition) [4.40]: I move:

That at page 6, after line 18, there be inserted the words

Provided that the Council shall apply all fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non University purpose.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [4.41]: The Government opposes this amendment. It does not propose to divide the Committee on it but by that action does not wish in any way to intimate its agreement to the proposal. When we were discussing the timely reminder, honourable members on this side of the House were curious about whether a timely reminder was needed against leftists and Marxists when the former Leader of the Opposition in the other Chamber was a member of those bodies and the mover of the amendment was, I think, a member of the Labor Club at the university.

The Hon. M. F. Willis: Never.

The Hon. D. P. LANDA: That shows that some people have never displayed any sense throughout their whole lives. Honourable members have come to expect not to see the most conservative of thinkers, the Hon. D. D. Freeman, as a member of such bodies but that is to be regretted. The Government opposes the amendment, as it will oppose each of the amendments of a similar type to each of the bills, but it will not divide the Committee on them in view of the pressing business of the House.

Amendment agreed to.

Schedule as amended agreed to.

The TEMPORARY CHAIRMAN: The Committee will now deal with the University of Wollongong (Amendment) Bill.

Schedule 1

The Hon. M. F. WILLIS (Deputy Leader of the Opposition) [4.45]: I move:
That at page 5, after line 25, there be inserted the words

Provided that the Council shall apply all fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non University purpose.

In support of the amendment, I refer the Committee to the comments I made on the first in this series of bills. I take the opportunity to correct the Minister: I was never a member of a leftist organization at the university. That was my brother, the Hon. Sir Eric Willis. In that regard I remind the Minister of the words of the famous George Clemenceau who said, "A man who is not a socialist by the time he is 20 has no heart. If he is still one at 40, he has no brains".

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [4.46]: As I said earlier, the Government opposes the amendment but does not propose to divide the Committee on it. It is ironical that the Deputy Leader of the Opposition should, with such gusto, praise his brother's involvement in all shades of political thinking in universities but wish to place before universities a timely reminder that funds that may have been directed during his brother's time at university in that way are not proper to be expended now on non-university purposes. There is no more passionate believer than a convert. These people have indulged themselves and now wish to shut the gate, the horse having bolted. It is only to be expected that this type of thing should happen in the death rattles of a Chamber like this which has so little relevance to the outside community. If young university students were to hear what came from the products of their own learning institutions, I am sure that some of them would give a second thought to what they were doing.

The Hon. Margaret Davis: They should hear the Minister sometimes.

The Hon. D. P. LANDA: As a matter of fact, many do. I am always amazed that their threshold of boredom is so high. The Government will not divide the Committee on the amendment.

Amendment agreed to.

Schedule as amended agreed to.

The TEMPORARY CHAIRMAN: The Committee will now deal with the University of New South Wales (Amendment) Bill.

Schedule 1

The Hon. M. F. WILLIS (Deputy Leader of the Opposition) [4.49]: I move:

That at page 7, line 20, the word "; and" be omitted and there be inserted in lieu thereof the words

. Provided that the Council shall apply all fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non University purpose; and

In moving the amendment I remind the Committee that the purpose of the Opposition is not directed to a leftist, rightist or any other kind of organization but is directed

to funds compulsorily raised by fees from students of the university being applied to non-university purposes. The Opposition objects to those moneys being directed to any such non-university organization, be it left, right, centre or anything else.

Amendment agreed to.

Schedule as amended agreed to.

The TEMPORARY CHAIRMAN: The Committee will now deal with the Macquarie University (Amendment) Bill.

Schedule 1

Amendment (by the Hon. M. F. Willis) agreed to:

That at page 5, after line 21, there be inserted the words

Provided that the University shall apply all fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non University purpose.

Schedule as amended agreed to.

The TEMPORARY CHAIRMAN: The Committee will now deal with the University of Newcastle (Amendment) Bill.

Schedule 1

The Hon. M. F. WILLIS (Deputy Leader of the Opposition) [4.53]: I move:

That at page 4, after line 28, there be inserted the words

Provided that the Council shall apply all fees and charges, including fines, howsoever collected, to the purposes of the University and shall not pay such moneys, directly or indirectly, to any organisation or association whether incorporated or not whose objects would permit the expenditure of such moneys on any non University purpose.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [4.54]: The Government opposes the Opposition's amendment. As we are in a correcting vein today, I mention that I always thought it was George Bernard Shaw who said that if a man was not a socialist at 20, he had no heart——

The Hon. M. F. Willis: George Clemenceau said it also.

The Hon. D. P. LANDA: I shall take the opportunity of checking that. I think the phrase was always popularly attributed to the Irish bard himself.

Amendment agreed to.

Schedule as amended agreed to.

Adoption of Report

Bills reported from Committee, each with an amendment, and report adopted, on motions by the Hon. D. P. Landa.

AUCTIONEERS AND AGENTS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

STATUTORY AND OTHER OFFICES REMUNERATION (COUNCIL OF
AUCTIONEERS AND AGENTS) AMENDMENT BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

REGISTERED CLUBS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

DENTAL TECHNICIANS REGISTRATION (AMENDMENT) BILL

Message

The Deputy-President reported the receipt of the following message from the Legislative Assembly:

Mr President—

The Legislative Assembly having had under consideration the Legislative Council's Messages dated 10 November, 1977, and 29 November, 1977, requesting the concurrence of the Legislative Assembly with certain amendments to the Dental Technicians Registration (Amendment) Bill set forth in the Schedules to those Messages, acquaints the Legislative Council as follows:

Amendment No. 1: The Assembly agrees with the proposed amendment.

Amendment No. 2: The Assembly agrees with the proposed amendment.

Amendment No. 3: The Assembly disagrees with the proposed amendments but **proposes—**

- (a) that the words on lines 25–29 inclusive of Page 7 be omitted and that the following words be inserted instead:—

Omit the paragraphs.

- (b) that the words on lines 1–8 inclusive of Page 8 be omitted;
- (c) that the words on lines 18–35 inclusive of Page 10 and lines 1–24 inclusive of Page 11 be omitted and that the following words be inserted instead:—

18B. (1) A person who has made application for a practising certificate in the prescribed manner and who is a dental technician is entitled to be granted a practising certificate—

- (a) where he became registered as a dental technician at any time—if he has completed, to the satisfaction of the board, a course or combination of courses, being a course or combination approved by the board and comprised of clinical training in dental prosthetics and instruction in the biological sciences, **and—**
 - (i) in the case of a course approved by the board—being a course that was conducted by a university or college of advanced education in New South Wales, an institution controlled by the Department of Education or the Department of Technical and Further Education or any other prescribed institution, whether or not it is in New South Wales; or
 - (ii) in the case of a combination approved by the board—being a combination of courses the separate courses of which were conducted by any one or more of the institutions prescribed by or under sub-paragraph (i); or
- (b) where he became registered as a dental technician before the commencement of Schedule 1 to the Dental Technicians Registration (Amendment) Act, 1978—if, within 6 years after that commencement, he—
 - (i) attends, to the satisfaction of the board, a part-time course of clinical training in dental prosthetics and instruction in the biological sciences of not less than 6 months' duration; and
 - (ii) passes, to the satisfaction of the board, an examination relating to the practice of dental prosthetics,

that have been approved by the board.

Amendment No. 4: The Assembly disagrees with the proposed amendment but proposes **that**—

(a) the words on lines 24–29 inclusive of Page 23 be omitted and that the following words be inserted instead:—

(h) regulating advertising by dental technicians, whether or not they are dental prosthetists; and

(b) the following words be inserted after line 9 of Page 24:—

(i) Section 35 (3A)—

After section 35 (3), insert:—

(3A) A regulation may only be made under subsection (2) (h) upon the recommendation of the Dental Board referred to in Section 4 of the Dentists Act, 1934.

Amendment No. 5: The Assembly agrees with the proposed amendment.

And the Assembly requests the concurrence of the Legislative Council in its disagreements from and its amendments upon the Council's amendments in the Bill.

*Legislative Assembly Chamber,
Sydney, 15 March, 1978.*

L. B. KELLY,
Speaker.

PRINTING COMMITTEE

Fourteenth Report

The Hon. R. W. Manyweathers, as Chairman, brought up the Fourteenth Report from the Printing Committee.

Ordered to be printed.

SANCTA SOPHIA COLLEGE INCORPORATION (AMENDMENT) BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.6]: I move:

That this bill be now read a second time.

The object of this bill is to repeal, by way of statute law revision, section 19 of the Sancta Sophia College Incorporation Act, 1929, which relates to the payment of instalments towards the building fund of Sancta Sophia Hall. This amendment is consequential to amendments to the University and University Colleges Act which were passed by Parliament in 1973. Clause 1 gives the short title of the bill. Clause 2 effects the amendment. I commend the bill to honourable members.

The Hon. R. W. MANYWEATHERS [5.7]: The Opposition is in complete concurrence with the bill.

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.

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

LOCAL GOVERNMENT (UNIVERSITY OF NEW SOUTH WALES)
AMENDMENT BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.10]: I move:

That this bill be now read a second time.

The object of the bill is to amend section 132 of the Local Government Act, 1919, for the purpose of exempting the University of New South Wales from the payment of rates. Provision exists in the Local Government Act for exemption of all universities, except the University of New South Wales, from local government rates. This bill is intended to remove the anomaly.

Clause 1 of the bill is the short title. Clause 2 deals with commencement of the provision. Under this clause, the amendment will be deemed to have commenced on 1st July, 1949. The purpose of this is to protect the University from claims for rates in past years. Clause 3 contains the amendment proposed. I commend the **bill** to honourable members.

The Hon. Sir JOHN FULLER (Leader of the Opposition) [5.11]: As the Minister said, this measure proposes to amend section 132 of the Local Government Act to exempt the University of New South Wales from the payment of rates. The only interesting point is that the Minister has not told us why this university has not been included in the exemption that has been enjoyed by all the other universities for some time. The Minister has just mentioned to me, in an aside, that he does not know and that no one has ever told him. The Minister at least is honest, but this is something that honourable members could well be told.

As I understand it, there could be two reasons: Either that the original acquisition of the land was a difficult operation, and possibly that there was no clear title at the time of incorporation; or that the University of New South Wales, has a technical background, whereas the others started off in their own right as a university. I think Macquarie University, for instance, was in that category.

The other interesting aspect is that the legislation is to be retrospective to 1949—a mere twenty-nine years—in order to exempt the university from the possibility of any backdated rates. I do not normally agree with retrospective legislation of this kind. I am certain that the **Randwick** council will not be highly delighted **with** this legislation. However, as the other universities have been exempt from payment of rates from the time of their establishment. I understand the reason for inclusion of **this** university in this exemption. It is only fair that the University of New **South** Wales should be put in exactly the same category. For that reason, the Opposition in no way thinks of opposing the legislation; we are merely seeking that information from the Minister.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.15], in reply: The university was established by the Technical Education and University of Technology Act of 1949. That would make the second suggestion by the Leader of the Opposition the correct assumption. In relation to backdating, I venture to suggest that probably this legislation sets a record.

The Hon. Sir John Fuller: It would set a record for the amount of money involved.

The Hon. D. P. LANDA: I am sure that the **Randwick** council, even in its most hopeful moments, never saw the prospect of that rate bill ever being met.

The Hon. S. L. M. Eskill: Did the **Randwick** council ever submit a bill for rates?

The Hon. D. P. LANDA: I do not think it has ever done that. The bill **will** remove that possibility, once and for all.

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.

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

INDUSTRIAL ARBITRATION (REINSTATEMENT AWARDS) AMENDMENT BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [5.16]: I move:

That this bill be now read a second time.

The bill has two purposes. The first is to confirm the powers of industrial tribunals constituted under the Industrial Arbitration Act, 1940, to order the reinstatement of employees in employment; and the second, to confer jurisdiction on industrial tribunals to order the reinstatement in employment of an employee of a local government body who elects to have his industrial union pursue the matter on his behalf under the Industrial Arbitration Act in lieu of the employee proceeding under the Local Government Act, and also an employee of a government body or instrumentality who elects to have his industrial union pursue the matter on his behalf under the Industrial Arbitration Act in lieu of the employee proceeding under the Crown Employees Appeal Board Act.

The Government considers that the proposals contained in the bill are desirable in the public interest and are necessary in consequence of a decision of the High Court of Australia delivered on 9th August, 1971. In a case known as *North West County Council v. Dunn*, the High Court decided that industrial tribunals under the Industrial Arbitration Act did not have jurisdiction to order local government authorities to reinstate a dismissed employee in employment.

The Local Government (Amendment) Act, 1945, had inserted in the principal Local Government Act provisions concerning the suspension and termination of employment of servants of local government bodies. The High Court was called upon to determine whether this 1945 enactment operated to limit the powers of industrial tribunals to order the reinstatement in employment of an employee whose employment had been terminated. In determining that the 1945 enactment did restrict the powers of industrial tribunals, His Honour Mr Justice Walsh made the following comments:

But I have come to the conclusion that, in relation to the employees to whom section 99 applies, the special provisions of the Local Government Act take effect to the exclusion of so much of the more general provisions of the Industrial Arbitration Act as would give authority to order their reinstatement.

The effect of the judgment is to deny to industrial tribunals a jurisdiction which they have exercised over a considerable period in determining questions concerning reinstatement in employment of an employee dismissed by a municipal authority. It is not uncommon for such a dismissal to give rise to a stoppage of work by the employee's fellow workers and, in consequence thereof, it often happens that members of the public can be seriously inconvenienced. For example, if these workers are sanitary carters or garbage collectors, considerable inconvenience occurs. Settlement of such a dispute may not be separable from review of the equity of the dismissal, but at present the Industrial Commission is precluded from ordering reinstatement even if the circumstances so warrant.

The bill will remedy the position in relation to local government employees by empowering industrial tribunals to consider the warrant for dismissals and, if necessary, to order the reinstatement in employment of employees of municipal bodies. As I indicated earlier, the bill proposes to confer jurisdiction only to order a reinstatement in respect of employees of municipal bodies who elect to have their industrial union pursue the question on their behalf under the Industrial Arbitration Act in preference to proceeding under section 99 of the Local Government Act. In other words an employee's right to proceed under section 99 of the Local Government Act will be affected by the provisions of this Act only by the employee's own election. Although Dunn's case was specifically directed to the question of employees in local government, the reasons expressed by the High Court judges in arriving at their decision give reason to believe that challenges to the jurisdiction of industrial tribunals to order reinstatement in respect of employees of statutory authorities other than those constituted under the Local Government Act could well be successful.

The Government considers it is undesirable that there should be any doubt cast on the jurisdiction of industrial tribunals in respect of employees of statutory authorities and indeed of the public service itself and is taking the opportunity in this bill of placing employees who are government employees or who are employed by government instrumentalities in the same position as is proposed in respect of employees in local government. To show the importance of these matters, I shall refer to one case which occurred in 1971 which provides an illustration of how essential it is in the public interest that the industrial tribunals should have jurisdiction to deal with industrial disputes relating to employees of government instrumentalities. The case to which I refer relates to the dismissal of two employees by the Metropolitan Water Sewerage and Drainage Board whereupon other employees of the board went on strike and the maintenance of essential public services was seriously affected. This dispute was settled following proceedings firstly before a conciliation commissioner and later, by way of appeal, before a member of the Industrial Commission.

The Government's intention in relation to employees of the public service and government instrumentalities is supported by the Public Service Board, the instrumentalities and the unions covering the employees concerned, including the Labor Council of

The Hon. D. P. Landa]

New South Wales. The remaining purpose of the bill is, as I have indicated earlier, to reaffirm the jurisdiction of industrial tribunals to award reinstatement of employees in employment. Again the necessity for this provision arises from doubts expressed in Dunn's case and arises from an inference in a judgment of Mr Justice Walsh that his Honour had some reservations as to the correctness of the generally accepted view that industrial tribunals may make an order or award requiring an employer to reinstate a former employee whose services have been terminated in accordance with law.

Honourable members will be aware that industrial tribunals have for many years exercised jurisdiction in relation to the reinstatement of dismissed employees and have passed under review decisions of employers when dismissing employees when called upon so to do and have ordered reinstatement of employment when the circumstances have indicated that the employees have been unfairly treated by the employers. It is the Government's view that industrial tribunals constituted under the Industrial Arbitration Act are the appropriate tribunals for matters relating to the dismissal of employees to be determined in the circumstances contained in the measure now before the House and the bill is brought forward to ensure that the doubts on the tribunals' jurisdiction do not materialize and also to enable employees of local government bodies and public service **instrumentalities**, at their election, to have their industrial unions seek an award of reinstatement before such industrial tribunals.

It is the Government's view that the proposals in this bill are reasonable and in the public interest and that the necessity for this legislation for the reasons I have expressed, is self-evident. In addition to the Government's belief I should indicate to honourable members that the president of the Industrial Commission, Sir Alexander Beattie, has himself raised some of these matters in his annual report to Parliament for the year ended 1971. In that report he dealt with his concern at the consequences of the decision in *North West County Council v. Dunn* and also to the other inferences which arose from the judgments of the members of the High Court. In his report the president expressed his concern that the public interest would not be well served by the lessening, and in some cases the removal, of the jurisdiction of industrial tribunals in reinstatement matters and urged that necessary legislative amendments be made to restore to industrial tribunals their previously exercised jurisdiction. The provisions of this bill propose to do just that. For the reasons I have advanced I am confident that the House will favourably consider this measure.

I now turn to the provisions of the bill. Clause 1 gives the short title of the proposed Act. Clause 2 enacts a new section 20A which in subsection (1) enables an award of reinstatement in employment to be made, including reimbursement of the whole or part of wages lost by reason of the dismissal, and also an award prohibiting an employer from dismissing an employee; and in either case subject to such terms and conditions as are appropriate. Proposed subsection (2) of the new section simply enumerates those provisions of the Public **Service** Act whereby a person employed under that Act can be dismissed in circumstances which enable him to appeal against that dismissal, or proposed dismissal, to the Crown Employees Appeal Board. New subsection (3) ensures that any award made under subsection (1) has effect regardless of any other statutory award or provisions. Proposed subsection (4) provides that no **award** may be made pursuant to subsection (1) if the dismissed employee or the employee proposed to be dismissed has instituted proceedings under an Act other than the Industrial Arbitration Act, or if the employee concerned has not lodged with the Industrial Registrar an instrument in writing indicating his intention not to pursue his rights under **any** other Act.

New subsection (5) provides for the form of an instrument in writing to be prescribed by regulation. Proposed subsection (6) provides that an instrument in writing has no effect if it is lodged with the Registrar after proceedings have been commenced under an Act other than the Industrial Arbitration Act, and also prohibits the revocation or withdrawal of an instrument in writing.

Finally, new subsection (7) provides that after an employee lodges an instrument in writing with the Industrial Registrar he forfeits any rights he had to proceed under any other Act. That concludes my explanation of the contents of the bill and I commend the bill to honourable members.

The Hon. F. J. DARLING [5.26]: I have listened with interest to the comments of the Minister. The Opposition is concerned that a matter of this importance should not first have been the subject of consultation with practitioners in this area. In fact, to our knowledge no employer organization or employer has been consulted in any way with regard to this measure. The Opposition is also of the mind that perhaps even some members of the trade union movement have not been consulted. It would seem that the object of the Government is to ensure that there will be rights available to persons under the Industrial Arbitration Act as distinct from provisions in awards or regulations in conditions of employment following dismissal or notice of dismissal. That perhaps is a good thing.

The Opposition agrees entirely with the comments of the Minister with regard to the report made in 1971 by the President of the New South Wales Industrial Commission, Sir Alexander Beattie. The Opposition is mindful of the doubts expressed by His Honour in that report about the jurisdiction and power that reside in the Industrial Commission of New South Wales in respect of this complex area of reinstatement, re-employment and re-engagement or whatever term might be applied to it. It would appear that there is doubt as to the value or otherwise of the term used, though it has been accepted in the New South Wales Industrial Commission that the term to be applied is reinstatement. Without seeking to indulge in argument as to what really is intended, the Opposition is of the view that it is necessary for the general power to which Sir Alexander Beattie referred to be clarified. To that extent the Opposition would agree to an amendment to confirm in broad outline the fact that the commission has power—which in our view it has had since 1929—to make awards, orders and the like affecting workers who have been dismissed.

