

Legislative Assembly

Tuesday, 14 September, 1976

Bill Returned—Honourable Member for Wakehurst (Personal Explanation)—Petitions—Questions without Notice—Real Property (Amendment) Bill (Int.)—Conveyancing (Amendment) Bill (Int.)—Tourist Industry Development Bill (Int.)—Ombudsman (Amendment) Bill (second reading)—Printing Committee (Third Report)—Industrial Arbitration (Amendment) Bill (second reading)—Teaching Service (Amendment) Bill (second reading)—Adjournment (Hunters Hill Bus and Ferry Services).

Mr Speaker (The Hon. Lawrence Borthwick Kelly) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

BILL RETURNED

The following bill was returned from the Legislative Council without amendment:
Supply Bill

HONOURABLE MEMBER FOR WAKEHURST

Personal Explanation

Mr Viney: I wish to make a personal explanation. On Thursday, 2nd September, the Premier, while replying to a question from the honourable member for Hurstville, thought that he had heard me make an interjection. There was certainly an interjection from the Opposition side of the House but it was not made by me. Normally this would not worry me. However, when the Premier sat down one of his colleagues pointed out to him that he had attacked the wrong member. Again this would not normally worry me because I should have expected the Premier, when the *Hansard* galley became available, to have rectified the matter, knowing full well that he had tipped the bucket on the wrong member. However, this morning when I read the *Hansard* in question—no doubt it was delayed in the mail—I found myself being quoted in the official record of this Parliament as having made a remark, which I certainly did not make, in regard to the administration and control of the police force at demonstrations. As the Premier is shown as having made this castigation of me, I want to take the first opportunity of setting the record straight. In no way could that remark be attributed to me.

PETITIONS

The Clerk announced that the following petitions had been lodged for presentation and that copies would be referred to the appropriate Ministers:

Sunday Hotel Trading

The Petition of the undersigned Electors in the State of New South Wales respectfully sheweth:

1. A referendum on Sunday Trading in hotels was held in New South Wales in the year 1969 which showed **an** overwhelming majority voting against Sunday Trading in hotels.
2. It is considered by the undersigned that any changes in the law allowing extension of Sunday Trading in liquor in hotels or in any shop selling liquor will increase the acknowledged evils associated with the consumption of liquor including particularly danger in road travel and in crime, and in damage done to domestic life of wife husband and children in many cases.

Your Petitioners therefore humbly pray that your Honourable House:

1. Will not pass any legislation which will allow any extension of Sunday Trading in liquor in hotels or in any other place where the sale of liquor is permitted.
2. If nevertheless it is intended to submit legislation to the House this should not be done until a further Referendum is held to ascertain the wishes of the people as was previously held and which as stated showed an overwhelming majority against such legislation.

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

Petitions, lodged by Mr **Bannon**, Mr **Cowan**, Mr **Hatton**, Mr **Johnson** and Mr **Petersen**, received.

Gambling Casinos

The Petition of the undersigned Electors in the State of New South Wales respectfully sheweth:

1. There are at present sufficient legal gambling outlets in the State of New South Wales.
2. During the last recently recorded period of a year the amount spent or invested in gambling exceeded the sum of \$4,000 million.
3. The opening of Casinos will enlarge this expenditure and will create further inroads upon the amount available to families for the conduct of their domestic life and will thus cause hardship to parents and children in the home and will also, as experience has shown, be an incentive to crimes of stealing, embezzlement and fraud in order to make up for moneys that have been lost through gambling or which are intended for gambling.

Your Petitioners therefore humbly pray that your Honourable House will not legislate to legalize casinos in New South Wales.

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

Petitions, lodged by Mr **Hatton**, Mr **Johnson** and Mr **Petersen**, received.

QUESTIONS WITHOUT NOTICE

STARTING-PRICE BETTING

Mr COLEMAN: Is the Premier aware that at the annual general meeting of the New South Wales Totalizator Agency Board Agents Association held last Sunday great concern was expressed at the increase over recent weeks in illegal starting-price betting? In view of the fact that this betting is not only a breach of the law but also deprives the State of revenue in the form of taxes that have to be paid by bookmakers and the Totalizator Agency Board, will the Premier inform the House what action he proposes to take to put an end to this sudden expansion of illegal betting?

Mr WRAN: I am not aware of the deliberations of the organization to which the honourable member for Fuller refers. However, it is true that when the present Government came to office it was inundated with what I understand were continuing reports of the proliferation of starting-price betting. I took up this matter with the Commissioner of Police who provided me with details which showed that there had been a large number of convictions of persons engaged in starting-price betting in New South Wales. Despite this, there still were reports of starting-price betting. It would seem that the honourable member is referring to pockets of this illegal practice that were in existence for several years. Having established this circumstance and the inability of the former Government to deal with it, I again had a long consultation with the Commissioner of Police who assured me that renewed and determined efforts will be made to stamp out the remaining vestiges of starting-price betting in New South Wales, with which the former Government was unable to cope.