The Opposition does not argue against this bill in its final form being enacted in such a way as to spell out the general power. However, it is emphasized that it is desirable and, indeed, one might say almost necessary to take into account the circumstances under which this extremely volatile industrial relations arena is governed and the attitude and practices of people involved. If the legislation as presently envisaged is approved it will lead to unnecessary litigation. The wording has been changed and this power is spelt out in some other form. Proposed new section 20A spells out in detail what the tribunal may and may not do. Even if it does not change the existing practice and precedent, the spelling out of all this in the amending legislation will at least lead to confusion to some extent among persons who appear before industrial tribunals on behalf of organizations.

Without in any way intending disrespect to the tribunals it would be the view of the Opposition that the mere fact that precedent and practice is being changed by substituting words could well confuse, or make less clear, the real intent of the Government as far as the tribunals are concerned. For that reason the Opposition foreshadows that in respect of section 20A (1) the general power to be conferred on the tribunal would be restricted and not anywhere near as far-reaching as the provisions set out in proposed new section 20A (1) (a) (i) and (ii) and (b), (c) and (d). The Minister said that he had in mind particularly doubts that had been cast upon

the rights of employees engaged under the Public Service Act as to the right to appeal to the Crown Employees Appeal Board and those people engaged in local government or in any other form of government or semi-government employment. The Opposition can **find** nothing to object to in seeking to confer on the commission a power to clarify that situation and in extending the rights of the commission to deal in some way with the people who have made an election, as the bill proposes, to proceed either under the Act, the by-laws and regulations under it, which govern their employers, or under the Industrial Arbitration Act, subject to one or two amendments I shall foreshadow shortly.

The principle is clear. The Opposition does not oppose the general tenor but submits that in truth the bill does not go far enough. The Opposition is mindful that this fundamental issue of power within the jurisdiction should remain. It joins with Sir Alexander **Beattie** and with the Minister in expressing that concern. It is the view of the Opposition that the bill in no way confers the power now sought. Therefore, the Opposition draws attention to the necessity to amend other sections of the Act. Section 20 permits certain things to happen by way of jurisdiction for conciliation committees. Section 25 provides the power under which a commissioner may convene a compulsory conference. Section **25A** makes provision for dispute settlement procedures. Section 30 deals with the jurisdiction of the commissioner. Section 35 relates to further powers. Unless and until one or other of those sections is amended power would not lie even in the **terms** of the amending bill before the House, and therefore it would negate the laudible objectives the Minister has advanced. Therefore, the Opposition proposes that sections 25 and **25A** should be amended. The details relating to that simply provide—and I am jumping to the provisions of section 25 of the Act—that the commissioner shall have certain authority. Section 25 (1) reads:

A conciliation commissioner may summon any person to a compulsory conference—

- (a) where any question has arisen which, in his opinion, might lead to a lockout or strike, or where a lockout or strike has commenced;
- (b) where there exists any shop, factory, craft, or industry dispute, or any matter which may be a contributory cause of such a dispute;
- (c) where there is **an** actual, threatened, probable, or contemplated cessation of work or employment;

in an endeavour to bring the interested parties to an agreement which will settle the question, dispute, or **difficulty** which has arisen or might arise.

It seems to the Opposition that unless that subsection of section 25 is amended, there will not lie in a conciliation commissioner the power to summon persons to compulsory conferences to seek an agreement by way of resolving the issue unless he be empowered to call such an aggrieved person. The Act reads, "A conciliation commissioner may summon any person". In no way does that make the person a party to the proceedings. He could be a witness to corroborate or deny the case advanced by one side or another. The Opposition considers that section 25 is the appropriate section to be changed and has foreshadowed an amendment. A consequential amendment will be necessary in section **25A** following the amendment of section 25.

In broad terms what I have foreshadowed in those areas clearly indicates the general support of the Opposition for the provisions of the bill commencing with clause 2 and carrying through to clause 8. However, it is necessary to make another observation in respect of difficult circumstances that can arise. In another place reference was

made to the **Latham** issue. It is the view of the Opposition that the amendment to the bill should cater specifically for that sort of circumstance and therefore the bill should be amended to do that. The **Lathams** who elect to move in respect of their own **dismissal** should be afforded the right of a party within the meaning of the Act. The amendment the Opposition foreshadows to subclause (6) by way of adding paragraphs (c) and (d) are relative to that. If the bill is amended in accordance with the proposals foreshadowed by the Opposition, the result will be equity and justice. Also, justice will be seen to be done to people who suffer dismissal from their employment in public or semi-public services. In doing that the Opposition is reinforcing the comments made by the Premier in another place. The Premier said:

Mr **Latham** would have had the right to seek reinstatement, if the law had been restored properly following upon a number of decisions. However, the Leader of the Country Party, the Leader of the Opposition and their cohorts were unwilling to take that action.

The Premier added:

Incidentally, I am pleased to say that the Minister for Local Government will soon be introducing amending legislation to restore that remedy to all local government employees.

That is precisely what the Minister has done. He has extended it, not only to local government employees but also to others. The Minister responsible for the Industrial Arbitration Act, the Minister for Industrial Relations, Minister for Mines and Minister for Energy, on the following day, 3rd October, in response to a question announced:

Soon I shall be introducing into this Parliament amendments to the Industrial Arbitration Act to give people who work in local government the right to choose whether, after dismissal by a local government authority, they wish to take an appeal before an industrial tribunal or have it dealt with under section 99 of the Local Government Act. Local government employees will soon be able to exercise this right.

The Opposition has gone further. In a nutshell what it has endeavoured to do is to give effect to the undertakings of the Premier and the Minister for Industrial Relations. The Opposition has been criticized for endeavouring to assist but it is trying to bring the matter to a stage where adequate protection will be afforded to persons who consider themselves to have been wrongly dismissed from a government or semi-government service. The provisions of section 20A will be spelt out. That provision has existed since 1929 in respect of reinstatement in the private sector. I think that makes it clear and unequivocal.

There seems to me to be a necessity to review a number of clauses of this bill. It seems to be totally inappropriate that there should be this piecemeal approach. Rather than rely upon individuals and personal aims and desires of people, we need to have discussions between representatives of the Government of the day, employer groups and the trade union movement to see if we can find a formula and arrive at appropriate amendments by way of consensus. In this way, the climate of industrial relations might be improved and industry might prosper. That would be preferable to this piecemeal approach, which, I think, but for the Opposition and the proposed amendments, would not be as good as it should be.

The Hon. P. **McMAHON** [5.41]: I support the legislation proposed by the Minister on behalf of the Government. It is a fair, progressive step towards clearing up existing anomalies. The bill gives to employees of local government the right to reinstatement. The Minister in this House referred to a report in 1971 by Sir Alexander **Beattie**, president of the Industrial Commission of New South Wales. That report

pointed out that, because of a decision of the High Court of Australia delivered in August, 1971, the state of the industrial law as revealed by the judge in this case gave rise for concern to those responsible for administering the law. The report states:

Firstly, the judgment denies that the tribunals constituted by the Industrial Arbitration Act have a jurisdiction which they have long asserted and frequently exercised to determine questions concerning the reinstatement in employment of an employee dismissed by a municipal authority.

It is not uncommon for the dismissal of such an employee to give rise to a stoppage of work by the employee's fellow workers and, if those workers happen to be, say, sanitary carters or garbage collectors, members of the public can be gravely inconvenienced very quickly.

The president of the Industrial Commission went on to say that in these circumstances it is desirable for early consideration to be given to the desirability of amending the Industrial Arbitration Act, but he did not mean in the way the Hon. F. J. Darling suggests. He meant by looking at the whole of the Act specifically in regard to this industry because of its serious nature. The president added that in particular section 5 should be amended so as—

(1) to make it clear beyond doubt that the industrial tribunals constituted by the Act have power to make binding awards (a) requiring an employer to reinstate a dismissed employee in employment, and in his old position or one not less advantageous, notwithstanding that the dismissal of the employee has been in accordance with the terms of the contract of service and of any relevant award and (b) settling any disputed questions concerning the regression or promotion of an employee;

(2) to provide that these powers should apply whether or not the employer is a statutory body and irrespective of whether the employee may have some other alternative form of redress available by way of an inquiry before another tribunal.

The attitude adopted by the Liberal and Country parties is not surprising when one looks at the history of this matter. Four years after the report in 1971, the Liberal–Country party government of the day was asked for information as to how it proposed to deal with the position and correct it. The late Hon. F. M. Hewitt, for whom I had a high regard, was bound by the policy of the Liberal and Country parties. He replied that the matter was at present being considered by the parliamentary committee investigating local government "and we are expecting a recommendation from that body in the near future". We are still waiting. If the result is what has been proposed by the Hon. F. J. Darling on behalf of the Liberal and Country parties, it is no wonder that they are occupying the Opposition benches.

It is completely hypocritical that members of the Liberal and Country parties are being asked to support their amendments. I shall explain why. The operation of the Industrial Arbitration Act in this State commenced in the early part of this century, before 1910. His Honour Mr Justice Higgins pointed out that the system of arbitration adopted by this Act is based on unionism. He added that without unions it is hard to conceive how arbitration could be worked.

The position has been outlined by those responsible for providing an industrial law service on behalf of the Law Book Company in this State. Among many statements dealing with the importance of the unions in the system, this one is important:

The Court views with favour the proper working of all organizations as constituting an essential part of the machinery of arbitration, and as necessary for the orderly conduct of the business of those organizations, without

which it would be often impossible to organize industry, to settle disputes, and to secure the proper observation of awards.

I quote from a decision made in 1923:

The foundation of our whole system of industrial regulation is the organization of employers and employees into corporate bodies. The collective bargain sanctioned or made by industrial tribunals has taken the place of the "higgling of the market" of the preceding decade.

The amendments proposed by the Opposition will destroy the present system and we shall revert to higgling by individuals. In 1945 it was stated—and it has been repeated many times—that an integral part of the industrial arbitration system must be that it is done through recognized organizations and not by respective individuals. What we are witnessing today is a hypocritical approach by the Liberal and Country parties on the premise that an individual should have the right to apply to the industrial arbitration court for a reinstatement order and against profound statements made by the captains of industry, who are represented by the Liberal and Country parties, at many industrial relations conventions, for effective union organization. The Liberal and Country parties are now proposing to destroy the system that was based on recognized registered organizations.

The Industrial Arbitration Act's power under section 5 with regard to reinstatement—and this is associated with the power in section 20—is to determine "any industrial matter". The reinstatement process is an industrial matter and is used as part of the method of settling industrial disputes. That is one of the prime reasons why it cannot be altered so that an individual can make his own application. It is to settle industrial disputes—which should be our aim in relation to industrial matters—and such action must be initiated through employer or employee organizations.

The concept as enunciated by the many industrial judgments and submissions to industrial relations conferences supports the view that it is registered organization, not individuals, that are the fulcrum, the backbone and the mainstay of the compulsory industrial conciliation and arbitration system in this State. Why is it not proposed to give employees the right to lodge applications for awards and dispute notifications? To do so would completely fragment and destroy the system. That is what the amendments proposed by the Liberal and Country parties seek to do. The system requires strong effective employee organisations. I put them in the same category as employee organizations which present their respective views before conciliation committees and the Industrial Commission.

The Hon. D. P. Landa: The Opposition is cutting its own throat and does not realize it.

The Hon. P. McMAHON: I do not know whether honourable members opposite understand the problems but I give them credit for some ability to recognize them in this field. When they do recognize them I feel they will not persist with the amendments they have foreshadowed. Let me give an example of one of the ridiculous proposed amendments. If one employee in a firm employing 2 000 people is dismissed because the company determined that his working system was unsatisfactory, the remainder of the 1 999 unionists, if they are in the union, might view his methods of working as a menace to safety in the factory, and the union does not initiate a reinstatement order for that person. The Liberal–Country party Opposition now proposes that the individual has a right to do his own thing, to create a situation of pitting worker against worker, leaving the industrial tribunals of this land without authority to determine the matter, if such a position caused a stoppage, because they would be dealing with the situation of an individual in his own right. The same situation would arise under section 99.

Nobody likes stoppages. They have occurred in local government for periods up to many weeks. People have the right to apply under section 99 if they wish to have representation. If it is decided to call a stoppage, the courts are prevented from dealing with the problem as it is no longer before them but is in another jurisdiction. The proposal to give an individual the same opportunity will do exactly the same thing as has resulted from the section 99 situation. One does not cease to be amazed at propositions that come from the Liberal Party and Country Party Opposition in the dying days of most of their members' terms in office.

The Hon. D. P. Landa: There will not be many coming back.

The Hon. P. McMAHON: They are destroying the whole system. I listened carefully to the Hon. F. J. Darling. However, I do not think he instanced how the amendments would be applied. The Opposition is trying to confuse the issue, which is basic to the concept of industrial relations in this State, having regard to all those decisions. We could probably find thousands of decisions which reiterate the **crux** and fulcrum of those decisions. I remind the Opposition—though I appreciate that its members supported the legislation in regard to local government employees having a right—that the people in local government do not want the pittance that is provided in the Local Government Act. Last year in the cases of six or seven people the **commissioners** found that councils had erred and recommended that the individuals should be reinstated. Their reports go to the councils but they say, "Bad luck, we do not want you. You are gone". The employee is then entitled to compensation from the Minister. At least the Minister in the present Government is offering compensation closer to what is provided for in the present Act than the former Liberal–Country party Government saw fit to make available. What is the good of \$5,000 to a 40-year-old breadwinner who loses his superannuation, long-service leave and other privileges and conditions? It is not worth **20c**. What that person needs, if he is justifiably right in his application **made** through his union, is the opportunity to be reinstated. The situation in local government is that where the finding of the commissioner is that the council is wrong, the council may still proceed with its actions. The dismissed employee receives a mere pittance by way of compensation. That does not measure up to the fact that people apply for and want their job back. They want to work in the place but in some instances are denied doing so even though the reasons brought out by the council in trying to get rid of them are found not to hold water.

The Liberal–Country party Opposition has been playing with the issue since 1971. It is no wonder. It did not have enough fortitude to make a clear decision and correct the position in the way proposed by the Industrial Commission of New South Wales. I welcome the amendments as proposed by the Minister on behalf of the Government as another progressive step. Again I ask members of the Liberal–Country party Opposition in this Chamber not to pursue the amendments they have foreshadowed.

The Hon. L. A. SOLOMONS [5.59]: As my colleague the Hon. F. J. Darling has said, the Opposition does not oppose the bill in principle. I am surprised at the over-reaction from the Hon. P. McMahon in considering the amendments which have already been foreshadowed. There is a sensitivity among the union movement which seems to run with any form of criticism. Certainly no criticism was implied or intended by anything said by the Hon. F. J. Darling or anything I have said. There seems to be a **desire** never to agree to anything that in any way might impinge upon powers of trade unions, for fear it may have some sinister objective. I indicate to the Hon. P. McMahon that so far as the Opposition sees the matter his suggestion that this may in some way destroy the operation of the industrial arbitration system, as for limited purposes the individual employee may make his own application to the court, is, if I may put it bluntly, sheer nonsense. It is quite obvious that trade unionism has in fact been one

of the bases of the industrial arbitration system in this State. It is quite obvious that it will continue so to be, but times change and pressures change. The remarks of the Premier in another place with reference to the now celebrated **Latham** case will give an indication that there are cases where substantial injustice can flow from the inability of an individual to make his own application.

It could also apply in the case of weak unions. A union, uncertain of employment in its own industry, could be unwilling to back the individual simply because it believes that it might react adversely against union members as a whole. I brought circumstances such as this to the attention of the Hon. J. P. Ducker last week. They can bring grave consequences to the individuals concerned. We do not envisage that these amendments will give rise to the opening of any floodgates along the lines mentioned by supporters of the Government. The mere cost of doing it and the cost associated with the preparation and submission of the case would go against that.

The Hon. P. McMahon was concerned about the commissioners not being unable to summon the union to present the case of the employees as a whole when an individual member makes an application. With respect, the honourable member has not read the whole width of the powers of the legislation. Of course, a commissioner would have power to summon any person he believes to be affected by an industrial matter. The Hon. P. McMahon himself referred to the width of definition of industrial matter as at present contained in section 5 of the Act. I am surprised at the extent of over-reaction by the Hon. P. McMahon. I can see that this over-reaction will well up in the reply the Minister will make. The Opposition is attempting to take a forward look at the problems of arbitration. We are seeking to improve the legislation where in certain limited circumstances an injustice is done. We want to provide for circumstances such as those in the tragic case of Mr **Latham**. This case was referred to in another place by the Premier, but it will not be covered by the bill, although this was suggested.

The Hon. D. P. Landa: Is the honourable member suggesting that by proceeding in this way the **Latham** matter would be resolved? If he is, he has never been to Broken Hill.

The Hon. L. A. SOLOMONS: Now the Leader of the Government is generalizing. He is suggesting that the present provisions of the Act are insufficient to resolve that situation, and therefore Mr **Latham's** problem cannot be solved.

The Hon. D. P. Landa: The problem can be solved, but not by this little peccadillo.

The Hon. L. A. SOLOMONS: It may well be solved, or at least there might be another outlet through which it can be solved by the proper medium—the very medium that the Hon. P. McMahon wished to have opened for members of local government. We are in complete agreement with him. One of the suggestions we make is that one of the members of local government who have the opportunity, is Mr **Latham**.

The Hon. P. McMahon: He can go through a union or registered organization.

The Hon. L. A. SOLOMONS: How can he? That is the most ludicrous suggestion I have ever heard. The honourable member knows that he would have no possible chance in the world of doing that. That indicates the straight fallacy of the honourable member's argument. There will be other cases, and there have been other cases in the past, brought about not necessarily by the particular system at Broken Hill; they have been brought about by other matters, such as the individual personality of a worker who might not have justice on his side. Of course there might be other matters involved that make him unacceptable to his fellow workers.

The Hon. D. P. Landa: And associated with the employer?

The Hon. L. A. SOLOMONS: Yes, I agree with the Minister. That is why it is suggested that these powers should exist. In our view, they will not have anything like the reaction on industrial law that has been implied by honourable members opposite. The Opposition believes that this amendment will make better legislation and will provide for better industrial relations, even though the unions might at this juncture see it as some slight encroachment on what they have regarded as one of their sacred preserves.

I should be the first to acknowledge that trade unionism has brought the greatest of benefits to this country. I acknowledged it in my maiden speech in this Chamber. I have never had cause or reason to depart from that principle. However, because a trade union thinks a matter is right, that does not automatically make it right. There is a strange suggestion in submissions from Government supporters that one must not in any way affect any of the rights or duties of trade unions, and that there is something sinister about any suggested adjustment. There is nothing sinister in the proposed amendments, which are designed as an attempt to improve this legislation, and to see so far as is practicable that there is justice for all, whether they be supported by a trade union or not.

The Hon. J. S. THOMPSON [6.12]: I shall be brief in my remarks, for I believe that the Hon. P. McMahon put a telling case before the Chamber when he spelled out the most significant parts of the bill and also the hypocrisy in the proposed amendments. The bill does two things. First, it will remove all possible doubt in regard to the powers of the industrial tribunals in relation to reinstatement. I do not think anyone disagrees with that. Second, the bill confers upon industrial tribunals the right to hear matters listed before them from local government, semi-government and various statutory authorities. I believe there can be little area for debate or opposition there, for those provisions appear to involve common logic. It appears to me that it is necessary to have legislation of this type to tidy up any areas of doubt.

In 1971 there was a major dispute at the Sydney water board in this State. Two employees were dismissed—wrongly it turned out—and this led to a dispute which got out of hand. It could not be settled in the early stages owing to some doubts about the legislation. I am fully aware that it went before a State commissioner, who made a certain finding. Then there was an appeal to the Industrial Commission. Members know the results.

The Hon. F. J. Darling: That would be catered for under this bill.

The Hon. J. S. THOMPSON: I do not think it will. It is important in State and federal jurisdictions that there be a means of appeal. This is becoming more and more important, especially in view of the repressive legislation in this area that has been introduced by the present federal Government. We shall find that in State legislation it is becoming more important to have satisfactory provisions to cover dismissals. There has been a recent amendment of the federal law relating to secondary boycotts. In the federal jurisdiction, if union A has a dispute with employer B, there is no conflict with the Trade Practices Act; but if union A has a dispute with employer B and, in an attempt to solve the situation, places bans or limitations on employer C, under the secondary boycott provision that union can be taken before the court and fined hundreds of thousands of dollars. That legislation, which was copied from the United States, has serious repercussions.

It is most important that we do not get into situations like that. If we do not have satisfactory legislation to take care of unjust disputes there will be boycotts by industry in an attempt to rectify the situation, but that will aggravate it. In the absence of satisfactory legislation at State and federal levels secondary boycotts could lead to further troubles and national stoppages.

I notice **that** the Hon. F. J. Darling nods his head wisely, though I wonder how wise he is when he talks of **federal** legislation. He knows there is no such legislation in the federal sphere. The ordinary factory worker subject to federal legislation has no right of appeal and in many cases no rights whatever with regard to reinstatement. The honourable member referred to an amendment which would give a **non-unionist** an opportunity to take action in his own right. The Hon. P. **McMahon** brought out this matter quite clearly. Industrial relations, State or federal, hinge upon the tripartite system, involving organized employers, organized labour and an independent person hearing the case. That is why the system works. The Opposition proposes to bring in amendments that would destroy that concept and cause serious problems.

Within our community are many reactionary groups. It is nonsense to suggest that this sort of amendment would be used only on rare occasions. This amendment comes from certain people who seem to take delight in deliberately causing industrial trouble so that it may be seized upon by reactionary groups. Though supposedly a person would go before the court as an individual, in fact an organized group would back him. This sort of thing goes on all the time. There is a constant attack upon the system. In Queensland a person for whom I have not much time is about to introduce legislation which he calls "the right to **work**". That sounds good, but it should be **called** the right to scab. That is what it is. It is nothing more than an attack upon the **Labor** movement. It will allow the individual to do certain things outside the tripartite system. That is what the Opposition is endeavouring to do through its proposed amendments. It would allow individuals to usurp the normal power of the trade union movement. It would break up the tripartite system which for many years has served this country well.

As I have said on many previous occasions, thank goodness Australia is free from the bloodshed that has occurred in other parts of the world following industrial uprisings. The Hon. F. J. Darling would well know that we do not have a voluntary arbitration system; it, by law, is compulsory. The trade union movement has accepted the benefits of the system and is expected to conform with all its requirements. The system is compulsory but the Opposition would put a stop to this. What the Opposition is attempting to do is quite wrong. It would put back the clock and injure a system which has worked well for this country since the last century, particularly in New South Wales which has a proud industrial record. I ask members opposite to have second thoughts about the proposed amendment. The bill is a good one. If the Opposition forces through its amendment it will turn back the clock. In fact, it will help reactionary groups. Instead of settling industrial disputes it will aggravate them.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [6.17], in reply: No one could elaborate with more eloquence than has been displayed by the Hon. P. McMahon and the Hon. J. S. Thompson—both of whom have had vast experience in the trade union movement—on the effect of the proposed amendments to this bill. It does not need much imagination on the part of members in this Chamber to become aware of the true motives of this amendment. Both sides of the House are supposed to be in complete agreement with the provisions of the bill. However, the Opposition would have incorporated in the bill these new ideas of people who obviously have not thought the consequences right **through**. I ask the Opposition to consider seriously what it is doing.

Mr Latham has his problems with ~~the~~ Barrier Industrial Council and the employers in Broken Hill. That is a serious problem as far as it goes, but it is not as serious a problem as the destruction or possible destruction of the tripartite system. We can have all the philosophical views we like but the proof of the pudding is in the eating. When we start mucking around with the system, the ones who will really lose out, when there are a lot of active people on the shop floor unwilling to take notice of their registered trade union, will be the majority of workers. If the individual is given the right to approach the Industrial Commission for an award—a power never before available—the situation will be chaotic. That power has quite deliberately not been made available in order to avoid such things as outbidding on the floor of the shop. If it is introduced, individuals and groups will say they can do better than the union and there will be disruption.

The Hon. R. B. Raines will know what I am talking about. I have no doubt that he can envisage cases which under the retrospectivity provisions would be brought before the court if this amendment is accepted. He will recall instances where a union has not supported an individual. Possibly it has not accepted his sincerity and the basis of the case. Of course, the honourable member is silent. I remind the House that he was the head of an organization in which attempts were rife to overrun the democratic decisions of the trade-union movement. The Hon. Sir John Fuller, when speaking on the universities bills, told us what he thought of retrospectivity and the liability of **universities** to pay council rates. The proposed amendment envisages retrospectivity to any time prior to this date. At least in the other place the Opposition's amendment went back only to 1st January, 1976. Here there is a concept of total retrospectivity. Does not the Opposition think that some people would grab the opportunity to settle an old score with some employer or other or with a trade union? Perhaps a person with time on his hands through circumstances would jump at such an opportunity.

No one could philosophically argue with the right of the individual to pursue his rights. The Hon. M. F. Willis, speaking to the university measures, said if one wants to enjoy the benefits of university, one must pay fees and accept responsibility. That sort of thing works two ways. If one wants the benefit of trade unionism, one must accept the responsibilities that go with it, as suggested by the Hon. L. A. Solomons. Employers, too, must accept their responsibilities. Ask any enlightened employer whether he wants to strike an agreement on reinstatement or on anything else with a registered trade union or separate agreements with 200 or perhaps 2 000 individuals. The answer is obvious. Why has the Hon. F. J. Darling been trying to get employers to join his organization? Why does he not have individual agreements? If that were the system he would quickly come to this Chamber for legislation to stop sweetheart deals.

One cannot have it both ways—organized trade unionism and industrial peace and a system **bedevilled** by an employer-employee situation. One has to accept some limitations. It is like democracy. People accept some limitations on individual freedom in consideration of overall **freedoms**. The amendments, if accepted, will play into the hands of people who will use them to bring actions though not like the Latham case. They will not be people plagued by political candidates. These will not be people who bring actions by their own personal choice. It is a long way from Bondi Beach to Broken Hill, but that does not stop the federal member for Phillip from making the journey. It would be infantile to deny that Broken Hill has industrial problems unique in the whole Australian **fabric**, and possibly throughout the world. It is nonsense to say that we can put a piece of legislation through with an amendment that will solve the Broken Hill problem.

Anyone who has watched television and seen the reception various people get when they go to Broken Hill to try to settle a matter will realize that it is a unique place. Any person who wants to offer himself as the arbitrator in Broken Hill industrial matters has a fortune awaiting him if he can solve the problems there. The problems are being handled by people with a lifetime of experience—the Barrier Industrial Council and the employers. If those people are left alone, matters will be determined in the traditional way and the result will be production and prosperity. If people play politics, the exact opposite will be the result. Honourable members may talk about how good they are, but they should wait until the disputes come before the court and the person is ordered back. Unions may not want reasons ventilated publicly, nor may an employer. There may be another dispute in which other workers will not work with the person concerned, or some workers will and others will not. Other organizations may go out on strike in sympathy.

If the tripartite system is fooled around with I venture to suggest that people will go broke. That will happen because some individuals will not accept the democratic decisions of their unions. Employers will not accept the lead of their organizations and the system will break down. If honourable members want further elaboration they should speak to the Hon. R. B. Raines. I cannot believe that he, coming from where he has, could possibly support that kind of amendment. I notice that he has remained silent during the debate. Obviously he has not had the opportunity to give the benefit of his experience to other people.

The New South Wales trade union movement is responsible and is elected democratically. There are people who disagree with how it runs and would like it more or less radical. Basically, it is a trade union movement of responsibility which can not only enter into negotiations, but also deliver when it promises to do so. Usually that has been the case. It is a great boon to industrial peace in New South Wales. Unions like that represented by the Hon. J. S. Thompson have places of employment with a record of only one day's strike in sixteen years or more, yet people want to say that the tripartite system is not working. It is working in New South Wales, and working well. It is a good thing to leave it well alone.

The bill follows the recommendations of Sir Alexander Beattie who had an expert inquiry into the matter. If he had thought the individual needed the right, surely he has had enough experience and training to come forward with a recommendation that that right be given to the individual. Of all the absurd amendments of this nature, the one of retrospectivity takes the cake. Does anyone have any idea what kind of disputes have been fought and settled? The amendments ought to be dropped quickly. Honourable members should proceed with the bill. It would be playing with fire to accept the amendments. The consequences would be serious for some employers. I ask honourable members to reconsider their position in respect of the tripartite system of industrial relations in the State.

Motion agreed to.

Bill read a second time.

[The Deputy-President left the chair at 6.27 p.m. The House resumed at 8.4 p.m.]

In Committee

Clause 2

The Hon. L. A. SOLOMONS [8.4]: I move:

That at page 2, all words after the word "an" on line 14 down to and including line 12 on page 3 be omitted and there be inserted in lieu thereof the words

award, in the case where an employer has dismissed an employee, to reinstate the dismissed employee.

The purpose of this amendment is to retain, as far as practicable, while clarifying the situation that arose in Dunn's case, the existing law as formulated by the Industrial Commission prior to that decision.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [8.5]: I thought the Hon. F. J. Darling was to move the amendments, but I do not mind who moves them. We have lost the expert. Obviously he lost his expertise over the dinner adjournment. To say, as the Hon. L. A. Solomons said, that the amendment is designed to restore the law as it was—and he means the judicial law as interpreting the power of tribunals to order reinstatement as an award—is, if I may say so with my customary understatement, the height of impertinence. The Government never set out to say that it was passing a bill that **would** recognize only the existing judicial law. It set out clearly to implement the recommendations made by the president of the Industrial Commission of New South Wales, Sir Alexander **Beattie**.

When I say it is the height of impertinence for the Opposition to consider that what it had suggested is sufficient, that is really the case. The Government is attempting to legislate upon a recommendation made by a committee of inquiry that was set up by the previous Government. The Government has implemented almost word for word the recommendations made by Sir Alexander **Beattie**. Now the country lawyers are telling us that we should reinstate the old law. The purpose of the inquiry was for the president of the Industrial Commission to point the way out of the difficulty created by the old law, not to re-enact it. The purpose was to solve the problem, not to perpetuate it. Now the collection of parties sitting opposite wants to re-enact something that is totally unnecessary. It is an absurdity. I cannot work out what they are doing. I am sure they do not realize that they have been led up the garden path.

I shall make clear what Sir Alexander **Beattie** said. The bill follows his suggestions, not suggestions from the trade union movement or the Labor Council or the Employers Federation. It adopts the recommendations that were made following an inquiry set up by the Opposition when it was in Government. Now that the Labor Government is in office, the Opposition moves an amendment to re-establish the existing law. The Government might as well have saved itself the trouble of debating these things and left the law as it was. I read from the report of Sir Alexander **Beattie**:

In these circumstances I suggest that it is desirable for early consideration to be given to the desirability of amending the Industrial Arbitration Act, and, in particular s. 5, in so far as it defines "Industrial matters", and s. 20 (1):

- (1) to make it clear beyond doubt that the industrial tribunals constituted by the Act have power to make binding awards (a) requiring an employer to reinstate a dismissed employee in employment, and in his old position or one not less advantageous, notwithstanding that the dismissal of the employee has been in accordance with the terms of the contract of service and of any relevant award and (b) settling any disputed questions concerning the regression or promotion of an employee;

- (2) to provide that these powers should apply whether or not the employer is a statutory body and irrespective of ~~whether~~ the employee may have some other alternative form of redress available by way of an inquiry before another tribunal.

His words were to reinstate him in his old position or one not less advantageous. The Labor Government is using the exact words and the Opposition wants to remove **them**. That is an absurdity. The bill states:

In the case where an employer has dismissed an employee, directing the employer to reinstate a dismissed employee in **his** old position . . .

That is exactly what Sir Alexander recommended. The bill further states:

. . . or in a position not less advantageous to the employee than that held **by** him prior to his dismissal.

That also is exactly what Sir Alexander recommended. It goes on:

if the body or person making the award thinks fit, to reimburse the dismissed employee for all or part of the wages lost by him by reason of his dismissal.

That is exactly as it is under the present law. The Hon. F. J. Darling knows that. There is no need to excise it. Clause 20A (1) (b) provides:

in the case where an employer has indicated that he proposes to dismiss an employee, directing the employer to refrain from implementing that proposal . . .

I cannot think of any intelligent employer, when he intends to **dismiss** an employee, not preferring to have the matter arbitrated before a dispute occurs. He would prefer to have the reinstatement issue determined prior to sacking the man, prior to having the men meet on the job and possibly going out for at least part of that day and possibly longer. It is better to have these problems solved prior to the matter flaring up.

The Government considers this is in the best interests of the employer. When a person is sacked, as the Hon. F. J. Darling knows, at present a case instituted on that person's behalf takes several weeks to be heard and completed. Then, if the man who may not have worked during that time is reinstated, the employer has to reimburse him for the period he has not been productive. This could be avoided if he were given notice of intention to dismiss and the matter were arbitrated. Looking at the last part, in either case, the inclusion in the award of such provisions for determining any dispute or question with respect to the promotion or regression of the dismissed employee or the employee proposed to be dismissed as the case may be, empowers the arbitrator to resolve the dispute. Where are the reasons for wanting to inhibit the arbitrator?

The Hon. L. A. Solomons remarked that the amendment is reinstating the old law. The Government wishes to see arbitration rather than confrontation. Why not deal with it in the Industrial Commission rather than on the job? With regard to (d) "such terms and conditions, as the body or person making the award thinks fit", the Hon. F. J. Darling knows, because he has had people representing his organization in the tribunals, that is in fact what occurs at present in relation to several awards on reinstatement. All kinds of conditions are imposed, some of which have dubious legal validity in relation to the powers of the tribunal. For example, the employee shall not work overtime, or he shall not work night shift, or he is to be moved to another gang, or other conditions are imposed that have limited legal bases but are effective in solving the dispute.

The Hon. D. P. Landa]

Why tie the hands of the arbitrators, who are people with a proven record, especially in reinstatement? The Opposition wishes to tie them, first, because it does not know what it is doing. That was evident from the shocked expression on the faces of honourable members opposite when they learned the effect of these half-baked amendments. Second, they fear the consequences of what they are doing, because all this bill does is to better equip our arbitrators to settle and resolve industrial disputes. They cannot have it both ways—it cannot be resolved in the courts unless they give them the power to do it. This amendment is so amateurish, so ill-considered and so against the best interests of industrial relations in this State that honourable members opposite will not feel the necessity to proceed with it. They will certainly have plenty of opportunities to reconsider their position if they wish to proceed by way of division.

The Hon. F. J. DARLING [8.15]: I repeat what I said earlier this evening, that it is the view of the **Opposition** that the existing law adequately caters for the position. I said earlier that the law which has been established since 1929 in this State under this Act provides the Industrial Commission of New South Wales with adequate power to make its awards with respect to reinstatement applications. I put reinstatement in italics at that point. There is no doubt that if we now proceed to spell out subparagraphs (i) and (ii) and particularly paragraphs (a), (b) and (c), as is proposed in the bill, a certain amount of confusion will arise. Doubts will be expressed, as I pointed out earlier. Paragraph (a) (i) provides that the award may reinstate the dismissed employee in his old position or in a position not less advantageous to the employee than that held by him prior to his dismissal.

Let me give a simple illustration of a recent occurrence. **On a** construction site, two riggers are dismissed and they apply for reinstatement. In the course of debate before the tribunal, it is declared and shown that no jobs for riggers are available on the site because the rigging work has been completed. The reinstatement available to those two dismissed employees can only be as a labourer at a rate less than they were previously receiving—a denigrated or degraded rate. Certainly the old position was not available on the site and a position of no less a quality was not available on the site. To be fair and realistic, in drafting subparagraph (i) why not spell out all the other circumstances that the tribunal would take into account and all the circumstances in which the person was to be reinstated? For instance, if two people were dismissed, they applied for reinstatement and one accepted an alternative position lower down the scale, the fellow who applied for reinstatement may well end up by saying "I am in a position less advantageous than that I previously held". It would be **feasible** under (i) for a person who accepted a downgrading to be employed at a lesser rate than the other who would be on a higher rate. That is to take the inequitable, which is indicative of the whole of the paraphernalia in these clauses. What the Opposition suggests is that we leave alone practices that have existed over a long period. The participants are fully aware of the consequences. The provision would then read:

The power conferred by this Act to make an award determining an industrial matter includes the power to make an award, in the case where an employer has dismissed an employee, directing the employer to reinstate the dismissed employee.

In those circumstances the power is clear. That is what we are talking about: the authority that is in question, and the validity of the whole situation to which the president referred in his 1971 report and to which the Minister referred this evening ad nauseam—a general power conferred upon the Industrial Commission of New South Wales to reinstate the employees subject to certain **terms** and conditions. As soon as terms and conditions are spelt out, **difficulties** arise, and sins of omission become apparent: one finds things that are not prescribed, and that is persuasive to a tribunal.

Upon presentation of a case under subparagraph (i), the individual could assume that, without the provisions of the other sections, he is entitled to be reinstated to his old position or to a not less advantageous position. In terms of industrial reality that would be impossible. It is all very well for the Minister to question what I have said, but he is not paying for it. He must remember that in these circumstances industry will be paying; it will not be the lawyers who get paid for representing the parties to these proceedings.

The Hon. D. P. Landa: The consumer would be paying.

The Hon. F. J. DARLING: There are doubts about that, too. Only recently prices were increased by one tribunal but refused to be passed on in this State by another tribunal. That is not a fair statement of fact, and I ask the Minister to withdraw it, because what he said amounts to misleading this Chamber. The Minister is not being factual or honest when he says that.

The Hon. P. McMahon: You are the one who is misleading the Chamber.

The Hon. F. J. DARLING: It is all very well for the Hon. P. McMahon to talk about people being misleading, but no one on this side of the Chamber has endeavoured to mislead anyone about anything.

The Hon. P. McMahon: Some of the employer organizations do that.

The Hon. F. J. DARLING: The fact is that subparagraph (i), together with the provision set out in paragraphs (b), (c) and (d) of this subsection in my view will lead to confusion, and will help to confuse the parties and the tribunal. If the power is left alone, it will resolve itself in accordance with the precedent and practice established in this State since 1929, when the position has been beyond doubt.

The Hon. D. P. Landa: On a point of order. I submit that the honourable member is repeating the speech he gave at the second-reading stage. If he continues in this way, we shall be here all night.

The Hon. F. J. DARLING: We shall not be here all night. In addition, I invite attention to some of the wording contained in subparagraph (ii) which states "if the **body** or person making the award thinks fit . . .". If the Minister wants to talk about wasting time and sloppy drafting, he should arrange for the Government to re-examine that aspect. Further, paragraph (d) of subsection (1) states "such terms and conditions as the body or person making the award thinks fit." That is a dragnet provision, after the subsection has endeavoured to spell out all the ins and outs. If the whole matter were left as we suggest, without any inhibitions, the arbitration tribunal would be empowered to make an order in accordance with practice and precedent as it thinks fit.

Question—That the words stand—put.

The Committee divided.

Ayes, 18

Mrs Anderson
Mr Baldwin
Mr James Cahill
Mr Coulter
Mr Ducker
Mr French
Mr Hallam

Mr Healey
Mr Johnson
Mrs Kite
Mr Landa
Mr Melville
Mr Morris
Mrs Roper

Mr Serisier
Mr Thom

Tellers,
Mr McMahon
Mr Thompson

Noes, 31

Dr de Bryon-Faes	Mr Holt	Mr Philips
Mr Calabro	Major Humphries	Mr Pickering
Mr Connellan	Mr Keighley	Mr Sandwith
Mr Darling	Mr Kennedy	Mr Scott
Mrs Davis	Mr Lange	Mr Rowland Smith
Mr Duncan	Mrs Lloyd	Mr Solomons
Mr Eskell	Mr MacDiarmid	Mr Willis
Mr Evans	Mr Manyweathers	
Mr Falkiner	Mr Moppett	<i>Tellers,</i>
Mr Freeman	Mr Orr	Mr Erskine
Sir John Fuller	Mr Percival	Mr Raines

Question so resolved in the negative.