PENSIONER AMBULANCE TRANSPORT

Mr CAHILL: I ask the Minister for Health whether it is a fact that many pensioners are unaware that their medical entitlement card does not entitle them to free ambulance transport. Will the Minister take up this matter with the Commonwealth Government with a view to having ambulance transport charges included in Medibank from 1st October and thus relieve pensioners of the worry of high ambulance charges?

Mr STEWART: The fact that a person is a pensioner and holds a pensioner medical service card does not entitle him to free transportation in an ambulance in New South Wales. The State Government receives no assistance whatever from the Commonwealth Government for the ambulance transport of pensioners. However, the ambulance contribution rate for a single pensioner or for husband and wife pensioners is at present \$3.75 a year, which is a nominal amount and should be within the means of pensioners. It would avoid their suffering distress when they have to be conveyed by ambulance and are required to pay a fee of \$40 for the first 16 kilometres, which is the standard charge. I understand that a number of pensioners believe that because they hold a pensioner medical service card the ambulance service is free.

I shall certainly take up the matter with the Commonwealth Government on two grounds: first, that it should assist the pensioner in ambulance transportation or in the payment of the annual fee to the ambulance board; and second, that it should allow contributions made to an ambulance fund as a tax deduction. Apparently the Commonwealth Government has refused to recognize an ambulance fund contribution as a tax deduction, whether it be at a full rate for a family or a single person, or at the pensioner rate. The Commonwealth Government has adopted the attitude that the transportation of people by ambulance is primarily the responsibility of the State. I hope that the honourable member for Marrickville and other honourable members

will be able to inform their electorates that the fact that a pensioner has a medical service entitlement card does not entitle him to free transport in New South Wales by ambulance. However, the present rate for a pensioner is \$3.75 a year and immediately a pensioner joins the ambulance transport fund he becomes eligible for free ambulance transport.

ALEXANDER AND THOMAS BARTON

Mr MADDISON: Has the Premier received reports that Alexander Barton and Thomas Barton have intimated that they would return to Australia if certain charges against them were dropped or watered down? Will the Premier assure the House that such a deal has not been entertained nor will it be entertained, and that there will be continuing co-operation with the Australian Government to assure their extradition from Paraguay to Australia?

Mr WRAN: What is implicit in the honourable member's question is correct. There have been approaches to the present Government to do what may be categorized as a deal with Mr Barton and his son in relation to the course that might be taken if they return to Australia. I understand—and the honourable member would be well aware of this—that such overtures were made to the former Government as well; indeed, to the honourable member in his capacity as the Attorney-General of the State. It is to the credit of the honourable member who asked the question and the former Government that it did not entertain any such proposal for a deal with the gentlemen in question. The overtures to the present Attorney-General have been conveyed through a firm of solicitors purporting to act on behalf of Mr Barton senior and, curiously, by one Derryn Hinch, the editor of the *Sun* newspaper, who apparently spent some time in Brazil. He was used as the pipeline through which a proposal was made to the Government.

I do not think the terms of the proposals are of great significance. Suffice to say that the Attorney-General, to whom the communications were directed, made it clear in quite unequivocal language that if the Bartons—that is, father and son—return to Australia, then they will do so without any arrangement or deal with the New South Wales Government. They will be treated as any other citizen against whom charges are pending. If they have answers to the charges that have been preferred against them, they have nothing to fear in returning to Australia because they will be treated before the courts in the same way as any other citizen is treated before the courts. As to the latter part of the honourable member's question concerning the co-operation of this Government with the federal authorities in seeking extradition of these gentlemen from Paraguay, the answer is yes. The Attorney-General has been in close communication with the federal authorities and he will continue, as will the Government, to co-operate with them with a view to obtaining extradition so that what has been probably the sorriest mess in Australia's corporate history can be put to rest.

REGISTERED CLUBS ADVISORY COUNCIL

Mr PACIULLO: I address my question to the Minister of Justice and Minister for Services. Is he able to say that any progress is being made by the Government towards implementing its licensed clubs policies as announced by the Premier and me prior to the recent State elections? If so, will he advise the House of the nature of that progress?

Mr MULOCK: As this question touches my administration I am able to inform the honourable member and the House that I have taken action to implement the policy announced by the honourable member for Liverpool and the Premier, in particular

for the establishment of a registered clubs advisory council which will deal with and advise upon the day-to-day problems of the club movement in New South Wales. I have invited ten groups associated with the activities of the registered clubs movement in New South Wales to nominate representatives to a registered clubs advisory council, and each of them has told me it will accept that invitation. One has informed me of this in writing and the other has said that it will do so, and that it will confirm this in writing. The organizations to which this invitation was extended are the Registered Clubs Association, the Licensed Clubs Association of Australia, the New South Wales RSL Clubs Association, the Ex-Servicemen's Clubs Association, the Federation of Community, Sporting and Workers' Clubs, the Combined Leagues Clubs, the N.S.W. Golf Association, the Royal N.S.W. Bowling Association, the Secretary-Managers' Association and the Liquor Trades Union.