Amendment agreed to.

Page 3

- (2) The references in subsection (1) to the dismissal or proposed dismissal of an employee are, in relation to a person employed under the Public Service Act, 1902, references to the termination or proposed termination of the employment of that person under section 44, 56, or 61 of that Act or as referred to in section 65 of that Act, including the termination or proposed termination of the employment of that person under section 56 or 61 of that Act pursuant to a direction that he resign or be allowed to resign.

The Hon. L. A. SOLOMONS [8.30]: I move:

That at page 3, all words on lines 13 to 16 be omitted and there be inserted in lieu thereof the words

The reference in subsection (1) to the dismissal of an employee is, in relation to a person employed under the Public Service Act, 1902, a reference to the termination or proposed

This is simply a consequential amendment following the previous amendment.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [8.31]: So that members might more readily understand this amendment might I say that all it does is remove the provisions with regard to proposed dismissals.

Amendment agreed to.

Page 4

(4) Nothing in this Act authorises the making of an award containing provisions referred to in subsection (1) (a), (b), (c) or (d)—

(a) if—

- (i) under the provisions of any other Act or of any regulations or by-laws made under any other Act, an order or direction may be made awarding any redress to the dismissed employee in respect of his dismissal or to the employee proposed to be dismissed in respect of his proposed dismissal or requiring an inquiry to be held relating to the dismissal or proposed dismissal of the employee; and

The Hon. L. A. SOLOMONS [8.32]: I move:

That at page 4, line 3, the letters "(a), (b), (c) or (d)" be omitted.

This, too, is a consequential amendment.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [8.33]: This is a consequential amendment following upon the carrying by the Opposition of its first amendment. The Government opposes **this** amendment but in view of the amount of business before the Parliament we **shall** not divide the Committee on it. That should not in any way be taken that the Government is any the less opposed to this amendment than it was to the first amendment upon which the Committee divided.

Amendment agreed to.

Page 4

- 30 (6) **An** instrument referred to in subsection.
 (4) (a) (ii)—
 (a) **has** no effect if it is lodged with the registrar
 after the dismissed **employee** or ~~the~~ employee
 proposed to be dismissed has commenced pro-
 35 ceedings under the provisions referred to in
 subsection (4) (a) (i); and

The Hon. L. A. SOLOMONS [8.34]: I move:

That at page 4, all words on line 35 be omitted and there be **inserted** in lieu thereof the words

subsection (4) (a) (i) and such proceedings have been commenced after the date of assent to the Industrial Arbitration (Reinstatement Awards) Amendment Act, 1978; and

This is one of the retrospectivity amendments adverted to by the Minister. **The Opposition** has intimated why it has included these matters among its **proposed** amendments but having heard the Minister's remarks in relation to the **matter the** Opposition does not propose to divide the Committee on this amendment.

The Hon. D. P. LANDA (Vice-President of the Executive Council and **Minister** for Planning and Environment) [8.35]: I am grateful to the Hon. L. A. **Solomons** for intimating on behalf of the Opposition that it has reconsidered this amendment. **I am** sure honourable members of both sides of the Chamber will agree that **this amendment**, if accepted, would have serious repercussions upon industrial relations **in this** State. I trust some thought has been given also to the dropping of the other **proposed** amendments that would have a deleterious effect on the existing tripartite system,

Amendment negatived.

The Hon. L. A. SOLOMONS [8.37]: For reasons I have previously predicted the Opposition does not propose to press amendment No. 5 in the list of amendments. I move:

That at page 5, after line 11, there be **inserted**—

I am sorry, that relates to a different clause. I have no further amendments relating to clause 2.

Clause as amended agreed to.

Title

The Hon. L. A. SOLOMONS [8.38]: I move:

That at page 5, after line 11, there be **inserted**—

The Hon. D. P. Landa: On a point of order. The honourable member is **out** of order. Clause 2 has already been dealt with and the Committee is now considering the title of the bill.

The Hon. L. A. SOLOMONS: The amendment that I propose to **move**—

The Hon. P. McMahon: I rise on a point of order in relation to this matter. Mr Temporary Chairman, you have proposed clause 2, as amended, to the Committee and declared it **carried**. I ask you to rule on this point of order on the basis that you have already declared clause 2 carried.

The TEMPORARY CHAIRMAN (The Hon. H. J. McPherson): On at least three occasions I put to the Committee clause 2 as amended and no **further** amendment was forthcoming. At one stage I in fact asked whether there was any further amendment. Then I put to the Committee clause 2 as amended and the question was carried on the voices. I proceeded to go to the next verification, which was as to **the** title. On that basis I rule that the Hon. L. A. Solomons is out of order in attempting to move a further amendment to clause 2.

Title agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted, on motions by the Hon. D. P. Landa.

Third Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [8.41]: I move:

That this bill be now read a third time.

The Hon. L. A. SOLOMONS [8.42]: I move:

That the bill be recommitted to the Committee stage.

The Hon. H. J. McPherson: On a point of order. I doubt whether the Hon. L. A. Solomons can move that motion at this stage. You, Mr Deputy-President, put the question that the bill be read a third time. Ostensibly the vote was carried on the voices.

The Hon. J. R. Hallam: Further to the point of order. During the debate in Committee, I distinctly heard the Temporary Chairman call for amendments and I distinctly heard the Hon. L. A. Solomons say that he had no further amendment to clause 2, which was the relevant clause at the time.

The DEPUTY-PRESIDENT: It appears to me that the situation is governed by **the** standing order, the effect of which appears on page 54 of the Standing Rules and **Orders**; and that, as the House has not in fact determined that the bill be read a third time there still remains an opportunity to move that the motion for the third reading be amended. The Hon. L. A. Solomons may take that point. I feel it is up to him now to proceed in accordance with the standing order.

The Hon. L. D. Serisier: Further to the point of order. I draw attention to Standing Order 186, which has not been put to you and upon which you, Mr Deputy-President have not ruled. Standing Order 186 reads:

On the Question for the adoption of the report, the Bill may be recommitted for the reconsideration of the Bill as a whole, or of any specified clauses, Schedules, or other portions thereof, or for the insertion of new clauses or Schedules.

The report was adopted on the voices. The motion that came forward was a motion not for the third reading but a motion that the bill be dealt with for a third reading on another day. I take the point that the Hon. L. A. Solomons is not entitled at this stage to move a motion until in fact the original motion has been dealt with.

The DEPUTY-PRESIDENT: The Hon. L. D. Serisier is not dealing with the matter as it stands. He is referring to a hypothetical case under Standing Order 186. I have ruled that the motion that the bill be read a third time was not agreed to and that the Hon. L. A. Solomons is entitled to move the motion that he has already moved.

The Hon. L. A. SOLOMONS [8.47]: I move:

That the question be amended by the omission of the words "read a third time" in order to the insertion in their place of the words "recommitted with a view to the further consideration of clause 2".

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [8.48]: Honourable members ought to consider what has gone on in the House in the past twenty minutes. This is a serious bill. I made certain remarks to the House about the import of what was intended to be done by the movers of the amendments. Already the Opposition has intimated, wisely, that it proposes not to proceed with the retrospective operation of the bill. Since then a clear procedural process has been undertaken. Several attempts were made to resolve whether that was being proceeded with. Everyone can make an error. It is not to be held against any particular honourable member that he makes an error, but it does reflect on the consideration that has been given to the amendment. It reflects on the seriousness and the concern for it by the Opposition parties. A risky and dangerous amendment has been moved. It does one thing clearly and surely: it provides a right for a person who may have been considered as not having the support of the registered **organization**—some outside group other than the registered organization. I do not **want** to deal with the substantive matter in this procedural motion but I think honourable members **should** reflect on what has taken place in consideration of the **substantive** matters. Needless to say, the honourable member will move the appropriate motion.

The Hon. Sir JOHN FULLER (Leader of the Opposition) [8.49]: On the procedural motion. If the Minister recalls, the Hon. L. A. Solomons **went** to **the** table, in order, as I understand it, to move amendment number 6 on the list of amendments that was presented to the Minister earlier. Unfortunately, because of a typographical error on that list the Hon. L. A. Solomons said that there were no more amendments **to** clause 2. It was an honest mistake caused by a typographical error. Now the Minister is trying to make capital out of it and to prevent an Opposition member from having the bill recommitted and moving the amendment.

The Hon. D. P. Landa: You are the one making capital out of it.

The DEPUTY-PRESIDENT: Order!

The Hon. Sir JOHN FULLER: It was the Opposition's intention to proceed with the amendments as given to the Minister. Because of a typographical error that intention was denied. I submit that we have a democratic right to move for recommittal of the bill.

The Hon. P. McMahon: On a point of order. I think that the Leader of the Opposition should withdraw his remark that a member of the Opposition was not given a right. The matter was dealt with in Committee. The Temporary Chairman gave a ruling. I should like you to rule that in fact the Hon. L. A. Solomons was not denied the right while this matter was before the Committee. To suggest that is a reflection on the Temporary Chairman of the Committee.

The DEPUTY-PRESIDENT: Order! Although I was not officially in the Chamber I did hear what took place. The motion that the Hon. L. A. Solomons has proposed, as I see it, is appropriate to circumstances in which such an incident has occurred. We have before us a particular motion. If it is agreed to it will give the House an opportunity to rectify what was either a mistake or an omission. If that is done it might lead to a better understanding by the House of the matter before it. I rule that the Hon. L. A. Solomons is in order on this matter.

The Hon. D. P. Landa: On a further point of order. The Hon. P. McMahon has asked you to give a ruling on the statement made by the Leader of the Opposition that the Hon. L. A. Solomons was denied the right to speak on his amendment, for whatever reason he made that mistake. That is a reflection upon the Temporary Chairman of Committees. I submit that the Leader of the Opposition should be asked to withdraw any imputation against the Temporary Chairman of Committees in that remark.

The DEPUTY-PRESIDENT: Yes, I agree with that. I do not think the Temporary Chairman of Committees would have deliberately denied any honourable member the opportunity to speak. Possibly the Hon. L. A. Solomons was denied the right by the standing orders, and possibly by a mistake, but I do not think that was the responsibility of the Temporary Chairman of Committees. I ask the Leader of the Opposition to rectify that remark.

The Hon. Sir JOHN FULLER: Never for one moment did I suggest that the Temporary Chairman of Committees in any way denied a right to the honourable member. I felt that the standing orders and the procedure denied the Hon. L. A. Solomons the right to proceed.

The Hon. D. P. Landa: You said that an error denied him his rights.

The Hon. Sir JOHN FULLER: In no way did I reflect on the Temporary Chairman of Committees at that time. I am supporting the motion before the House.

The Hon. L. D. SERISIER [8.51]: On the motion for recommittal. The Hon. L. A. Solomons has furnished us with copies of the amendments that he proposes. We have before us a bill for an Act to amend the Industrial Arbitration Act, 1940, so as to clarify the powers under the Act to make awards with respect to the dismissal or proposed dismissal of employees. Until he concluded his remarks the Hon. L. A. Solomons was dealing with proposals to amend the bill. What he seeks to do now is to deal with section 25 of the Industrial Arbitration Act. That section is not dealt with in any place in the bill itself. The Hon. L. A. Solomons seeks not to amend the legislation before the House at this stage but to recommit it so as to amend the bill itself. In effect he seeks to take over the business of the House.

The Hon. L. A. Solomons: On a point of order. I submit that the honourable member is out of order. Perhaps he may make those submissions later. His remarks are not germane to the matter now before the Chair.

The Hon. L. D. Serisier: On the point of order. The reality is that we are being asked to recommit the bill so as to discuss something outside the **ambit** of the legislation. That is the sole purpose for which the honourable member seeks to have the bill recommitted. In other words, he is asking the House to go through the charade of recommitting the bill, without having the House go again into a committee of the whole to do something that the Chamber has no power to deal with because it is completely outside the **ambit** of the legislation. First I ask you to rule that that is so in view of the indications that have been given to us. Second, if you are not prepared to rule that way—though I propose to move it formally as a point of **order**—certainly it is matter I should expect you to deal with on a fresh point of order when the bill is recommitted. We should not have to go through this charade. I take the point that the matters adverted to by the Hon. L. A. Solomons to be dealt with on the recommitment of the bill before the reconstituted committee are in fact outside the **ambit** of the legislation and that the amendment should not be accepted by you.

The Hon. W. J. Holt: On the point of order. I cannot understand what the argument before this House is about. As I understand it, the Minister moved the third reading of this bill. Thank goodness for the procedures of this House. They provide for a first reading, second reading and third reading.

The Hon. D. P. Landa: If we did not have those procedures you would be in a lot of trouble, making mistakes.

The Hon. W. J. Holt: It would not be the first time in this or any other House of Parliament in the Westminster system that a third reading has caused amendments to be made. Indeed, Standing Order 190 provides for that very thing. There is no need for the Minister to ask me to sit down at this stage. The manner in which it is being put by the Government would make it appear that we are indulging in some extraordinary procedural device. Standing Order 190 states that the whole object of a third reading is to permit a matter to be recommitted to a committee and considered in detail and further amendments moved if necessary. It is only because the Government is trying to do the whole of this year's legislative programme in two days that this has occurred.

The DEPUTY-PRESIDENT: I should like to hear the Hon. L. A. Solomons on the point taken by the Hon. L. D. Serisier, that the matter he was seeking to deal with was outside the **ambit** of the legislation.

The Hon. L. A. Solomons: In my respectful submission, that is not before the House at this juncture. It has not been moved. At this stage I am only seeking the recommitment, and that is the only matter before the House. The question of the relevance of what the Hon. L. D. Serisier has said, in my respectful submission, must be dealt with, if it is raised, at a later stage of the debate.

The DEPUTY-PRESIDENT: As I see it, the recommitment is for the reconsideration of a specific clause. As I took the point made by the Hon. L. D. Serisier, the clause to which the Hon. L. A. Solomons referred was a clause in the principal Act, not in the bill before the House. As I was not in Committee, I should like to know whether the clause that you wish to have recommitted is a clause that deals with the measure before the House or the principal Act.

The Hon. L. A. Solomons: With great respect, I am not bound to indicate in what way I wish the matter to be recommitted. The only motion that I am entitled to move, and which I have moved, is a motion for recommitment to the Committee stage. But, for your information, it is with respect to clause 2 that I propose to seek recommitment.

The DEPUTY-PRESIDENT: Which is, of course, a clause in the bill before the House?

The Hon. L. A. Solomons: It is a clause in the bill.

THE DEPUTY-PRESIDENT: I rule against the Hon. L. D. Serisier on that matter.

Amendment agreed to.

Motion as amended agreed to.

In Committee (Recommittal)

Recommitted clause 2

The Hon. L. A. SOLOMONS [9.6]: At the outset may I say that if any imputations were made against your chairmanship, Mr Temporary Chairman, I take no part in them. The error that was made was mine through misreading of certain notes, I acknowledge here and now that the action taken by you was correct. I move:

That at page 5, after line 11, there be inserted the words

(c) by inserting after section 25 (1) (c) the following:

"(d) where an instrument has been lodged with the registrar under section 20A."

The Hon. L. D. Serisier: On a point of order. The amendment that has been moved by the Hon. L. A. Solomons is outside the **ambit** of the legislation. The legislation comprises, apart from the title, two clauses. The first deals with the short title and the second is the amendment of the Act by the insertion of clause 20A. What the Hon. L. A. Solomons seeks to do is to insert further amendments that are amendments to section 25. In so doing he is outside the **ambit** of the legislation and, being outside the **ambit** of the legislation, his motion for amendment must fail. It does not matter whether he moves it as part of clause 2 or clause 1 or part of the short title; what he is doing is outside the **ambit** of the legislation and cannot be dealt with by this Committee. On that basis I **ask** that you rule the proposed amendment out of order.

The Hon. L. A. Solomons: On the point of order. I draw attention to Standing Order 175 which states:

Any amendment may be made to a clause, provided the same be relevant to the subject-matter of the clause, and a new clause or schedule may be proposed if relevant to the subject-matter of the bill, or pursuant to any instruction, and be otherwise in conformity with the Rules and Orders of the House: Provided that no amendment or new clause shall be inserted which reverses the principle of the bill as read a second time; but if any amendment shall not be within the scope of the title of the bill, the committee shall extend the title accordingly.

The proposed amendment which I now move is an amendment to section 25 (1), to note therein the provisions of section 20A actually introduced into the legislation by the bill. With the greatest respect, it is completely within the requirements of Standing Order 175.

The Hon. P. McMahon: On the point of order. Standing Order 175, as read by the Hon. L. A. Solomons, provides that no amendment or new clause shall be inserted which reverses the principle of the bill. In my view the amendment would alter

the principle of the legislation and proposes to introduce new matter in respect of section 25 to provide that instruments may be lodged which are **different** from the current circumstances in the Industrial Arbitration Act.

The Hon. D. P. Landa: On the point of order. The matter is a **difficult** one that can give the Chair reason for concern. On a reasonable construction, the amendment would reverse the intention of the bill. The intention of the bill is to extend a right to registered organizations recognized under the Act, and what is done is to remove the exclusive rights of the registered organizations under section 25 to obtain an award, and to extend it, contrary to the Act, to the individual. It does reverse the principle of this bill.

In that case, when in doubt, Mr Temporary Chairman, in relation to a matter of such a substantive nature, in which the Act and the bill are clear as to the organizations concerned, I submit that it does in fact reverse the emphasis of the bill and the Act. Therefore, I ask you to rule that it is contrary to the standing orders.

The Hon. L. A. Solomons: On the point of order. With due respect to the Minister's submission, I invite attention to the long title of the bill, which describes the measure in this way:

An Act to amend the Industrial Arbitration Act, **1940**, so as to clarify the powers under that Act to make awards with respect to the dismissal or proposed dismissal of employees.

There is no mention in the title of the bill to the principles being adverted to by the Minister. The words in Standing Order **175** indicate, of course, that the reversal may in fact so take place, if the Committee extends the title accordingly. But in this case the title fits precisely the terms of the proposed amendment.

The Hon. D. P. Landa: On the point of order. The honourable member has basically misconstrued Standing Order **175**. He has in some way sought to say that, if the title in some way deals with the amendment, he can move an amendment that reverses the principle of the bill, providing the title is amended. It does not mean that at all. It says, ". . . but if any amendment shall not be within the scope of the title of the bill **That** is a separate thing, and "but" is the operative word. It then goes on to say, "the Committee shall extend the title accordingly." Of course, the title can be amended accordingly; that is not denied. The title is always put to the Committee by the Chairman, for the seeking of an amendment, but it does not apply to an amendment that reverses the principle of the bill. **As** this amendment does **that**, **it** should be ruled out of order.

The Hon. L. D. Serisier: On the point of order. Standing Order 175 says, "Any amendment may be made to a clause, provided the same be relevant to the subject-matter of the clause . . ." The subject-matter of this clause is to amend the Industrial Arbitration Act by inserting section 20A. However, what the Hon. L. A. Solomons seeks to **do** is to amend section **25**, which is not the subject-matter of the clause. That is the basis of the objection to any consideration of whether this is within the ambit of the legislation before the Chamber. It is as simple as that, and I ask, Mr Temporary Chairman, that you rule the proposed amendment out of order.

The Hon. L. A. Solomons: On the point of order. I think the principle that has been forgotten by honourable members opposite—and perhaps I am partly to blame for drawing attention to the latter part of the standing order—is that the gravamen of Standing Order **175** is, first, that ". . . a new clause or schedule may be proposed if relevant to the subject-matter of the bill." It then goes on to say, "Provided that no amendment or new clause shall be inserted which reverses the principle of the bill."

The Hon. L. A. Solomons]

When one considers whether the amendment conforms to the words "relevant to the subject-matter", there can be no doubt whatsoever. The only submission that is being made is that there is some reversal of the principle of the bill because it is proposed to give a right to individuals to do what, in the past, organizations have done. There is no preamble or suggestion that this could in any way reverse the principle of the bill. The principle of the bill is "to make awards with respect to the dismissal or proposed dismissal of employees". The proposed amendment is precisely within the principle of the bill, whether those words be construed broadly or narrowly.