It is expected that the first meeting of the advisory council will be held in the next couple of weeks. It will meet regularly and will advise on a number of matters affecting clubs. One of its first tasks will be to peruse the Registered Clubs Act, which has not yet been implemented. Another aspect touching my administration in that proposal is the creation of tertiary education facilities for secretary-managers and directors of clubs. I am informed that such a course has already been undertaken by the Nepean College of Advanced Education. This is the forerunner of such courses. It was not implemented as the result of any direction or request by me or the Government; it resulted from a proposal of the college. This course will be continued as an encouragement to secretary-managers and directors of clubs to acquire the skills that are necessary if the registered clubs movement in this State is to continue to prosper.

RAIL FREIGHT

Mr PUNCH: Did the Minister for Transport and Minister for Highways announce last Friday that there would be an increase in rail freight rates, which will mean that primary producers and country communities generally will be forced to pay for losses being sustained by the Government's earlier action in reducing public transport fares by 20 per cent? In announcing an increase in rail freight rates last Friday, did the Minister specifically exclude beer from the increase? Does this action indicate that the Government is prepared to force increases in the price of bread, meat, fruit and vegetables, as well as electrical goods, furniture and building materials, and other consumer products transported by rail, yet avoids by exclusion any charge that might result in a rise in the price of beer? In view of the priority already given by the Government to the legalization of gambling casinos, is the Minister conforming to a government policy of catering to gambling and drinking outlets in preference to the need to assist primary industry and to keep prices down to combat inflation?

Mr COX: I am pleased that the Leader of the Country Party has asked this question as it gives me the opportunity to tell the full story in answer to the half-truths that have been disseminated in country journals and newspapers. It is true that an announcement was made that freights would rise by 7 per cent and parcel rates by 3 per cent. It is interesting to note that between 1965 and 1975 the average weekly earnings for males in New South Wales increased by 200 per cent and the consumer price index by 100 per cent.

Payments per tonne to growers by the Australian Wheat Board over the ten years to 1974-75 increased by about 85 per cent. I shall give some examples of the percentage increases in the by-law rates for grain, including wheat, between 1965 and 1975. For a distance of 400 kilometres the increase was 47 per cent; 500 kilometres, 45 per cent; and 600 kilometres, 45 per cent. It is interesting to note that

a concession averaging about 16 per cent of the total charges is allowed on the by-law freight rate for wheat carried intrastate. This concession applies whether the wheat is conveyed to flour mills within the State or to the seaboard for export. The Public Transport Commission is reimbursed by the Treasury in respect of that concession, up to a maximum of \$5 million per annum. Although in one or two years in recent times the concession was fully covered by the Treasury subsidy, in the main the commission has had to carry portion of the cost. Last year it carried \$1.5 million.

I shall give some examples of the percentage increase of freight costs to Darling Harbour between 1965 and 1975. From Newcastle, a distance of 169 kilometres, grain increased by 56 per cent, and machinery, B-class rate, increased by 67 per cent. From Tamworth, a distance of 456 kilometres, groceries, C-class rate, increased by 59 per cent, and fencing wire, A-class rate, increased by 73 per cent. During the same ten-year period the consumer price index rose by 100 per cent.

During the same period, the fare from Carlton to Sydney, a journey of 13 kilometres, increased by 110 per cent; from Hornsby, a distance of 26 kilometres, an increase of 120 per cent; and from Blacktown, a journey of 34 kilometres, an increase of 126 per cent. On the buses over that ten-year period, the cost of a three-section journey of 5 kilometres increased by 200 per cent; a five-section journey, or 8 kilometres, increased by 275 per cent; and a twelve-section journey, or 19 kilometres, increased by 241 per cent.

After this Government came to office it effected a 20 per cent reduction in fares on both rural and metropolitan passenger services. The Country Party has been largely responsible for the enormous deficit of the New South Wales Public Transport Commission, and the undue pressure exercised by the Country Party on former ministers for transport is reflected in the existing total debt. The Leader of the Country Party supported a policy of fare increases which in one year drove away 109 million passenger journeys in the metropolitan area and reduced passenger journeys in the rural areas from 13 million to 8 million. He supported the tremendous 50 per cent increase in 1971 which drove away 67 million passenger journeys from the public transport system. To take the matter a little further——

[Interruption]

Mr SPEAKER: Order!

Mr COX: I shall compare over a twenty-year period the freight rate for grain and the average weekly wage. The freight rose by 105 per cent while the average weekly wage rose by 346 per cent. These figures are reflected in every item. Miscellaneous rates, for example, increased by 144 per cent, while the average weekly wage rose by 346 per cent.

[Interruption]

Mr SPEAKER: Order! I call the Leader of the Country Party to order for the first time.

Mr COX: I have here a complete list of figures relevant to this matter, which indicate clearly the undue influence of the Country Party while in government on the activities of the Public Transport Commission.

BOTANY BAY DEVELOPMENT

Mr ROFE: I address a question without notice to the Deputy Premier, Minister for Public Works, Minister for Ports and Minister for Housing. Prior to the announcement on 19th May that the Government would not be calling for or letting tenders for

further construction work on port facilities at Botany Bay, did the Minister or his department undertake any investigations in an effort to determine the extent to which costs would be increased by that deferment in relation to the total cost of the project? Did the Minister or his department investigate also the number of job opportunities that would be lost by the deferment? If such an investigation was carried out, will the Minister say what was the estimated increased cost and how many job opportunities were foregone?

Mr FERGUSON: In conformity with Labor Party policy as enunciated before the last election, the Government did stop the letting of further contracts in relation to the Botany Bay complex, but decided that existing contracts should be completed. I appreciate the part of the question concerned with job opportunities, but the fact is that nothing was lost as a result of the deferment, because any money available to the Government for this work has been expended in other places in the meantime. As soon as Mr Simblist, Q.C., furnishes a report to the Government we shall have an opportunity of examining it with a view to ensuring that the environment of the people who live at Botany Bay is protected, and that unemployment is avoided.

WOLLONGONG TECHNICAL COLLEGE AUDITORIUM

Mr RAMSAY: Is the Minister for Education aware of the extreme concern being expressed by the members of the Wollongong Technical College Advisory Council at the proposal announced several months ago by the Department of Technical and Further Education to alter structurally the beautiful auditorium at that college? Is the auditorium used for activities involving the community generally? Will the Minister order an immediate inquiry into the possibility of providing additional accommodation at the college without making structural alterations to the auditorium?

Mr BEDFORD: The honourable member for Wollongong, who was trained at Wollongong Technical College, has always shown a great deal of interest in its development. The advisory council has indicated its opposition to the proposal by the department—only mooted, I might add—to alter structurally what is a beautiful auditorium at Wollongong Technical College in an effort to provide further accommodation there. One of the problems faced by the department is a shortage of capital funds caused by the attitude of the present federal Government to funding technical education. The auditorium in question is used by the local community and I pay tribute to the Department of Technical and Further Education for the efforts made by it to involve the community in respect of academic matters and the provision of education facilities generally. Clearly there would be no wish by the department that the auditorium be altered. I assure the honourable member for Wollongong that I shall have an inquiry undertaken immediately, and I shall report further to him and the House.

BLAKEHURST HIGH SCHOOL

Mr RYAN: I ask the Minister for Education whether it was the policy of the former Liberal-Country party Government to acquire homes in the vicinity of Blakehurst High School, in Woniara Road, Forster Street, and West Street, and to demolish or remove them. Was that policy pursued at a time of severe housing shortage in the State? Was the policy implemented in the knowledge that its completion would take about fifty years and cost something like \$3 million? Was the policy pursued even though many residents in the area around the school expressed their concern, dismay and anguish at the development? Would it be feasible to discontinue that policy or to rescind it and to divert money set aside for the project to be used to build an urgently needed library-laboratory block? Has such a block been urgently needed for many years?

Mr BEDFORD: The answer to almost all the queries raised in the question posed by the honourable member for Hurstville, is, yes. However, I should like to deal with them one by one as they are of importance and involve Government policy. It is true that on a number of occasions in the past eleven years the previous Government undertook land acquisition next to existing schools. Unfortunately, often these land acquisitions were undertaken at the expense of people's homes. I understand that sometimes that course is absolutely necessary but I cannot understand why at times it was decided to take two or even three streets of housing. I can see the point where one or two housing sites might be required to enlarge school property or to improve access to a school, but to acquire whole streets of houses at a cost of \$3 million over a period of fifty years seems to me to be utterly absurd. This is one of those bequeethals that this Government reluctantly inherited on coming to office. Perhaps at this stage the project to which the honourable member referred is too far advanced for the Government to do much for the people whose properties are already legally tied up by notices of acquisition.

Education authorities in this State will always be faced with the problem of site expansion. As tastes change in the requirement for school playgrounds, and so on, pressure will be placed upon governments and the department to acquire extra sites. The Government is looking closely at the policy of accepting willy-nilly the suggested requirement that there should be eight acres for a primary school and eleven acres for a secondary school, or whatever. The Government believes that where new schools are established the department should, as far as possible, meet those site requirements, but where a school is located in a built-up area the Government will treat the matter with sense and look at the situation, weigh one problem against another, and come down always on the side of the people who live nearby. I might mention also that in the Blakehurst area the need for a library-laboratory block is acute. It is my wish that this should be built as soon as possible on the existing land, even though the area of the site has to be reduced somewhat in the process. This proposal will not cause havoc to residents of the area.

MILITARY ESTABLISHMENTS

Mr OSBORNE: I address my question to the Minister for Lands. Is it a fact that valuable land within the city coastal area is occupied by military institutions? Does the Minister agree that some army training camps could be well situated in country locations instead of city areas? Is the Minister aware that an ideal location for such an installation is in the northern part of the Rylstone district, where for many years extensive army exercises have been carried out? Will the Minister approach the Commonwealth Government with a view to discussing with that Government the possibility of establishing army installations in country areas, with special reference to the suitability of the Rylstone region?