The Hon. P. McMahon: On the point of order. In regard to the reversal of the principle of the bill, I point out that the bill proposes to give **an** employee who has a means to redress his dismissal under any other Act, a choice of proceeding under the Industrial Arbitration Act. The principle involved is that the Industrial Arbitration Act prescribes in section 74 that an application for reinstatement shall be in the form of and shall contain particulars and shall be signed by an industrial union whose members are employees or whose members are employees in **any** such industry or calling. I submit that it is a complete reversal of that principle to seek to insert in section 25 of the Act something that was not intended in the bill that is being considered by the Committee.

The Hon. L. A. Solomons: On the point of order. I do not want to weary the Committee, but I must point out again that the Hon. P. McMahon has not read the provisions of Standing Order 175, which refers to matter that is relevant to the bill; it does not refer to matter that is relevant to the Industrial Arbitration Act. The proposed amendment is, in terms of the standing order, relevant to the bill.

The Hon. D. P. Landa: On the point of order. I make this submission to clarify one matter only and to avoid this discussion going in ever-increasing circles of ludicrousness. It may be conceded that the matter raised by the Hon. L. A. Solomons is relevant to the bill, but it cannot be conceded that it does other than what it was intended to do; that is, reverse the principles of the bill. The amendment is proposing a negative principle.

The TEMPORARY CHAIRMAN (The Hon. H. J. McPherson): I have listened closely to the submissions that have been made for and against the amendment moved by the Hon. L. A. Solomons. Also, I have had a reasonable amount of time to study the provisions of Standing Order 175. I am of the opinion that, although section 20A is proposed by the bill for inclusion in the principal Act, the proposed amendment is a direct reversal of the principle in the bill. Accordingly, I rule that in those circumstances I am not in a position to accept the amendment.

The Hon. Sir JOHN FULLER (Leader of the Opposition) [9.19]: Mr Temporary Chairman, I take objection to your decision, and beg to move, that you do now leave the chair and report such objection to the House so that the matter may be laid before the President. The objection is, that the Temporary Chairman was in error in ruling that proposed amendment to clause 2 was not relevant to the subject-matter of the clause before the Committee; it reversed the principle of the bill as read a second time. Also, that the Committee seeks leave to sit again when the matter is disposed of.

The Hon. D. P. Landa: On a point of order. In effect, Mr Temporary Chairman, the honourable member has moved a motion of dissent from your ruling on the basis that you have ruled the amendment proposed by the Hon. L. A. Solomons was not relevant. You have ruled that it was so relevant, but that it reversed the principle of the bill, and therefore, is disqualified under Standing Order 175. For those reasons, the motion by the Leader of the Opposition should at least be rethought.

Question—That the motion be agreed to—put.

The Committee divided.

Ayes, **31**

Dr de Bryon-Faes
Mr Calabro
Mr Connellan
Mr Darling
Mrs Davis
Mr Duncan
Mr Erskine
Mr Eskill
Mr Evans
Mr Falkiner
Mr Freeman

Sir John Fuller
Mr Holt
Major Humphries
Mr Keighley
Mr Lange
Mrs Lloyd
Mr MacDiarmid
Mr Manyweathers
Mr Moppett
Mr Orr
Mr Philips

Mr Pickering
Mr Raines
Mr Sandwith
Mr Scott
Mr Rowland Smith
Mr Solomons
Mr Willis

Tellers,
Mr Kennedy
Mr Percival

Noes, **18**

Mrs Anderson
Mr Baldwin
Mr James Cahill
Mr Coulter
Mr Ducker
Mr French
Mr Hallam

Mr Healey
Mr Johnson
Mrs Kite
Mr Landa
Mr McMahon
Mr Melville
Mrs Roper

Mr Thom
Mr Thompson

Tellers,
Mr Morris
Mr Serisier

Question **so** resolved in the **affirmative**.

Motion agreed to.

In the House

The TEMPORARY CHAIRMAN (The Hon. H. J. McPherson): I have to report that in Committee objection was taken to my ruling in which I held that the proposed amendment to clause 2 was not in order on the ground that it **was** not relevant to the subject-matter of the clause before the Committee, as it reversed the principle of the bill as read a second time. The amendment proposed is to clause 2. It is proposed to insert after line 11 the words **as** proposed by The Hon. L. A. Solomons. The Committee asked leave to sit again when this matter is disposed of.

The DEPUTY-PRESIDENT: I have the Committee's report before me. I have had an opportunity to study the provisions of Standing Order 175. As I see it, the matter turns on whether or not there has been in fact a reversal of the principle of the bill. A reversal, in my opinion, is a complete negative of the intention of the bill. From the debate that I have heard and the discussions on the points of order that I have heard, I am persuaded that the proposed amendments perhaps qualify, restrict and alter the principles of the bill; but I am not of the opinion that the amendment in fact reverses the intention of the bill. As I see it there is a different approach towards the purpose of the bill rather than a reversal of the true purpose which is, as I have read the bill, amongst other things, to provide terms and conditions for reinstatement. However, in my opinion, there has not been a reversal of the principle, and I rule accordingly.

Committee Resumed

Recommitted clause 2

The Hon. L. A. SOLOMONS [9.34]: I move:

That at page 5, after line 11, there be inserted the words

(c) by inserting after section 25 (1) (c) the following:

"(d) where an instrument has been lodged with the registrar under section 20A."

The purpose of the proposed amendment is to give the necessary power to a conciliation commissioner to summon a person who has in fact made an election for the purpose of section 20A. This matter has been thoroughly canvassed in the second-reading speeches. I do not propose to speak to it any further at this juncture.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [9.36]: The Government opposes the amendment, as it will oppose all three amendments foreshadowed on the sheet handed to honourable members. It is a delight to see you, Mr Temporary Chairman, return to your place of pristine impartiality. What honourable members have seen tonight has been nothing short of a farce. The Hon. R. B. Rowland Smith may complain, but it is a serious matter——

The Hon. R. B. Rowland Smith: They are strong words to use.

The Hon. D. P. LANDA: It should not have degenerated into this. What is intended by this amendment and the following amendments to which I shall speak now, as the time is getting late, is, as the Temporary Chairman said, an alteration, a variation, in short a complete change to the emphasis of the bill and the Act. What it does should be clearly understood by honourable members opposite who have resiled, quite properly, from the position in relation to retrospectivity of their former amendment because they realize the foolishness and danger of that proposal. Though in the debate honourable members heard all about important matters of principle involved in the question of the dismissal of Mr Latham in Broken Hill, all those high matters of principle with which honourable members opposite wearied the House earlier have now gone. The Committee is now clearly back in the arena of hard-headed industrial relations. Honourable members are back, as I said, where they ought to have been right from the inception of the tripartite system of employers, registered organizations of employees and the industrial tribunal.

The Opposition is intending now, having recognized the error in retrospectivity, to commit the grave error of departing from the tripartite system. One does not need experience in industrial relations besides the most casual to recognize the dangers in that. It astounds me, as I am sure it does all honourable members, with a detailed and day-by-day interest in industrial matters, those in the trade unions especially, how the Hon. F. J. Darling from the Employers Federation can have any part in this amendment. He has put himself into that tripartite system and sought to get employers to join his organization and be part of that tripartite system. He criticizes sweetheart deals, maverick employers and employees but now arms those very mavericks.

The legacy of the amendment will be that every reinstatement case with a group of employees against the democratic management of their union and union procedures will have a forum, in which those people will be able to string the issue further along. It is a recipe for industrial disputation and disaster. When members of the Hon. F. J. Darling's organization hear that he was a party to that—those who have some contact with representative employer organizations—they will not be too pleased.

As I said in one part of the debate, the time to sort out the difference between all these wonderful principles of individual rights—the moment of truth—is now upon us. The Opposition is denying the individual rights of those people within registered organizations to make their democratic decisions with some effectiveness. If the registered organization does not want to proceed with an application for reinstatement on behalf of one of its members and it makes a democratic decision in that regard, the tribunals have always recognized that right. Previous **governments**—even a government of the Opposition's persuasion—have never sought to change it; nor have employers. Now we have this attempt to foist it on the tripartite system. I said that I would give honourable members of the Opposition an opportunity to consider their position during the dinner adjournment as to what an implement they are putting into the industrial system of this State. The State has had good and effective **service** out of the tripartite system. We should stick with it and support it. It is up to honourable members, such as the Hon. F. J. Darling, who has benefited from the tripartite system, to support it and not water down its effectiveness.

Question—That the words be inserted—put.

The Committee divided.

[In Division]

The Hon. L. A. Solomons: Mr Temporary Chairman, I draw your attention to the fact that the motion I moved was for the insertion of a new subclause (c) by inserting after section 25 (1) (*c*) the following:

"(d) where an instrument has been lodged with the registrar under section **20A**."

The TEMPORARY CHAIRMAN: I confess that I thought that is what was moved, but I was not sure. I say again, it is proposed to amend clause **2**, after line 11 on page 5, by insertion of the following words:

(c) by inserting after section 25 (1) (c) the following:

(d) Where an instrument has been lodged with the registrar under section **20A**.

Ayes, 31

Dr de **Bryon-Faes**
Mr **Calabro**
Mr Connellan
Mr Darling
Mrs Davis
Mr **Duncan**
Mr Erskine
Mr **Eskell**
Mr Evans
Mr **Falkiner**
Mr Freeman

Sir John Fuller
Mr Holt
Mr Keighley
Mr Kennedy
Mr Lange
Mr **MacDiarmid**
Mr Manyweathers
Mr Moppett
Mr Orr
Mr Percival
Mr **Philips**

Mr Pickering
Mr Raines
Mr **Sandwith**
Mr **Scott**
Mr **Rowland Smith**
Mr Solomons
Mr Willis

Tellers,
Mr Humphries
Mrs Lloyd

Noes, 18

Mrs Anderson
Mr **Baldwin**
Mr James **Cahill**
Mr Coulter
Mr **Hallam**
Mr Healey
Mr Johnson

Mrs Kite
Mr Landa
Mr **McMahon**
Mr Melville
Mr Morris
Mrs Roper
Mr Serisier

Mr Thom
Mr Thompson

Tellers,
Mr **Ducker**
Mr **French**

Question so resolved in the **affirmative**.

Amendment agreed to.

The Hon. L. A. SOLOMONS [9.50]: I move:

That at page 5, after new subclause (c) there be inserted the words

(d) by inserting in section 25 (1) after the word "parties" the following:—

"(including a person in respect of whom an instrument pursuant to section 20A has been lodged)".

This, of course, is the substantive amendment which in fact makes the individual lodging the particular election a party to the proceedings.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [9.51]: The Government opposes the amendment. To save the time of the Committee, I foreshadowed the Government's attitude to these amendments when the first amendment was being debated. The Government will be content to allow the amendment to be decided on the voices.

Amendment agreed to.

The Hon. L. A. SOLOMONS [9.53]: I move:

That at page 5, after new subclause (d) there be inserted the words

(e) in section 25 (5) after (a) omit "(b) and (c)", insert "(b), (c) and (d)".

This is purely a consequential amendment.

Amendment agreed to.

The Hon. L. A. SOLOMONS [9.54]: I move:

That at page 5, after new subclause (e) there be inserted the words

(f) in section 25A, after (a) omit "(b) and (c)", insert "(b), (c) and (d)".

This again is a purely consequential amendment.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [9.56]: This amendment does not appear on the sheet that we were given by the Hon. F. J. Darling as the list of amendments to be moved. This is farcical. This bill contains two clauses. I hate to think what will happen when we are dealing later tonight with bills that have a substantial number of clauses. We might reach the heady heights of considering a bill with eleven or twelve clauses. I accept the honourable member's assurance that this is a consequential amendment, but I regret that it was not shown on the sheet given to us as being a complete list of amendments. I trust that more attention will be given to amendments in future.

Amendment agreed to.

Recommitted clause as further amended agreed to.

Adoption of Report

Bill reported *secundo* from Committee with further amendments, and report adopted, on motions by the Hon. D. P. Landa.

LOCAL GOVERNMENT (AMENDMENT) BILL

Message

The Deputy-President reported the receipt of the following message from the Legislative Assembly:

Mr President—

The Legislative Assembly having had under consideration the Legislative Council's Message, dated 2 March, 1978, requesting its concurrence in certain amendments made by the Council in the Local Government (Amendment) Bill, acquaints the Legislative Council as follows—

Disagrees with the amendments because the original provisions for two members of the Local Government Grants Commission to be persons nominated by the Minister, who are or have been associated with local government, instead of persons selected from nominees of the Local Government and Shires Associations, are in no way in derogation of local government; and proposes to amend the Bill as follows:

Amendment No. 1—

Page 2, clause 2, lines 10–18 inclusive. *Leave out* all words on these lines, *insert—*

- (2) Section 5 (1) shall, in its application to Schedule 1, commence on the day on which that Schedule commences.
- (3) Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment No. 2—

Page 3, clause 5, line 25. *Leave out* "5, 6 and 7", *insert* "4 and 5".

Amendment No. 3—

Page 3, clause 5, line 26. *Leave out* all words on this line, *insert—*
"(2) Schedule 2 has effect".

Amendment No. 4—

Pages 4–19, inclusive, Schedules 1 and 2. *Leave out* these Schedules.

Amendment No. 5—

Page 1, long title. *Leave out* "the constitution and functions of the Local Government Grants Commission,".

And the Legislative Assembly requests the concurrence of the Legislative Council in its disagreement from the Council's amendments, and its further amendments in the Bill.

Legislative Assembly Chamber,
Sydney, 15 March, 1978.

L. B. KELLY,
Speaker.

In Committee

Consideration of Legislative Assembly's message.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.0]: I move:

That the Committee do not insist upon its amendments disagreed to by the Assembly and agrees to the Assembly's further amendments.

Honourable members will recall that the matter of disagreement between the Houses related to the selection of the members of the Grants Commission by the nomination of a panel put forward by the Local Government Association and the Shires Association. This has not been agreed to by the Assembly, and has been deleted from consideration of the bill.

In order to effect into legislation an urgent remedy of the problem in relation to the leasing of parkland areas to councils, especially those already leased or awaiting renewal, the Government has approached the matter by proceeding to enact those matters in the bill. This has received the agreement of the Opposition in another place, and I understand that no objection will be raised in this Chamber.

The Hon. H. G. PERCIVAL [10.2]: What the Minister says is correct; no objection is raised. The amendments were put forward in the spirit of improving the bill. They were drafted carefully to preserve what we saw as the principles espoused by the Minister in another place, and to protect, first of all, the spirit of the Commonwealth legislation, and the need to preserve continuity of existing membership of the Grants Commission. All of those issues are preserved by eliminating schedules 1 and 2, which this advice to us conveys. In other words, in relation to the Grants Commission, the *status quo* prevails. We eagerly accept the proposal to get on with the rest of the bill, and offer no objection to the motion.

Motion agreed to.

Legislative Council's amendments not insisted upon.

Adoption of Report

Resolution reported, and report adopted, on motions by the Hon. D. P. Landa.

Message

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

That the following message be forwarded to the Legislative Assembly:

The Legislative Council having had under consideration the Legislative Assembly's message dated 15 March, 1978, in reference to the Local Government (Amendment) Bill, does not insist upon its amendments disagreed to by the Assembly and agrees to the Assembly's further amendments in the bill.

LOTTERIES AND ART UNIONS (AMENDMENT) BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.8]: I move:

That this bill be now read a second time.

I seek the leave of the House for the second-reading speech to be read on my behalf by the Deputy Leader of the Government

Leave granted.

The Hon. EDNA S. ROPER (Deputy Leader of the Government) [10.9]: The object of the bill is to make provision in the Lotteries and Art Unions Act enabling clubs registered under the Liquor Act or the Gaming and Betting Act to conduct, in club premises, games of chance such as housie. The Act in its present form entitles charities and schools of arts only to conduct games of chance by their obtaining a permit under section 4A of the Act. However, provision does exist pursuant to section

4 of the Act for clubs registered as non-profit organizations under the lotteries and games of chance regulations, in addition to charities and schools of arts, to conduct **raffles**.

Although the Act clearly specifies that organizations are legally entitled to conduct games of chance, the Government recently became aware that a small number of registered clubs have been conducting housie and similar games on their premises. These clubs are in breach of section 3 of the Lotteries and Art Unions Act even though the games are conducted without charge to participants. The aim of clubs in conducting these games is to attract patronage and improve trade **during** those periods of the day when trade is slack.

There is a significant distinction between games of chance conducted by clubs and similar games conducted by charitable organizations. In the case of the club games no fee is payable by players who participate in the games whereas the converse situation applies with charitable organizations. Of course, in the case of games conducted by charities, the entry fee is a means of fund raising. The Government decided to review the position of registered clubs conducting games of chance following representations from a number of clubs which expressed a desire to continue conducting housie and similar games in club premises. Most of the participants in club games were found to be senior citizens for whom the games afforded some relaxation and employment. With this in mind the Government formed the opinion that it would be in the best interests of all parties concerned to extend the scope of the Lotteries and Art Unions Act to enable members of registered clubs and their guests to play games of chance in club premises. To safeguard those charitable organizations which at present conduct housie and similar games the Government decided that the enabling legislation should require registered clubs to obtain a permit and observe certain conditions if they wished to conduct games of chance. Those are the main objects of this bill and schedule 1 to the bill is designed to give effect to the proposals. Schedule 2 contains other minor amendments by way of statute law revision.

It **will** be necessary to amend the lotteries **and** games of chance regulations to provide for the issue of permits to those clubs which intend to conduct games of chance. Accordingly, the amendments to the Act which are contained in schedule 1 will commence on a date to be appointed. The amendments contained in schedule 2 will commence on the date of assent. Clause 3 refers to the schedules to this bill. Clause 4 makes provision for amendment of the Act in the manner set forth in schedule 1 and schedule 2. The section of the Act that will enable clubs registered under the Liquor Act and the Gaming and Betting Act to conduct games of chance is new section 4c, which is provided for in schedule 1.

An approval under section 4c will be subject to certain conditions which include requirements that a permit will be obtained from the Minister, that no charge or other consideration will be payable for participating in the game, that the value of prizes in any one game shall not exceed the prescribed amount which is to be fixed by regulation, that no money, liquor or tobacco prizes will be awarded, and that the games **will** be conducted only on the days and at the time specified in the permit. The restriction on the value of prizes in a particular game and the prohibition **against** the giving of certain prizes is similar to the existing provisions of the Act relating to games of chance conducted by charities. The Government is satisfied that the conditions will ensure that clubs games in a particular area will not be held at a time when charitable organizations are conducting similar games in the same area.

Amendments in schedule 1 will also authorize the Minister to request registered clubs to produce, for inspection, records of games which they have conducted and also entitle the Minister to delegate to officers of his department the power to issue permits,

The Hon. Edna S. Roper]

which is the current practice with other permits issued under the Act. Other amendments will make it an offence for registered clubs to falsify records, misappropriate prizes or fraudulently conduct games of chance on club premises. Further, an extension of the regulation-making power will enable the terms of agreement between registered clubs and promoters of games of chance on behalf of clubs on club premises to be subject to control if necessary. The amendments in schedule 2 relating to statute law revision are formal and, as they are not controversial, it is not considered necessary to elaborate on them.

The Government is aware that only a small proportion of registered clubs conduct games of chance in contravention of section 3 of the Act. It therefore follows that the number of persons who take part in these games is small compared to the total number of persons who are members of clubs registered in New South Wales. However, the Government considers that to deprive members of the clubs involved of a harmless activity would be unnecessarily harsh. In this spirit the Government believes that the legalizing of the conducting of games of chance by registered clubs for the members and their guests is a sensible provision which will be generally accepted. I commend the bill.

The Hon. D. D. FREEMAN [10.14]: The Opposition is not in any way opposed to this amending bill. This demonstrates how flexible we can be in certain circumstances. The underlying motivation of this measure is to legalize something that has not been legitimate for quite some time. In relation to much more serious matters, the Premier has stated that he may do this sort of thing with something that has been in operation for a long time. The community seems to accept that, if something has been in operation for a long time, it is *ipso facto* acceptable. It is possible that one of those more serious matters will be dealt with later this evening. The measure now under discussion relates to harmless activity. Everyone in the community will support the need to overcome this anomaly and legalize harmless activities indulged in mostly by senior citizens.