Mr CRABTREE: I thank the honourable member for Bathurst for this question and I should like to inform him and the House that already the Government has in train with the federal Government negotiations for the interchange of sites. This Government will deal most effectively with the establishment of a Sydney Harbour National Park which did not come to fruition under the former Liberal-Country party coalition. The honourable member has my assurance that I will discuss with the Premier the question of establishing an army base at Rylstone. Of course, this is primarily a matter for the federal Government. This Government is most anxious to acquire sites on the seafront and river fronts for the benefit of the public and negotiations are now taking place to this end.

FERAL CATS

Mr JOHNSON: My question without notice is directed to the Minister for Lands and relates to the National Parks and Wildlife Service. Has the attention of the Minister been invited to growing concern within the community for damage caused by feral cats in bushland in this State? Can the Minister inform the House whether feral cats are causing a problem and if so what steps the Government will take to control this nuisance?

Mr CRABTREE: I thank the honourable member for Mount Druitt for asking this question which concerns a real problem. We do not refer to members of the Opposition in this way—although there are some feral toms among them. It is estimated that millions of feral cats are roaming through the bushland in New South Wales. They are all killers of our natural fauna and birdlife. The damage they cause is terrifying: each cat can have a high kill total including birds, frogs, lizards, snakes and small animals. This is a growing problem. The tragedy is that well-meaning people who do not have the heart to put down unwanted cats and kittens let them loose in the bush.

[Interruption]

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

Mr CRABTREE: In the bush, only the strongest cats survive and by a process of natural selection the feral cat has grown to an enormous size—in some cases two or three times the size of the domestic cat. There are court controls for people who dump cats, but unfortunately policing the law is extremely difficult.

Control measures and tighter laws are part of the answer and I shall be discussing these aspects with my ministerial colleagues the Attorney-General and the Minister for Decentralisation and Development and Minister for Primary Industries. However, the real answer is in education—both community education and for the long term in our schools—and I shall discuss this with the Minister for Education. Today I should like to commence this education campaign with an appeal to all citizens to act responsibly in this matter. If anyone has unwanted animals, they should call on the help of the R.S.P.C.A.. Do not let these animals loose on our native fauna; we are having enough trouble already conserving our endangered species.

LABOR PARTY POLICY

Mr MUTTON: I ask the Premier whether the 1975 platform of the Australian Labor Party in regard to its constitution and rules binds the New South Wales Labor Government. Does item 6 in that platform read:

The office of State Governor and State Legislative Councils to be abolished.

Has the Labor Party in Western Australia already decided that the next Labor government in that State will not appoint a new State Governor? Is the New South Wales Labor Government bound to follow any of these decisions or actions, and what does the Premier, as Leader of the State Labor Government, propose to do about these issues?

Mr SPEAKER: Order! The question is framed in such a way as to ask the Premier to give an answer in regard to a matter that is not within his administration. Therefore I rule the question out of order.

BARTON GROUP OF COMPANIES

Mr MALLAM: I wish to ask the Premier a question without notice. In view of his earlier answer about Alexander Barton, will he consult the federal Attorney-General and request him not to issue passports, until the whole Barton affair is cleared up, to any of the directors of the Barton group of companies who may wish to leave this country? Will this avoid the unnecessary expense of extraditing them?

Mr WRAN: The matter raised by the honourable member for Campbelltown poses a number of interesting questions. I certainly understand the concern felt by all responsible citizens about those persons who may be or should be the subject of charges in regard to these matters and, for one reason or another, may wish to leave the country. I have no doubt that my colleague the Attorney-General will take note of the import of the question, and I certainly shall speak with him about it. Should anything further be necessary to be done as between the two Governments, it shall be done.

CROWN LAND SALES

Mr WOTTON: I ask the Minister for Lands whether it is a fact that during the recent State election campaign the Labor Party gave an undertaking that if elected to office it would do away with the procedure of Crown land auctions for home building blocks and replace it with a ballot system. If this is a fact, will the Minister advise whether the ballot system will be used in all of New South Wales or will it be restricted to the metropolitan areas of Newcastle, Sydney and Wollongong? If country districts are included in such a procedure, will the Minister take immediate action to stop a 5-acre block of Crown land at Curlewis near Gunnedah in my electorate, being subdivided into home-building allotments for auction by the department and conduct a ballot among the large waiting list of applicants in the area?

Mr CRABTREE: It is true that prior to the State election Labor announced that if it were elected to office it would abolish Crown land auctions, and this has been done in respect of land in the metropolitan area. As most honourable members will be aware, at the present time more than 350 building blocks in the metropolitan area are the subject of application for ballot. However, this is an interim policy because the Government, in its policy overall, will be setting up a land commission that will control the disposal of land at competitive prices right throughout the State. On an examination of the position—and I thought the honourable member for Burrendong would realize this—it has been found most difficult to apply the ballot system of disposing of land to country areas. However, this matter is being examined at the present time both by myself and my colleague the Deputy Premier, Minister for Public Works, Minister for Ports and Minister for Housing with a view to developing a policy in relation to the disposal of land in the country. In the meantime, the old system of disposal by auction will still apply to Crown blocks in country areas because of lower prices paid there which do not present the same problem as in the metropolitan district.

PRESSURE-PACK SPRAYS

Mr O'CONNELL: I direct my question without notice to the Minister for Consumer Affairs and Minister for Co-operative Societies. Has the Minister's attention been invited to a recent report published in the United States of America which indicates the dangerous effects that certain materials, particularly propellants contained in pressure-pack spraycans, may have on the ozone and the earth? Will the Minister take action in consultation with the responsible State and federal Ministers to ensure that products that are dangerous to our environment are not contained in these pressure-pack containers?

Mr EINFELD: The honourable member for Peats always brings forward questions of grave concern to the community. I have seen the article to which the honourable member refers. I must say that from time to time we hear of the dangers associated with spraycans. Not so long ago investigations revealed that some young people were using spraycans to get some drug-like effect. The sniffing of the spray was found to be harmful to these young folk. Because of the dangers involved with the chemicals used in spraycans, in packaging regulations that I am about to table, following legislation introduced by the former Government last year special provision is made for the empty space in spraycans to be much greater than in ordinary packaging. The matter is one that I shall investigate. I shall consult with the Minister for Planning and Environment and with the Minister for Health. If we find that scientists in New South Wales and in Australia agree with the assertions of the scientists in the United States of America and believe that there is a danger to the upper level of ozone, we shall take appropriate action.

UNEMPLOYED TEACHERS

Mr PICKARD: I direct my question without notice to the Minister for Education. Has the Minister been in touch with the 3 000 unemployed teachers and offered them positions? How many have been employed? Has their employment resulted in an immediate commencement of the Labor Party's programme of immediate reduction in class sizes?

Mr BEDFORD: On coming to government we had a look at unemployed teachers registered with the Department of Education. The number was ascertained to be 2 300. They were all teachers who were acceptable to the department, in the sense that they had the proper qualifications and other necessary criteria to have them placed on the list. Of that 2 300—

Sir Eric Willis: Unemployed?

Mr BEDFORD: Yes, unemployed.

Mr Pickard: Not 3 000?

Mr BEDFORD: There might have been 5 000 unemployed teachers for all I know. As far as the department is concerned, and that is my area of responsibility, there were 2 300 registered with the Department of Education. When letters were sent out a number did not answer.

Sir Eric Willis: Seventeen hundred?

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

Mr BEDFORD: Of that number, 654 teachers indicated that they would serve but only 14 of them were willing to serve anywhere in the State.

[Interruption]

Mr SPEAKER: Order! The honourable member for Hornsby asked a question. The Minister is endeavouring answer it. I ask that all interjections cease.

Mr BEDFORD: On the basis of the information the department had, it made offers to the 654 teachers who had asked for employment. It was done on the basis of a reasonable offer. Where it was impossible to place teachers who had specifically wanted one town, one area or one suburb, we were willing to say to them, "Will you

fill a teaching position in an adjoining area?" If they refused it was taken by the Department of Education that the offer had been made and that they could not be placed. Most of the 654 teachers to whom I have referred are now in the teaching service. I do not have the exact figure. It has made a significant change in a number of areas. In the first place, all **P2's**, that is second-class **principals**——

Mr Pickard: That was already planned.

Mr SPEAKER: Order!

Mr BEDFORD: Talk of the plans of mice and men. The mice over on the Opposition benches did nothing about it.

[Interruption]

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

Mr BEDFORD: The men on the Government side put in P2 reliefs so that all second-class principals have been relieved. In disadvantaged areas relief was provided; a number of teachers were placed in schools which provide migrant teaching and remedial teaching. Some kindergarten class sizes were reduced. The improvement has **not** only been by way of a marginal reduction overall in class sizes, but also in the three elements of the **teaching** service to which I have referred, much to the delight of teachers.

ALBURY-WODONGA GROWTH CENTRE

Mr MACKIE: I address my question without notice to the Minister for Decentralisation and Development and Minister for Primary Industries. Did the Minister announce to the news media, during the Premier's visit to Albury on Friday, **13th** August, that it was the Government's intention to spend in the next four **years** \$68.5 million developing the Albury growth centre? Is the Minister aware that the Victorian Premier in his budget speech last week provided only \$300,000 for the Wodonga growth centre? Was that indicative of the uncertainty that now **surrounds** the future of the Albury-Wodonga complex? Will the Minister advise whether the Government will honour this undertaking and, if so, will he give more precise **details** how he proposes to allocate the \$68.5 million? Will the Minister indicate also whether it will be only a continuation of the accelerated programme initiated by the former Liberal-Country party Government?

Mr DAY: I indicated about that time that what was proposed, or predicted, in the Albury-Wodonga growth centre would be provision of the facilities that are normally the responsibility of the State governments. As the honourable **member** for Albury should know full well, all the loan funds in relation to the purchase and development of land were to be provided by his Liberal-Country party federal colleagues. That was the agreement that was reached between the **Whitlam** Government and the former Liberal-Country party Government in this State. The new State Government has always said that it would be willing to honour the obligations and **commitments** that were made at the time but, unfortunately, the Liberal-Country party federal Government is not willing to meet the **commitments** already made. It has a real obligation, under the clear terms of a written agreement, to do so.