The bill relates to two principle functions. One is the enjoyment by elderly people of simple games of chance, such as housie which does not require any special knowledge, skill, keen eyesight and so on. Housie is a popular form of entertainment among older people. Second is the matter of fund raising, albeit in this instance mostly of small incremental amounts which add up. This sort of activity gives people an interest in fund raising through legitimate means. For those reasons, there is no opposition from this side of the House to **the** bill.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.15], in reply: I thank the honourable member for his support of the bill. I have always thought he was in favour of legalizing casinos and other forms of gambling. I know that some of his colleagues on that side of the House would support his attitude. It is pleasing to learn that there are those among the Opposition who share my view that has been expressed in another place, that with regard to some activities Parliament may make them illegal but cannot make them unpopular.

The Hon. D. D. Freeman: The Minister has in mind Con Wallace.

The Hon. D. P. LANDA: It certainly was not George Clemenceau, to whom a quotation was wrongly attributed earlier this evening by the Hon. M. F. Willis. I thank the honourable member for his support of this measure which will have beneficial effect for housie players throughout the State.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. L. A. SOLOMONS [10.18]: I have been asked to seek from the Minister a clarification as to whether in the view of his officers the definition in schedule 1 relating to games of chance applies to such card games as 500, euchre and crib. These games are popular among members of senior citizens clubs and are played for prizes something along the lines contemplated in the amending bill.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.19]: There has been a lot of cribbing in this Chamber this evening. I am advised that the card games adverted to by the Hon. L. A. Solomons come **within** the definition of the bill.

Schedule agreed to.

Adoption of Report

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

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION)
AMENDMENT BILL

Second Reading

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.21]: I move:

That this bill be now read a second time.

I seek the leave of the House for the second-reading speech to be read on my behalf by the Deputy Leader of the Government.

The Hon. EDNA S. ROPER (Deputy Leader of the Government) [10.22]: This bill makes far-reaching amendments to the mineworkers pension scheme which is contained in the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941. These amendments will provide lump-sum benefits for present contributors, the indexation of pensions for existing pensioners, and an improved **financing** system. Those changes have arisen from an agreement dated 16th November, 1977, reached between representatives of the New South Wales Combined Colliery Proprietors Association and the principal mining unions of this State.

The Minister for Industrial Relations, Minister for Mines and Minister for Energy has, over the preceding months, had various discussions with the parties concerning the proposals in that agreement and they have been studied, in detail, by the Government Actuary. The Government Actuary has advised that the structure of benefits in the existing scheme is unsatisfactory and that its **financing** system is unstable. He has said that reconstruction of the fund is highly desirable.

In 1975 the Government Actuary put the capital deficiency of the fund at \$35.3 million. The Minister for Mines has said the figure is now considerably more and that a private actuary commissioned by the New South Wales Combined Colliery

Proprietors Association has put the figure in early 1977 at \$101.1 million though these two amounts, for various technical reasons, are not strictly comparable. The mining industry as a whole feels that unless remedial action is taken, the situation, which they **describe** as alarming, will continue to deteriorate.

At the present time the Government makes a limited financial contribution towards the running of the scheme but this will cease from 1980 and the scheme will then be operated entirely by mineowners and mineworkers through the medium of the Coal and Oil Shale Mine Workers Superannuation Tribunal and the miners pension branch. The tribunal consists of a chairman, three representatives from the mine-**owners** and three from the mineworkers. The costs of administration are borne by the superannuation fund.

The pensions of existing pensioners will be fully indexed in future according to the mechanical unit rate. The mechanical unit rate is the weekly rate of wage prescribed under the classification of loaderman in industrial awards applying to the New South Wales coalmining industry. A single male pensioner will receive 35 per cent of the mechanical unit rate; a married male 50 per cent; a widow 30 per cent and a child 5 per cent per week. This marks a change from the existing scheme under which increases of rates of pension are based upon increases of the rates of social services benefits. In the revised scheme, increases in pension will follow movements of the mechanical unit rate and not social **security** pensions.

A married man, during the first five years of receipt of mineworker pension will receive \$200.10 per fortnight. After five years he will receive \$35.70 per fortnight. A single man, during the first five years of receiving mineworker pension will receive \$140.10 per fortnight. After five years he will receive \$41.50 per fortnight. A widow, during the first five years of receiving mineworker pension, will receive \$120.10 per fortnight. After five years she **will** be paid \$21.50 per fortnight. A dependent **child** up to the age of 16 years will receive \$20.00 per fortnight. These rates, modified to a weekly basis, are set out in columns 4 and 5 of item (40) of schedule 1 of the bill.

The rates show that when a mineworker has been in receipt of the full mineworkers' pension for five years, as set out in column 4, he then receives the lesser rate set out in column 5. The rate in column 5 takes into account the full amount payable by the Commonwealth Department of Social Security for age or widows' pensions. The amount of the Commonwealth pension has always been taken into account in arriving at the rate payable to a pensioner. The parties have indicated to the Minister that it was never intended that the mineworkers' pension would replace the Commonwealth age pension or subsidize the Commonwealth Government's social services scheme. In the past, however, those mineworkers who have not received the Commonwealth age pension or the full age pension, because of the means test, have correspondingly received a greater net pension from the miners' pension fund. The parties to the agreement say that this has imposed a significant and an unintended burden on the fund.

In future, with the exceptions I shall now mention, all mineworkers who have been in receipt of the mineworkers' pension for five years will be deemed in receipt of the full Commonwealth age pension and will accordingly receive thereafter a mine workers' pension at a reduced rate set out in column 5. The operation of this provision is qualified in several ways. Where it would have the effect of reducing, from the commencement of the revised scheme, the weekly rate of mineworker pension payable to a person immediately prior thereto, the provision shall not apply to that person until a further period of six months has elapsed. Further, the provision governing rates of pension will not operate to reduce the mineworker pension awarded

to a person because of incapacity under section 7 of the Act before that person reaches the age of 60 years. Those persons in receipt of a TPI pension will continue to receive the full mineworkers' pension until they reach the age of 65 years.

The Minister for Mines has received a number of submissions from retired mineworkers on the operation of this particular provision and he has asked the parties to the agreement to get together over the next six months to see whether it will operate unfairly. If that is its effect the Government will ask the parties to agree to a revision of the formula. This may be done by way of regulation made in accordance with item 39 of schedule 1 of the bill. This item allows alteration of the revised scheme by way of regulation pending the bringing forward of covering legislation not later than 15th April, 1979.

This regulation-making power was included in case the revised scheme did not work exactly to the parties' expectations. All those persons retiring or becoming incapacitated through injury or illness on or after 7th November, 1977, and before the commencement of the new provisions will have the right to commute their pension to a lump sum. The 7th November, 1977, represents the start of the first pay period following the date when substantial, though not written agreement, was reached between the parties. The mining industry as a whole believes that persons retiring or incapacitated after this date are morally entitled to share in the new lump-sum benefits provided by the revised scheme and this is the reason for the provision.

Up to now I have been talking about the provisions that govern mineworkers who retire prior to the commencement of the new scheme. After that date, which is set in this bill at 26th March, 1978, mineworkers retiring **will**, in general, be governed by the lump-sum benefit provisions. Existing mineworkers, at the completion of ten years service, will be eligible on retirement to a capital sum equal to \$100 for each month of service. This lump-sum benefit will be increased during the first year according to changes in the mechanical unit rate, and subsequently to the extent that contributions will support. Accordingly, a man with forty years service will get approximately \$48,000 on retirement.

Where a mineworker retires due to injury as a mineworker he will be paid a capital sum **equal** to that member's prospective retirement benefit at his retiring age based on the benefit for each month of service ruling at the date of his disablement. If a mineworker is disabled for another reason—that is, not a work injury—he will receive a sum according to the past period of service. That is to say, 10 per cent if the disability occurs in the first year of service, 20 per cent in the second year of service, and so on, reaching 100 per cent in the tenth and subsequent years of service as a mineworker. The **tribunal will** determine the date on which disablement or incapacity in any particular case occurred.

Where a mineworker dies prior to the age of retirement, there will be payable a capital sum widow's benefit of \$24,000, and an additional benefit of one-third of this amount for each of the first three dependent children. A benefit is payable to other dependants only if there are less than three dependent children. A person will be regarded as dependent if he or she is wholly or mainly dependent for financial support on the contributor at the date of his death. If a contributor dies without leaving a widow or other dependants, his estate will receive a return of contributions plus bank interest.

If a mineworker resigns or is retrenched or retires with less than ten years service, he receives a capital sum equal to a return of his personal contributions together with bank interest on those contributions. Under the revised scheme ordinary contributions will be payable in respect of each mineworker at the rate of 10 per cent of the

The Hon. Edna S. Roper]

mechanical unit rate or such other rate as may be fixed by the Minister after considering recommendations made by the tribunal. The mineworker pays one-quarter of the ordinary contribution and the employer three-quarters.

As well as these ordinary contributions, there will be a special contribution payable solely by the employer at the rate of 5.5 per cent of the mechanical unit rate for each employee each week. This additional contribution was agreed to by the coal-owners and is directed towards meeting the liabilities of existing pensioners and their dependants. The colliery proprietors have put forward this special contribution in an effort to overcome the short-term cash-flow problems arising from the introduction of the revised scheme. Its payment will not exceed the lifetime of the existing pensioners and their dependants. At specific times an actuary appointed by the Minister will investigate the operation of the revised scheme. His first investigation and report will take place at the end of the first full year of its operation and thereafter at intervals of not more than three years.

The actuary's investigation will cover an analysis of the assets and liabilities of the fund, future indexation of contributions and pensions, and other factors which the actuary and tribunal may decide are relevant to the investigation. The actuary's report will also contain a recommendation as to the rates of increase in the prescribed amount of the retirement benefit.

I foreshadow at this point that I shall be moving three amendments in Committee affecting the provisions governing subsidy holders. These are the persons in receipt of a subsidy as a result of incapacity due to the inhalation of dust in coal mines. These amendments, in the nature of drafting alterations, will affect items (24) and (30) of schedule 1 of the bill. The amendments are intended to preserve the existing situation under which Commonwealth social services benefits, for which the subsidy holder may be eligible, are deducted from the amount of the subsidy payable to him. The bill as it now stands has left the subsidy holder entitled to a maximum subsidy even though he may be in receipt of, or eligible to receive, Commonwealth social services benefits. This was not intended by the parties and the amendments I am speaking of will restore the existing position.

This general scheme will be run by the coalmining industry, which, as a whole, supports this scheme. The parties to the agreement upon which it is founded are the New South Wales Combined Colliery Proprietors' Association; the Australian Coal and Shale Employees' Federation; the Australian Collieries' Staff Association; the Amalgamated Metal Workers' and Shipwrights' Union; the Electrical Trades Union of Australia; and the Federated Engine Drivers' and Firemen's Association of Australia. The parties to the agreement have also indicated that the organization of employees not a party to the scheme, namely, the four deputies' associations in New South Wales and the New South Wales Colliery Managers' Association, have accepted the proposals. The parties have also informed the Minister that the organizations of retired mine-workers were consulted by the unions involved in the discussions, and that the State body of retired mineworkers has fully endorsed the proposals. All these parties have requested the Government to implement, as soon as possible, the terms of their agreement. This, the Government has done in the bill now before the House. I ask all honourable members to add their support to this measure.

The Non. S. L. M. ESKELL [10.37]: Any honourable member who understands this measure should get the same pension as the mineworkers. It is a most complex measure. The benefits that will flow under the bill to coal and shale mine-workers are considerable. However, to understand its complexities and what they are entitled to receive, they would have to be lawyers. In my remarks in support of this measure I shall not attempt to go through the same points raised by the Hon.

Edna S. Roper in her second-reading speech. I am pleased that most superannuation schemes controlled by industry and nurtured by this and previous governments are moving towards lump-sum benefits. These can be obtained under the amendments to the principal Act. I am pleased also that a contributor will be entitled to receive about \$100 for each completed month of service. That is a good move. It will mean that a worker with long service will receive a considerable amount of money as a lump sum. That today is more important than receiving \$65.26 or \$20 a week, which workers are entitled to under some superannuation schemes on reaching the age of 60 or 65, depending on the industry. They receive that for a few weeks, months or years and then death occurs and that is the end of it, except that the widow receives a reduced mount.

This is a good comprehensive scheme which will help to attain stability in the industry. It is also a generous scheme. The Government helped to sponsor it, as did all the coal authorities in the past, as well as the present. Although I support the bill I point out that apparently there is a shortage in the fund. I think the Hon. Edna S. Roper said that it was about \$35.3 million. If that is the case, the 5.5 per cent special contribution may be used to meet the shortage. I should like to be sure of that figure. Perhaps the Minister will inform me of the situation in his reply. Actuarially there is a shortage of \$101.1 million. Somehow that has to be reduced. I should like to know how the Government intends to meet the shortage. Perhaps it will be met by the special contribution of 5.5 per cent by the mineowners. Honourable members on this side of the House applaud the way in which the matter has been dealt with by the Government, the colliery proprietors and the mineworkers. We have great pleasure in supporting the bill.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.40], in reply: I thank the honourable member for his support. I regret that I am unable within a reasonable time to indicate to him how the actuarial shortage will be corrected, save to say I understand it is brought about by another actuarial device in relation to this amendment. I shall advise the honourable member personally on another occasion when I get details from the department. The Hon. P. S. M. Philips will also be anxious to get details of the report, which I shall convey to him.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. E. P. PICKERING [10.42]: I rise to speak on section 14F, schedule 1 of the bill so that I might place on the record my sincere appreciation to the Minister in another place, the Hon. P. D. Hills, for incorporating the section in the bill upon my representation made at very short notice. I also wish to express my appreciation to the Minister's personal staff and the Parliamentary Counsel who were so co-operative in this difficult matter. I believe it is proper to explain to honourable members that I first became aware of the ramifications of this bill when I was telephoned some three weeks ago by a Mrs Davis, who, despite her obviously distraught condition drew to my attention that her husband had been employed as a fitter in the coalmining industry for some twenty-four years and had recently contracted an incurable form of blood cancer. Acting on advice given to this family by a prominent South Coast trade union official, Mr Davis had retired from the coal industry on 16th December, 1977, so that he might enjoy what short remaining life span he had with his wife and two high school children. The basis on which this tragic advice had been given, was a clause

contained in the agreement between the coal mining union and the N.S.W. Colliery Proprietors Association, which said that any person who had attained the age of 60 years and over and had retired from the coalmining industry on or after 7th November, 1977, would have a right to the benefits of the new amended superannuation scheme as in fact is now set out in the provisions of this bill under section 14c.

Unfortunately, this section of the agreement had been misinterpreted by a number of trade union leaders on the South Coast and, tragically, had led them to advise a number of people eligible to seek the invalid pension to leave the industry after 7th November even though they had not achieved the age of 60. Mr Davis left the industry at the age of 47. After I had investigated the matter I found that not only Mr Davis was affected by this advice; a number of other miners, whose lives had been tragically influenced by illness or accident had also left the coalmining industry on the advice of various senior South Coast union leaders. In order to impress upon members the total enormity of the problem Mrs Davis found herself facing, had Mr Davis remained on the colliery books for a few more short weeks, as he was perfectly entitled to do, he would have been entitled under the provisions of this bill, which we hope will become law within a few more days, to a lump-sum payment of approximately \$44,400. However, under the terms of the bill before its amendment by the Minister, Mrs Davis could look forward to payment from the scheme, spread over five years, of a maximum of \$28,425 and a minimum of \$14,812 depending upon when her husband died. In other words Mr and Mrs Davis stood to lose as much as \$30,000 because of this tragic advice.

I am delighted to report that following my representation to the N.S.W. Colliery Proprietors Association and the Hon. P. D. Hills, the bill was amended by the Minister prior to submission to the Parliament by the inclusion of section 14F in schedule 1. This reinstated the rights of Mr and Mrs Davis and others. I wish publicly to express my sincere thanks to the proprietors and to the Minister on behalf of all of those people on the South Coast who had been so tragically misled.

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(24) Section 13—

Omit the section.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.48]: I thank the honourable member for his comments and compliments to the Minister in another place. I move:

That at page 22, all words on lines 3 and 4 be omitted and there be inserted in lieu thereof the words

(24) Section 13 (4)—

after section 13 (3), insert—

(4) Subject to section 19B, the foregoing provisions of this section have no effect in respect of any period after 25th March, 1978.

This is the amendment I foreshadowed at the second-reading stage. Mineworkers are currently eligible for a subsidy where they have been incapacitated due to the inhalation of dust in coal mines. From the amount of subsidy is deducted the amount of any benefits the subsidy holder is eligible for under Commonwealth social services. The purpose of this amendment, and the two which follow it, is simply to preserve that situation. It is a drafting alteration and has the support of both parties to the agreement.

The Hon. S. L. M. ESKELL [10.49]: The Opposition ~~has~~ no objection to the amendments as foreshadowed by the Minister. They are consequential. ~~The~~ Opposition ~~will~~ not speak to them. We accept that they are necessary. Their purpose is to our liking.

Amendment agreed to.

Page 38

(b) Section 19B (2) (a) —

20 Omit "sections 11A and 13", insert instead "section 11A".

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.50]: I move:

That at page 38, lines 19 and 20, the words "sections 11A" be omitted and there be inserted in lieu thereof the words

section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)

This amendment is complementary to the previous amendment, and I submit the same reason in support of it.

Amendment agreed to.

(d) Section 19B (6) —

At the end of section 19B, insert :—

25 (6) Subsections (1) (b) and (2) (a) do not apply to or in respect of a mine worker entitled to a lump sum benefit payment under Division 3 of Part II.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [10.51]: I move:

That at page 38, line 25, the words "Subsections (1) (b) and (2) (a) do" be omitted and there be inserted in lieu thereof the words "Subsection (1) (b) does".

This amendment also is complementary.

Amendment agreed to.

Schedule as amended agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted, on motions by the Hon. D. P. Landa.

Third Reading

Bill read a third time, and returned to the Legislative Assembly with amendments, on motions by the Hon. D. P. Landa.

SYDNEY CRICKET AND SPORTS GROUND BILL

Second Reading

Debate resumed (from 30th November, 1977, *vide* page 10574) on motion by the Hon. D. P. Landa:

That this **bill** be now read a second time.

The Hon. F. M. MACDIARMID [10.55]: Prior to Christmas the Opposition saw fit to have this bill held up, held over and postponed so that views of the public of New South Wales could be ascertained as to how they thought 'the Sydney Cricket Ground **Trust** should administer the ground. I believe that action has certainly been justified. In real terms we have been through a tumultuous cricket season, because for the first time we have seen a new commercial organization entering the area of cricket.

It is of some concern that the Government should seek to legislate to satisfy the needs of one commercial organization, as it has done in this instance, no matter how powerful or how much money that organization has. On the admission of the Minister in another place, he said that, in effect, this legislation had come forward to allow World Series Cricket on to the Sydney Cricket Ground. I do not intend to argue that they should not have a right to use the ground, because after all the ground is there for use by people, and for the public to go and watch whatever the cricket ground is used for.

The Hon. D. P. Landa: That is different from what you said here before.

The Hon. F. M. MACDIARMID: I do not think I spoke to that extent on the last occasion. The Minister is obviously quoting from someone else. However, I make the point again that it concerns some people in the community that a government should legislate to satisfy one commercial organization. On the other hand, we have seen what has become quite a divisive situation in the community. It really started in Australia because this commercial organization wanted to have certain rights, and it has really thrown cricket round the world into somewhat of a turmoil. There has been litigation not only in Australia but also through the High Court in England, which upheld the rights of certain cricketers. At the same time, it is something that needs to be solved in the interests of this great game.