The amount of money that has been announced is substantially reduced. The federal budget reveals that only \$15 million is to be provided for the Albury-Wodonga growth centre. This compares poorly with the federal aid during the **Whitlam**

regime of \$42.21 million for 1974-75 and \$35.1 million for 1975-76. Less than half the amount made available by the previous federal Government is to be allocated for the Albury-Wodonga growth centre. If there be any uncertainty about its future and that of other growth centre—indeed, about decentralization programmes generally—it is the fault of the Liberal-Country party federal Government. It is a disgrace that the Fraser Government, which has been in office since December, has no decentralization or growth centre policies. This has been admitted by the responsible federal Minister, the Hon. K. E. Newman. If what the honourable member for Albury says is true, apparently the Victorian Government has little confidence in the federal Government.

I have not seen the figures that the honourable member stated had been announced by the Victorian Government. However, I understood from the Hon. D. G. Crozier, the Victorian Minister for State Development and Decentralization, that the Victorian Government places the utmost importance on the future of the Albury-Wodonga growth centre and would be as willing as the New South Wales Government to honour all its commitments. It is disgraceful also that the agreement should come under such close legal scrutiny. When the States meet with the Commonwealth for the purpose of entering into any agreement they apparently need a battery of lawyers so that the fine print cannot later be examined by the national Government for the purpose of dishonouring the agreement. That Government now seeks in addition to a commitment by the New South Wales Government and the Victorian Government towards the infrastructure of the growth centre, a two-to-one contribution towards loan funds to purchase and develop land and to do the work of the development corporation.

State governments should not be expected to contribute two-thirds of the loan funds. New South Wales is committed to repay almost every dollar that has been made available by national governments for the Albury-Wodonga growth centre. New South Wales accepts the debt. Apart from one-third of the moneys advanced as a grant for municipal works and a small amount towards administrative costs, all loan funds made available by the national Government are repayable by the States. Nevertheless, the Commonwealth Government is opting out. I deplore its attitude. I hope sincerely that within the next three weeks there will be another council meeting of federal and State Ministers at which the States will receive an intimation of further federal support. If that support is not forthcoming then I agree with the honourable member for Albury that there will be a severe loss of public confidence in the Albury-Wodonga growth centre, which would be most regrettable from a State and national point of view.

GRAIN ELEVATORS BOARD

Mr HILLS: On 2nd September, 1976, the honourable member for Dubbo asked me a question without notice concerning a dispute in relation to the Grain Elevators Board. Officers of the Grain Elevators Board conferred with the Australian Workers' Union and the Public Service Association relating to the board's wish to introduce a second shift at its Sydney and Newcastle terminals. A satisfactory compromise was reached and has been accepted by the members of the Grain Elevators Board at a meeting of the board on 8th September, 1976. As a result of the agreement not only will extra overtime be available to the employees but in addition additional employees will be required—eight extra employees at the Sydney terminal and ten extra at the Newcastle terminal.

REAL PROPERTY (AMENDMENT) BILL

Introduction

Mr CRABTREE (Kogarah), Minister for Lands [3.15]: I move:

That leave be given to bring in a bill to amend the Real Property Act, 1900.

As honourable members are no doubt aware, the Real Property Act applies to most of the land in New South Wales the principles of land registration which are commonly termed the Torrens system. Honourable members will appreciate that of all forms of property that the ordinary man may own, his home is probably the most valuable. Any improvements of the laws relating to title to that property and facilitating its disposition affect the majority of the adult population of this State. Estimates reveal that at present something like 2 million Torrens titles are in existence for separate parcels of land. The changes introduced by this bill result from recommendations—for the most part by the Registrar General—and the Government has now caused the terms of the bill to be settled and the bill itself to be introduced into Parliament.

As the subject under review is one of the most complex fields of existing law, and because this amending bill has been designed, in the light of practical experience, to revise aspects of the law which are of themselves necessarily complex, at this stage I propose to give honourable members only the broadest outline of what I consider to be the more significant features of the bill. I propose to deal in greater detail with the various provisions of the bill at the second-reading stage. A number of the amending provisions are designed further to streamline the administrative machinery involved in the conversion of land from common law title to Torrens title. The Government's aim is to encourage such conversion.

I might remark, in passing, that by reason of an amending Act introduced in 1967 the rate of conversion to the Torrens system has increased about six-fold. The 1967 Act to which I refer made provision for the issue of what it termed a qualified certificate of title which has some of the characteristics of a common law title and others peculiar to Torrens title. As the legislation now stands, a qualified certificate of title becomes a fully-fledged Torrens title on occurrence of each of two events: first, a transfer for value of the land comprised in the qualified certificate of title, and, second, the lapse of six years following issue of that certificate. It is proposed, in the interests of expediting the conversion programme, to provide that a qualified certificate of title becomes an ordinary certificate of title when twelve years have elapsed following the date of its issue, irrespective of whether, within that period, there has been any disposition by the registered proprietor. Save in exceptional cases, the law as enacted in the Limitation Act, 1969, provides that a claim for recovery of land such as by an action for trespass or ejectment cannot be maintained more than twelve years later than the date upon which the claim first came into existence. This statutory limitation, of itself, provides a considerable safeguard against claims resulting from the proposal for automatic conversion after twelve years.