I believe that we gave the opportunity to those involved to see whether there was any element of compromise. It appears that that has not been so, but I hope for the good of the game that perhaps all these things can be worked out. At the present time there is a great division in the International Cricket Conference countries. The West **Indies** are at present playing a series against Australia. While the West **Indies** are playing World Series cricketers, Australia saw fit to send none of those cricketers to the West **Indies**. People are saying that we have to resolve it somehow **or** other, but the point is that we gave the people an opportunity to express their views when we held up this legislation.

While the Government seeks to legislate to serve the ends of one commercial organization, the bill also contains provisions that take away the rights of an organization that had certain rights for well over 100 years. The Minister can frown, but the facts are that in the bill the rights of the New South Wales Cricket Association are no longer as they were. Even back in 1951 a **Labor** Minister in this place, the Hon. R. R. Downing, who was held in very high regard by all political parties, successfully moved an amendment and had put into the Act that the New South Wales Cricket Association had the dominant rights for use of the Sydney Cricket Ground for first-class cricket. However, I am concerned that the Minister in another place, when

speaking to the bill, gave an undertaking to the New South Wales Cricket Association that there would be no changes in the bill. I shall quote what the Minister said; this is recorded in the minutes of the New South Wales Cricket Association when members of that association met the Minister in August, **1977**. One minute states:

With regard to (a), the Minister had advised that no major alterations to the Act are envisaged, especially with regard to sections of importance to this Association (e.g., the retention of the words "dominant purpose").

A little further on in the minutes it is recorded:

The Minister (Mr Booth) stated at a conference on the 23rd August **1977** attended by Messrs Davidson, Caldwell, Wotton and Radford on behalf of the Association, that no changes would be made to the **1951** Act, **including** the Association's priority rights created thereunder other than changes relating to reconstruction of the Trust and method of **appointment/election** of Trustees.

In the debate in another place the Minister said that he did give that undertaking but that at a subsequent meeting of the trust to whom he looked for advice it was indicated to him that the ground should be made available for use by the Packer group. In effect, the legislation was set up to satisfy a commercial organization. There is absolutely no doubt that the followers of traditional cricket want to see that form of cricket played at the Sydney Cricket Ground. The recent test series against India attracted good crowds. The Indians are not big crowd-pullers as are the West **Indies** and the MCC. However, attendance at the Brisbane test was **46 000**, Perth **23 000**, Melbourne **86 000** and Sydney **51 000**. I venture to say that the new organization did not attract good crowds at all.

It is relative to the argument that at the Sydney Cricket Ground Test a prominent placard on the Hill said that people who patronized the Hill—and that is where the real characters of cricket assemble—wanted to see traditional cricket continue to be played at the Sydney Cricket Ground. Though the Opposition does not intend to oppose or amend this bill there will be placed on the trust a heavy responsibility to see that traditional first-class cricket is played on the Sydney Cricket Ground and that the New South Wales Cricket Association enjoys some rights. My understanding is that the Premier and the Minister for Sport and Recreation have told the New South Wales Cricket Association that international cricket will be played at the SCG. But, what about the Sheffield Shield series and Gillette Cup matches?

One of the strong arguments for giving priority to the New South Wales Cricket Association is that it must know where it stands in relation to grounds because the ICC, in allocating cricket around the world, plans for between three and five years ahead. That is one of the strong arguments for the New South Wales Cricket Association and the Australian Board of Control having priority rights in relation to this great ground. The itinerary for next season is published in today's edition of the *Sydney Morning Herald*. It involves an MCC visit, a Pakistan visit, the Sheffield Shield series, the Gillette Cup competition and Colts matches. I put it to the Government and the trust that people will be watching carefully to see that the New South Wales cricket controlling body retains some rights.

The Sydney Cricket Ground was set up and set aside as a cricket ground. It has been that for more than **100** years. No one would cavil at the suggestion that other sports and organizations should utilize the area. In the winter season the Sydney Cricket Ground is headquarters of New South Wales rugby league, though football crowds seem to be dropping off and spectators prefer to watch games at the local home grounds such as the Eels at Parramatta and the Sharks at Endeavour field. Of course, if our late colleague the Hon. W. C. Peters were here, certainly I should mention

The Hon. F. M. MacDiarmid]

Western Suburbs. It would seem that rugby league does not attract spectators to the Sydney Cricket Ground as it used to. Nevertheless, the arena should be utilized during the non-cricket season and perhaps even more so than at present. No one could argue that a grade cricket match or something of a lesser nature should have priority over an event that would attract a large crowd. The trust has already decided to preclude the GPS athletic carnivals from use of the ground. That is something that might be looked at again.

Those of us who have been associated with the great game of cricket are aware that Sydney Cricket Ground is one of the great cricket grounds of the world. I have been fortunate enough to have played on many of the great grounds throughout the world including Lords, The Oval and even Brabourne Stadium in Bombay, the only cricket ground in the world which has accommodation for players. Great players of the past such as Sir Donald Bradman and of the present such as Greg Chappel would affirm that the Sydney Cricket Ground is one of the best cricket grounds in the world. I hope it is retained as the great ground that it is.

In speaking to the bill in the other place the Minister for Industrial Relations, Minister for Mines and Minister for Energy, who is chairman of the trust, made great play of the fact that the trust needed money from commercial organizations to be able to build the new Brewongle stand. As an argument that was pure rubbish. The trust had taken the decision to build a new stand twelve months earlier and an amount of \$4.5 million was guaranteed by the Government. Over the years the trust has not performed as it should on behalf of the public. Facilities at the Sydney Cricket Ground are not up to the standard required of a major ground. Certainly they do not compare favourably with facilities offered at the Melbourne Cricket Ground. With a good crowd of, say, 48 000 in attendance at the Sydney Cricket Ground one finds great difficulty in getting even a drink in civilized conditions.

I severely criticize the architect or the trustee responsible for the construction of what might be termed igloos on the Hill. They are, to say the least, an eyesore and do nothing to enhance the appearance of the arena. The stand on the eastern side of the ground is horrible. I have no doubt that when the Brewongle stand is built it will offer good facilities to the public. I hope that never will we see a change to the Hill at the southeastern end of the ground under the scoreboard. Though in recent years there have been problems with such things as can-can dancers, cans being thrown at the scoreboard, fights and so forth, the Hill is typical of cricket in Sydney and is recognized throughout the world as a haven for the characters of the game. One of the greatest characters in cricket was, of course, the famous Yabba, who positioned himself there. The trust has not provided the sort of facilities that should have been offered to the public. I hope the new trust will rectify that situation.

The Opposition offers no objection to that part of the bill which reconstitutes the trust. It might be argued that more than two members of the trust should be elected by members. The bill provides that ten members of the trust will be appointed by the Minister and two by the members of the Sydney Cricket Ground. The Opposition will not argue on this point. Heavy responsibility is upon the Government and the Minister to appoint people who can properly serve on the trust. I hope it is not a case of jobs for the boys. It is notable that the bill does not contain a provision for the retirement of trust members at age 72 years, as is provided in other measures. The Government is inconsistent on that point. Perhaps some Ministers of this Government want to retain their places on the trust when they lose their ministerial places next year. This omission reveals a serious inconsistency on the part of the Government.

The Hon. D. P. Landa: It is not half as great an inconsistency as you backing down on the bill.

The Hon. F. M. MACDIARMID: That is an interesting comment. The Opposition could move some amendments, if the Minister wishes. The bill provides great power to the Minister. Under the Act, the trust is subject to ministerial control. I hope that a situation will not develop in which the Minister appoints people to the trust as jobs for services rendered only—that has happened——

The Hon. Edna S. Roper: It used to happen.

The Hon. F. M. MACDIARMID: I commend the parts of the bill that give a right to the Sydney Cricket Ground trust to acquire additional land. The land adjacent to the ground, which has been utilized over the years by the army, should be acquired and developed. A complex could be developed there though I think to talk about the Olympic Games is pie in the sky. That development could provide even greater facilities, to the extent of providing a better football ground on the lines of Twickenham or Murray Fields. The Opposition will take a continuing interest in this bill. Should the Government set out to do the wrong thing by traditional cricket, the Opposition will have something to say about that. Over the years, cricket has produced great characters and it is a game of great character. Anyone who does not understand the game of cricket, really does not understand that sort of thing.

If the New South Wales Cricket Association still had the right to schedule first-class cricket on the Sydney Cricket Ground, which it will not have under the proposed Act, in the present summer it would have used the ground on only twenty-six days. I do not think that any new organization coming in could complain that it did not have the opportunity to get on to the Sydney Cricket Ground. Though people say that cricket does not attract big crowds and a lot of money, one must remember that it provides great opportunities, particularly for country cricketers who live at the ground for seven days under the coaching schemes. That gives young country children a great incentive. Many great cricketers have come from country areas. In the allocation of dates for fixtures I hope that aspect will not be overlooked. The children live in the members' pavilion and being able to play on the great and sacred Sydney Cricket Ground encourages them. Many great players such as Bradman who came from the country have played on that ground. I should like to comment on the Minister's remark across the table that it is a great backdown by the Opposition. The bill puts the responsibility on the Government and on the trust. If the Government does the wrong thing under the Act, the Opposition will be having a close look at the matter.

The Hon. R. B. ROWLAND SMITH [11.15]: The issue is whether or not the action of the Opposition in deferring the passage of the bill from December to now was correct. In my opinion, it certainly was. The Opposition did that to give the public the opportunity to express an opinion whether it wanted traditional cricket with all that involved, not only in relation to test matches and Sheffield Shield and Gillette Cup matches, but also coaching programmes that had been carried on for many years. The other question was whether the public wanted World Series Cricket, a new concept, that I do not oppose, or if the public want both. All the Opposition did was to ask people what they wanted. What sort of reaction did the Opposition get? Little—both ways—not only as far as traditional cricket was concerned but also relating to World Series Cricket. The feeling of the public was one of apathy. It amazed me. There was a Save the Sydney Cricket Ground Committee. Those people received some reaction from the public but where do we see the reaction towards World Series Cricket being played on the Sydney Cricket Ground? Had the public wanted the World Series Cricket played on the Cricket Ground they would have been vocal and would have made their feelings known. On the other hand, the public did not clearly give any support to the New South Wales Cricket Association. The Minister may smirk, but the job of the Opposition is to get public reaction.

The Hon. **Edna S. Roper**: You did not get it—you said so.

The Hon. **R. B. ROWLAND SMITH**: Of course we did not. That is why the Opposition is looking at the whole issue again. There has not been public reaction to the matter so we say that if the public is not concerned, we are willing to support the passage of the **bill**.

The Hon. **H. J. McPherson**: The Government knew that before you did.

The Hon. **R. B. ROWLAND SMITH**: The Hon. **H. J. McPherson** must be a clairvoyant—which I doubt. It is to be hoped that a proper compromise can be reached between the New South Wales Cricket Association and the World Series Cricket in order to share the ground which is one of the finest in the world. At the same time the trust must do all it can to encourage young people to play cricket, by providing coaching programmes and proper facilities. Young people should be given the opportunity to play cricket on one of the **finest** cricket grounds in the world. The Opposition's action in giving everyone a chance to express their feelings was correct. The time has passed for registering those reactions and they have not been forthcoming. Therefore the Opposition supports the passage of the **bill**.

The Hon. **P. S. M. PHILIPS** [11.181: I propose to speak to the finance part of the bill, in particular to clause 20 (4). In its present form the clause does not ensure that the trust is required to submit its accounts to the Parliament in time for them to be dealt with in the Auditor-General's report. That is regrettable because the fullest possible accountability to Parliament is our common aim. On 2nd March the Minister said:

The Government recognizes that there are deficiencies in the legislative provisions in relation to the accounts of statutory authorities and it is progressively amending the relevant statutes to clarify the requirements as to presentation of accounts and audit where these have been found to be inadequate.

Later, in relation to this bill, the Minister said:

The Government acted to introduce up-to-date provisions into the legislation governing the Sydney Cricket Ground and Sports Ground and the meat industry. The legislation introduced by the Government lays down new standard audit provisions, basically putting a 4-month time limit on the production of accounts. This is all that could be expected in terms of an absolute time limit for a large corporation, but normally, of course, the accounts would be submitted well in advance of this date.

Later the Minister said:

I should make it clear that although the Auditor-General customarily reports, as I have said, on both the public accounts and those of statutory authorities in his report to Parliament, his statutory obligation to report within three months is **confined** to the public accounts. It is physically impossible for the accounts and audits of all 230 public bodies and departments to be completed by 30th September. Indeed, this would never be expected in the commercial world. Some must necessarily be completed after that date, and they are included in the annual reports of the authorities concerned.

The Government will be aiming to have the accounts of all statutory authorities submitted within the time limits specified in the two bills I referred to and, as I mentioned, the relevant Acts will be amended as the opportunity arises. It is to the benefit of Parliament that the Auditor-General includes so much so promptly concerning other statutory bodies in his formal report to Parliament on the public accounts.

I submit the following comments in relation to this clause. First, there is no doubt that the new terminology is a vast improvement on former provisions defining the audit function in the Acts constituting the various public trading enterprises under discussion. Second, the statutory obligation of the Auditor-General should be to include in his report the accounts of statutory authorities and his report on them provided, of course, that the statutory authorities have a statutory obligation to furnish the Auditor-General with the requisite information within, say, two months of the end of their fiscal year. Third, clause **20 (4)** should be amended to read two months and not four. It would then read:

The trust shall, as soon as practicable, but within two months, after the end of the **financial** year **to** which a statement of accounts relates, transmit the statement of the Auditor-General for verification and certification.

Fourth, the Audit Act should be amended to provide that all statutory authorities should be subject to the obligation to report as I have mentioned. The Act should be expressed to override the other relevant Acts. If the Government persists with its present plan to amend bills as they come along by inserting a clause along the lines of clause **20 (4)**, the whole operation will take years to complete. Fifth, it is wrong for the Minister to say that it is physically impossible for the audits of the **230** public bodies and departments to be completed by 30th September. **All** of these audits are continuous. All that is required to ensure that this body furnishes reports within two months is that it be required to do so.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment [11.24], in reply: The Government is pleased to see that the Opposition has come to its senses in relation to this bill. I have never seen a clearer demonstration of a party coalition being clean-bowled and stumped at the same time. In the debate on the previous occasion the Hon. F. M. MacDiarmid spoke about how this House should delay the bill because of the prospect of the Olympic Games being held in Sydney in **1988**. Now he has said that such a hope is just pie in the sky. On the previous occasion the honourable member said that another reason why the debate should be **adjourned**—

The Hon. W. G. Keighley: On a point of order. I submit that it is not in order for **the** Minister to read from a *Hansard* report of the debate on this bill.

The Hon. D. P. Landa: I am referring to the debate that took place on the bill on a previous occasion.

The ACTING-PRESIDENT (The Hon. R. W. Manyweathers): The Minister is entitled to refer to what the honourable member said in the debate on a previous occasion.

The Hon. D. P. LANDA: On that occasion the honourable member said that the Minister in the other place spoke of the Olympic Games being held in Sydney in **1988** at the Sydney Cricket Ground-Sports Ground complex and the updating of that complex to the tune of **\$75** million. He went on to say that the matter had been sprung upon the public which should have time to consider every aspect of it. Now the honourable member has said that the idea of holding the Olympic Games at that time is pie in the sky. The suggestion was not pie in the sky when the honourable member thought that the bill should be deferred. Moreover, his hope about the Olympic Games was echoed by many citizens.

The Hon. F. M. MacDiarmid: A lot of water has passed under the bridge since then.

The Hon. D. P. LANDA: I remember the sanctimonious statements expressed by the honourable member on the previous occasion about the reasons why World Series Cricket should not be conducted on the famous Sydney Cricket Ground. The honourable member gave a lot of reasons why he wanted to prevent World Series Cricket from being played there—and he did prevent it. By his attitude he did not serve the game of cricket in this State. All he did was prevent an exciting new form of cricket, which is obtaining great acceptance throughout the country, from being played on our finest sporting ground.

The Hon. R. B. Rowland Smith: World Series Cricket has not drawn the crowds.

The Hon. D. P. LANDA: If World Series Cricket drew anything like the crowds that cricket, other than Test cricket, has drawn in this State, it would be in a sorry state. In the debate on the previous occasion I remember giving some instances of the crowds that cricket, other than Test cricket, had drawn and the revenue received from those games. I think that on some occasions those matches drew takings that reached double figures—I think on one occasion the revenue was \$11 and \$14 on another.

I want to make one thing perfectly clear. I have said in this Chamber before that the Minister for Sport and Recreation and Minister for Tourism has given me an assurance that the Government does not intend to interfere with the staging of international cricket Test matches at the Sydney Cricket Ground. The Government is conscious of the fact that the Sydney Cricket Ground is the traditional venue for Test matches, and no alteration to that tradition is contemplated.

The Hon. F. M. MacDiarmid: When the M.C.C. plays a New South Wales representative team it is international cricket.

The Hon. D. P. LANDA: One commentator described the delaying tactics adopted by some Opposition members towards this bill on the previous occasion as a dishonest exercise that camouflaged their true intentions. We saw this in relation to correspondence from the Hon. Sir John Fuller to one of the magazines published in this State. Needless to say, the Opposition has had time to reconsider its position during the period of delay. The Hon. R. B. Rowland Smith said that the public's attitude was apathetic towards test cricket. The public prefer to see World Series Cricket or international cricket played on the best ground available. The result of the Opposition's attitude in this Chamber has been that the public has been improperly denied the opportunity of seeing World Series Cricket played on the Sydney Cricket Ground. It is delightful to see that some Opposition members have come to their senses. Unfortunately they do not have the best interests of cricket at heart when they say that World Series Cricket is not good for the game.

The Hon. R. B. Rowland Smith: Who said that?

The Hon. D. P. LANDA: You said that by inference. You would not allow World Series Cricket to be played on the Sydney Cricket Ground.

The Hon. R. B. Rowland Smith: I did not say that and it is wrong for the Minister to draw that inference from what I said.

The Hon. D. P. LANDA: If the Opposition had been interested in World Series Cricket, it would have allowed the best cricket ground in New South Wales to be used for that game. World Series Cricket will be played on the Sydney Cricket Ground in the future. The Government is delighted to see that the Opposition has adopted a responsible attitude towards cricket, included World Series Cricket. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Clause 16

[Carrying out of works on trust lands]

The Hon. W. G. KEIGHLEY [11.31]: I should like to ask a question in relation to subclauses 16 (2) (a) and (b). Does that provision delete the priority that is afforded the New South Wales Cricket Association?

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [11.32]: The honourable member had six months in which to find out whether the provision deleted the priority or not. It is a matter of some humour that the honourable member now wants to know the answer to that question. As far as I can understand, it is possible.

The Hon. W. G. KEIGHLEY [11.32]: On the Minister's premise that it is possible, I should like to speak on the possibility. I would counsel the trust which, I take it, will allocate the use of the ground, to think carefully before it allocates it away from **Sheffield** Shield matches to the World Series Cricket or from State matches to any international side that is not necessarily playing international test cricket. They are very much in the tradition of the game. The Sydney Cricket Ground helped to create that tradition and enable cricketers to achieve fame. Those same cricketers, after they have achieved fame and been nurtured on the Sydney Cricket Ground, have then been seized by the World Series Cricket. It is a pity to put the cart before the horse. If that occurred and the World Series Cricket squeezed out those previous fixtures that previously had priority, I can see an adverse effect, contrary to the Minister's opinion, on New South Wales cricket and therefore cricket in general.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [11.33]: I am sure that the **trust** will have every concern for the needs of **Sheffield** Shield cricket and the other **fixtures** mentioned by the honourable member. I shall bring his remarks to the notice of the responsible Minister in the other place so that they may be brought to the special attention of the trust.

Clause agreed to.

Schedule 1

The Hon. F. M. MACDIARMID [11.34]: It is interesting to note that when the MCC is here next year one Englishman will not be there—the Hon. J. P. **Ducker**. I ask for an unequivocal statement by the Minister. It is necessary that this matter be clarified. The Minister said that he had received an assurance from the Minister in the other place that international test cricket would get priority at the Sydney Cricket Ground. Does that include the scheduling of the MCC or any other international side that comes to this country, whether it be the West Indies, Pakistan or any other team in the ICC group? For example, would the MCC versus New South Wales receive priority? It is an international game. Also, the new one-day international test series should be included.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [11.35]: I can say unequivocally that the undertaking I gave in this House is the undertaking that I received from the Minister for Sport and Recreation and the Minister for Tourism. That undertaking in that form was given

to the people whom the honourable member said had engaged in conference in relation to international test matches. The other matters that he raised would need to be considered by the trust, I presume, if they are not encompassed within that undertaking. I am not at liberty to give any further undertaking on behalf of the Minister in the other place, and I do not propose to give one.

The Hon. F. M. **MACDIARMID** [11.36]: It is essential that this matter be clarified. As I said at the second-reading stage the tours of international sides are scheduled as much as three years or five years ahead. When the ICC meets in London, as it normally does, it schedules the MCC to Australia, the West Indies, Pakistan or wherever it may be. Included in the Australian series are games against each State. The Minister was not willing to give an undertaking that the MCC versus New South Wales will get priority. I think it should. I hope the Minister will make certain that that will be the trust's view.

The Hon. D. P. **LANDA** (Vice-President of the Executive Council and Minister for Planning and Environment) [11.37]: The Minister in the other place may make a statement on that at an appropriate time if the honourable member or a member in the other place wants to raise it. I am at liberty to give the undertaking that I clearly and unequivocally gave.

Schedule agreed to.

Adoption of Report

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

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

GOVERNMENT GUARANTEES (SYDNEY CRICKET AND SPORTS GROUND) AMENDMENT BILL

Second Reading

Debate resumed (from 30th November, 1977, *vide* page 10575) on motion by the Hon. D. P. Landa:

That **this** bill be now read a second time.

The Hon. F. M. **MACDIARMID** [11.40]: This is purely a machinery bill with which the Opposition finds no fault. The Opposition supports the bill.

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.

Third Reading

Bill read a **third** time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

LOCAL GOVERNMENT (SYDNEY CRICKET AND SPORTS GROUND)
AMENDMENT BILL

Second Reading

Debate resumed (from 30th November, 1977, vide page 10576) on motion by the Hon. D. P. Landa:

That this bill be now read a second time.

The Hon. F. M. **MacDIARMID** [11.441: This is a machinery bill that removes the obligation on the Sydney Cricket Ground and Sports Ground trust to pay rates on grounds under its control. The Opposition finds no complaint with that principle and it supports the bill.

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.

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

DENTAL TECHNICIANS REGISTRATION (AMENDMENT) BILL

In Committee

Consideration of Legislative Assembly's message. (See page 12983.)

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [11.481: I move:

That the Committee do not insist upon its amendments disagreed to by the Assembly and agrees ~~to~~ the Assembly's further amendments.

Honourable members will remember the tortuous path the bill has taken between the other place and this Chamber. There is no doubt that the Government has a mandate for the bill. In accordance with that mandate the bill was introduced into the Legislative Assembly where amendments moved by the Opposition in that Chamber were defeated. In this Chamber the Opposition, dominating it as it does, imposed its own amendments which were impossible to reconcile with the principal Act. They were at variance with the amendments sought in the other place by the shadow minister for health. The bill lay upon the table during the Christmas and new year period. The principal protagonists in the other place sought a meeting with the dental technicians and the Minister for Health to see whether a compromise was possible. The Minister's office advised that a meeting with the Minister would serve no purpose unless the dental technicians and the coalition Opposition in the upper House, and its health committee in particular, could agree to some sort of compromise on which the Minister could base further consideration and action.

A meeting was subsequently held. I understand it was attended by members of the coalition Opposition, including the Hon. R. A. A. F. de Bryon-Faes and the Hon. Margaret Davis. However, I understand that even the shadow minister for health in the other place was not afforded the opportunity of attending that meeting. The

meeting resulted in no conclusive decisions. Later there was a rewrite of the amendments of the Opposition in this Chamber. They were drafted, and were rejected by them. A further rewriting was drafted and submitted to them for their perusal, but again this was rejected. Another redraft was requested. Then the Parliamentary Counsel was called in to assist in drawing up of words compatible with the context of the bill and in line with the amendments of the Opposition members in this Chamber. They were drawn up with the assistance of the Parliamentary Counsel.

There was consideration thereafter by the shadow minister for health in the the other place. The new version of amendments received his approval, I understand, and they were embodied in the resolution now before the Committee. The message that is now before the Committee passed through the other Chambr without any division or objection on the voices; that included the shadow minister for health. I now present that message to the Committee with, in effect, the unanimous support of the other Chamber. I ask honourable members in this Chamber, who should have some respect at least for their own shadow minister for health, to give the matter a speedy passage here.

The Hon. R. A. A. F. de BRYON-FAES [11.52]: I move:

That the question be amended by the omission of all words after "Committee" with a view to the insertion in their place of—

Amendment No. 3.—insists on its amendment and disagrees to the Assembly's further amendment.

Amendment No. 4.—does not insist on its amendment and agrees with the Assembly's further amendment.

The other night in this Chamber I drew the attention of the Minister to the fact that we were approaching the Ides of March. Today is that day. Everyone in this Chamber today must have realized that something unusual has happened. As I say, today is the Ides of March.

The Hon. D. P. Landa: You have lost me.

The Hon. R. A. A. F. de BRYON-FAES: It is too late at night for the Minister, who has brought to the attention of the Committee that there have been a number of discussions on the bill. Many attempts have been made to reach some sort of conclusion or compromise in relation to one or two amendments. The Minister also claimed that the Government had a mandate, whatever that might be. Of course, it depends on which side you are when you are talking about a mandate. We have not denied, by our very participation in this debate, that there should be dental prosthetists—in other words, dental technicians who are so qualified that they should be given the opportunity to become dental prosthetists.

The one thing we have insisted on all the way through—and we again insist on it tonight—is that the public have proper protection. The only way they will get that is by having a minimum of training, so that the people who attend to the public are able to recognize evidence of any impairment of the mouth before they at least put their hands in the mouths of any members of the public.

In regard to amendment No. 4, on which we do not insist, all I can say in that regard is that the Minister has added to the particular amendment, and has clarified and strengthened the position. Therefore we have no objection to that. However,

coming back to amendment No. 3, we believe that item (7) of the schedule should remain in the bill, though the Minister wishes to remove it. It reads:

Section 13 (2) (a)–(c) —

Omit the paragraphs, insert instead :—

- (a) for the purposes of sections 15 (1) (a) and **18B** (1) (a), approve courses of training, whether conducted or to be conducted within New South Wales or elsewhere;
- (b) recommend the standards to be achieved in the examinations to be completed by persons undertaking the courses of training referred to in paragraph (a);
- (c) arrange examinations for the purposes of sections 15 (1) (c) and **18B** (1) (b);

We do not agree with that removal because, once again, it would be a weakening of standards. I do not propose to discuss at length standards and protections, for we have already covered that argument in this Chamber. The main thing we are concerned with is the extension, if one may term it so, of the various terms included in the so-called new section **18B**, which so far as we are concerned, upon analysis, does nothing to help the dental technicians, and only weakens their case. That is the main reason why we insist on the amendments that were last inserted. I shall read them to the Committee on order to clarify the situation. They are:

18B. (1) A person who makes application for a practising certificate in the prescribed manner is entitled to be granted a practising certificate if—

- (a) not being a dental technician on the date of commencement of Schedule 1 to the Dental Technicians Registration (Amendment) Act, 1977, he subsequent becomes a dental technician and **completes** a full-time course in biological sciences and clinical training of at least two years duration approved by the board and satisfactorily completes an examination fitting him to engage in the practice of dental prosthetics; provided that the courses of instruction and training approved by the board for a person to become qualified as a dental technician and a dental prosthetist shall be capable of completion in a period of at least four years duration; or
- (b) being a dental technician on the date of commencement of **Schedule** 1 of the Dental Technicians Registration (Amendment) Act, 1977, he, within six years from that date, in the opinion of the board satisfactorily completes a course of instruction part-time for a period of twelve months, in clinical training approved by the board, and satisfactorily completes an examination relating to the practice of dental prosthetics, approved by the board; or
- (c) being a dental technician **he—**
 - (i) has biological and clinical qualifications which, with or without additional studies referred to in paragraph (a), are equivalent to the qualifications required under paragraph (a); and
 - (ii) completes to the satisfaction of the board any **examination** that may be required by the board, and is approved by the board as a person fitted to be engaged in the practice of dental prosthetic~.

For those reasons the Opposition insists on the amendment.

The Hon. R. A. A. F. de Bryon-Faes]

The Hon. D. D. FREEMAN [12.1 a.m.]: The passage of this bill and amendments has involved one of the most tortuous paths that has applied to any bill since I have been a member of this Chamber. In retrospect, I think the manner in which the measure was approached by the Government was a great pity. Once the idea was set up, probably a committee of inquiry or something of that nature would have been a far more satisfactory approach to it. The bill was sent to this place and amendments were moved. Then there seemed to be some general agreement in total to the measure but some clarification was sought. There were indications that some of the clauses in it were inimical to the wishes of the dental technicians, and clarification was sought. The bill came back. Further amendments were moved in an endeavour to sort it out and it seems that those amendments were not acceptable. The measure then began to be watered down further and further.

Since the second amendments were moved in this Chamber a tremendous number of approaches have been made, individually and on an *ad hoc* basis, in an endeavour to get over the difficulties. It reminds me a bit of film-making where the clacker comes up and goes like that. I think we are up to about take 18 at the present time.

The Hon. D. P. Landa: How will *Hansard* record that?

The Hon. D. D. FREEMAN: I am not sure. I do not know how *Hansard* recorded the shrug of the Minister's shoulders yesterday. Suggestions were being made that a word or phrase might be changed to make the bill more acceptable all round. I should like briefly to reiterate the opening remarks of my second-reading speech. Although it was a good speech I shall not go over it again. My remarks were to the effect that never at any time had I denied that technicians could be trained to carry out the part of dentistry that is envisaged in the bill. It really resolved itself down to the degree or standard of training for proper safeguards of the public. I might say that my sole concern is for the health standards of the public and the training and degree of responsibility held by people dealing directly with the public in the manner desired by the dental technicians.

I know it is said that I, being a dentist, would automatically talk or vote against such a measure. People can say that if they wish. I do not say that of the Hon. P. McMahon or the Hon. J. S. Thompson when we are talking about an arbitration bill or something of that nature. I have taken this bill responsibly and I believe that as a House of Parliament we must legislate responsibly for people in the community, not for the benefit of dentists or dental technicians. I do not consider that is our purpose. I said earlier that I feel strongly about one major error that the Government made in introducing the bill—that is, including not only the fitting of full dentures, as was originally envisaged, but also the fitting of partial dentures. To lay people it may not appear that there is much difference. I believe, if my memory is correct, that the Minister in the other place said it would be inconvenient if people had to go to two lots of people to have their dentures made. That is a rather absurd argument, for the patient may need extractions, fillings or something of that sort. Why not do those while he is there? It is really quite a silly argument and shows no in-depth understanding of the subject. Even lay people will understand that if teeth exist in a person's jaws, the problem becomes entirely different.

It has been said by the retired professor of prosthetic dentistry that in his opinion it requires two to three times as much training to fit partial dentures as it does to fit full dentures. It obviously brings into play a whole series of factors relating to natural teeth, for which technicians have not been trained in the past and which, I am assured, the majority of them do not do anyhow. I believe it was a grave

mistake for the Government to introduce that. The point I make is that the Government, having increased vastly the level of expertise necessary for these people to be trained in it now wishes in the latter part of proposed section 18B to cut down on the time spent in training.

There is in this legislation what I refer to as the great-grandfather clause. We already have a grandfather clause for the technicians. There is now to be a **great-grandfather** clause to make them **prosthetists**. The original amendment provided for twelve months' training on a part-time basis. That was a figure derived from university authorities who considered it was the absolute minimum time that should be spent by persons with or without any particular level of academic training to understand all the ramifications of the subject. On the one hand, the Government wants to upgrade the degree of responsibility and learning necessary, but on the other it wants to reduce the amount of time spent on their attainment. The bill refers to six months' part-time training. What is part-time? I heard that the Government had difficulty with the original amendment in defining full-time. Full-time study is a lot easier to define than part-time study. Even if it is four days a week for six months, that is **only** ninety-six days. Nobody can tell me that even technicians who have been doing quite fine work in the full denture field can be trained in all the ramifications of prosthetic dentistry in a **maximum** of ninety-six days. It could even be forty-eight days. The whole thing is ludicrous. I think they have done themselves a great disservice in trying to compress the period of training.

In proposed section 18B the Government is trying to upgrade training for people entering the profession and endeavouring to set quite high standards for them. This has quite a deal of merit. But we then have a dichotomy of standards and the old-stagers who have been doing this work for some time will be given, perhaps, forty-eight days' training and they will be regarded as **knowing** just as much as the newcomers who will do a full course. There seems to be some clash between the two. With **all** those comments and the remarks made by the Hon. R. A. A. F. de Bryon-Faes, I support the amendments.

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [12.7 a.m.]: No bill for many a day has received greater attention from this Chamber than this bill. I must say that none of the drafts of these amendments were sought by the Minister in another place. It is a compromise initiated, I am instructed, by the Hon. D. D. Freeman and the Hon. R. A. A. F. de Bryon-Faes. They have been in a most bizarre position. It really highlights the state of the Liberal and Country parties here and I think it should be placed on record. The Liberal and Country parties in the other place support the bill, support the amendments and reached a compromise. However, the Liberal and Country parties in this Chamber oppose the compromise and suggest further amendments. We have the shadow minister in the other place—the man who is supposed to have the trust of all his colleagues and to be the next Minister for Health—saying one thing while the Liberal and Country parties here, which are supposed to place that trust in him, are doing something else.

It is a most bizarre situation and the electors of New South Wales should see the type of parliamentary treatment that is **afforded** to their own party leaders. Never mind giving the public some trust in these parties that they can be relied on to present a clear picture to the electorate at large; the simple fact is that they are a divided lot that really do not know which way to go. They succumb and toe the line to various vested-interest groups in this Chamber. I understand that in the other place the Leader of the Opposition, the Deputy Leader of the Opposition, the Leader of the Country Party and the shadow minister for health all sought for this legislation to be cleared in this manner.

The Hon. D. D. Freeman: That is not correct.

The Hon. D. P. LANDA: They did not oppose it in the other place.

The Hon. D. D. Freeman: You said you understood that that was so. On what basis? They were given to understand that no amendments would be acceptable in the other place.

The Hon. D. P. LANDA: I am saying that they were willing to accept it.

The Hon. Sir John Fuller: They are not us.

The Hon. D. P. LANDA: I know they are not, but they belong to the same party. Is the Leader of the Opposition saying that they opposed it in the other place? I shall say it again. The members in another place to **whom** I referred earlier—the Leader of the Opposition, the Deputy Leader of the Opposition, the Leader of the Country Party and the honourable member for Davidson who is the shadow minister for health, did not either by dividing the House or on the voices oppose the passage of this measure. Of course, the Liberal and Country party coalition does one thing in that place and another thing in this Chamber. We have witnessed a farcical situation in relation to the bills dealt with this evening. It does **not** augur well for the coalition parties which were once entrusted with government of this State. The conduct of the Opposition in relation to this measure will not leave the people of New South Wales in any doubt as to how the coalition parties operate within the parliamentary machinery.

Amendment agreed to.

Motion as amended agreed to.

Report

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

That the Chairman do now leave the chair and report **to** the House that the Committee has resolved to insist upon its amendment No. 3 disagreed to by the Assembly and to disagree to the Assembly's further amendment in relation thereto, and not to insist upon its amendment No. 4 disagreed to and to agree to the Assembly's further amendment.

Adoption of Report

Resolution reported, and report adopted, on motions by the Hon. D. P. Landa.

Select Committee

Motion (by the Hon. R.A.A.F. de **Bryon-Faes**) agreed to:

That a Select Committee be appointed to draw up reasons for the Council insisting on its amendment No. 3 disagreed to by the Assembly, **and** that the Committee consist of the following members, viz.: Mr Connellan, Mrs Davis, Dr Freeman, Mr **Philips** and the mover.

EGG INDUSTRY STABILISATION (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

13044 COUNCIL—Egg Industry Bill—Meat Industry Bill

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion of the Hon. D. P. Landa.

MARKETING OF PRIMARY PRODUCTS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on **motion** of the Hon. D. P. Landa.

MAIN ROADS (VEHICLES) AMENDMENT BILL

LOCAL GOVERNMENT (VEHICLES) AMENDMENT BILL

Bills received from the Legislative Assembly.

Suspension of Standing Orders

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

That so much of the standing orders be suspended as would preclude the following bills being debated simultaneously and for questions with regard to the several stages for the passage of such bills through the Council being put on one motion at each stage, but that such bills be considered separately in Committee of the Whole: Main Roads (Vehicles) Amendment Bill, Local Government (Vehicles) Amendment Bill.

First Readings

Bills read a first time and ordered to be printed, on motions by the Hon. D. P. Landa.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

MEAT INDUSTRY (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

DENTAL HOSPITALS UNION (REPEAL) BILL
DENTISTS (DENTAL BOARD) AMENDMENT BILL
PUBLIC HOSPITALS (UNITED DENTAL HOSPITAL OF SYDNEY)
AMENDMENT BILL

Bills received from the Legislative Assembly.

Suspension of Standing Orders

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

That so much of the standing orders be suspended as would preclude the following bills being debated simultaneously and for questions with regard to the several stages for the passage of such bills through the Council being put on one motion at each stage, but that such bills be considered separately in Committee of the Whole: Dental Hospitals Union (Repeal) Bill, Dentists (Dental Board) Amendment Bill, Public Hospitals (United Dental Hospital of Sydney) Amendment Bill.

First Readings

Bills read a first time and ordered to be printed, on motions by the Hon. D. P. Landa.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion (as a matter of necessity and without previous notice) by the Hon. D. P. Landa.

JUSTICES (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

CORONERS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

13046 COUNCIL—Married Persons Bill—Metric Conversion Bill

MARRIED PERSONS (PROPERTY AND TORTS) AMENDMENT BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

NOTICE OF ACTION AND OTHER PRIVILEGES ABOLITION (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

SECOND-HAND DEALERS AND COLLECTORS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

TOCUMWAL RAILWAY EXTENSION (SUPPLEMENTARY AGREEMENT RATIFICATION) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

SCAFFOLDING AND LIFTS (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

METRIC CONVERSION BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

CONVEYANCING (RECEIVERS) AMENDMENT BILL

Message

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

[Sitting suspended from 12.34 a.m. to 12.39 a.m.]

SESSIONAL ORDERS

Precedence of Business

The Hon. D. P. LANDA (Vice-President of the Executive Council and Minister for Planning and Environment) [12.39 a.m.]: By consent, I move:

That so much of the Sessional Orders be suspended as would preclude Government business taking precedence of general business on Thursday, 16 March, 1978.

Many bills have come over to the House having been passed by consent in the other place——

The Hon. Sir John Fuller: We just agreed that you would not do that.

The Hon. D. P. LANDA: We agreed that I would do it on the basis that I would supply the list of bills.

The Hon. Sir John Fuller: That is not the way I understood it. I said that we would negotiate on the basis that no motion would be moved. You will not get your bills through if you take that line.

The Hon. D. P. LANDA: I am of the view that agreement was reached on the basis that the Leader of the Opposition would be supplied by me with a list of bills that are urgent and precedent by nature. However, if the Leader of the Opposition wishes to discuss the matter in the morning and have the bills dealt with by consent without moving a motion at that time, in accordance with that list, I will ensure that it is done that way. Perhaps this House can then reflect the consideration given by the Government in the other place to those measures in order that those bills can be passed here expeditiously.

The Hon. Sir John Fuller: I take it that the Minister is not giving notice?

The Hon. D. P. LANDA: No.

The DEPUTY-PRESIDENT: Is there a motion before the Chair?

The Hon. D. P. LANDA: As objection was taken to the motion, I shall proceed in the way I have stated.

Motion lapsed.

SPECIAL ADJOURNMENT

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

That this House at its rising today do adjourn until this day at 10 a.m.,
sharp.

House adjourned, on motion by the Hon. D. P. Landa,
at 12.43 a.m., Thursday.