Apart from streamlining the existing provisions to be found in part IVA of the Real Property Act, relating to qualified certificates of title, the Government proposes a significant extension of the process of automatic conversion of titles from common law to Torrens. This subject is quite complex, and is to be dealt with at some length in the second-reading debate. At this stage I wish merely to draw the attention of honourable members to the two features that are essential to any person who needs to prove his ownership of land. The first of these is what is generally called title. In the case of Torrens title this consists of a single record of ownership guaranteed by the State; in the case of common law title it consists of a series of records of dispositions and devolutions, culminating in the acquisition by the person who asserts ownership.

The second requirement in proving ownership of land is a precise definition of the boundaries of the particular parcel of land—a perfect documentary title to a parcel of land whose dimensions and boundaries cannot be located with precision is hardly better than no title at all. Unfortunately, in this State many parcels of land are held under common law title which suffer from deficiency in the definition of some one or more of their external boundaries, and the new provisions to which I have referred are designed to cure these problems as painlessly as possible.

The next subject to which I refer is of fundamental importance, in that it involves a decision of the Government to neutralize the effect of a High Court judgment. Naturally such a course is not undertaken lightly; in the present case I hope that honourable members will agree that the background circumstances that led to the High Court judgment, which I shall outline in a moment, justify the Government's action.

These circumstances are as follows: In 1872 there was lodged for registration in the office of the Registrar-General a transfer by the owner of one parcel of land to the owner of an adjoining parcel; the transfer was drawn in a form appropriate, and customarily used, for the grant of an easement. Second, the transfer was construed by the Registrar-General—and incidentally, throughout the ensuing century, by successive owners of the two parcels of land concerned—as a grant of an easement and not, as the High Court found a century later, as a disposition of the freehold; there is no doubt that the High Court's interpretation of the terms of the transfer is correct. However the court went further than that interpretation because it considered it necessary to determine which of the descriptions of the land should now prevail—that in the misinterpreted transfer or the discrepant description in the existing registered titles. The court, by a narrow majority, decided by preferring the effect of the 1872 transfer, to upset the existing registered titles.

The practical effect of this decision, assuming that it is taken literally by the legal profession, could prove devastating in the field of Torrens title conveyancing. The basic difference between conveyancing at common law and under Torrens title is that at common law a purchaser must, at his peril, inspect and investigate every deed in the vendor's chain of title. That title is no stronger than the weakest link in the chain. The Torrens system, however, was designed to obviate this laborious investigation by substituting a single document—a State-guaranteed certificate of title—for the earlier evidence of ownership. A literal application of the High Court's decision would require everybody proposing to take an interest in Torrens title land to investigate all antecedent registered dealings which led to the issue of that title in its existing form. That would be a great leap backwards to the common law conveyancing system which the Torrens title was designed to supersede. In these circumstances the Government feels it incumbent to introduce legislation in the form provided by the bill.

Another novel provision in the bill will enable the Registrar-General to issue a certificate or certificates of title for the interest of a lessee where a lease has been registered under the Real Property Act. Those who have experience in practical aspects of conveyancing will agree that, as between a certificate of title and a registered lease, the latter is a remarkably inferior medium for the recording of diverse transactions by the lessee. Probably the greatest example of the difficulties flowing from an absence of such a provision as is now contemplated is to be found in the Holt-Sutherland lease of some thousands of acres in the Sutherland district which were subdivided by the lessee, Sir Thomas Holt, and later the Holt-Sutherland company, into many thousands of building allotments. Each of these parcels was subleased. In order to record the thousands of separate chains of title the Registrar-General found it administratively necessary to annex to the lease, in the form of a number of bound

volumes, a considerable number of schedules to facilitate the registration of dispositions by the lessee. Much the same difficulty applies to leases by the Maritime Services Board of areas around the foreshores of harbours in Sydney, Newcastle and other areas.

I next refer to amendments designed to relieve mortgagors from unreasonable hardship caused by mortgagees' strict application of their rights in cases where mortgagors make default. Examples have been brought to notice of occasions upon which a rather trivial default by a mortgagor has been grasped by the mortgagee as an excuse for calling up the whole of the amount outstanding on the loan. Because in these cases refinancing at short notice proved impossible, the mortgagee was entitled to exercise his power of sale, to the detriment of the mortgagor. The Government proposes to remedy this situation by a legislative amendment giving the mortgagor a reasonable opportunity to remedy any default and, further, to provide that if he should do so within a reasonable time, the default be deemed not to have occurred. We are making provision also to render ineffective any provision in a mortgage whereby the unpaid balance of mortgage money becomes immediately payable upon the mortgagor's default in complying with any of his undertakings in that mortgage.

Finally, the draft bill provides a totally new code in respect of the recovery of judgment debts by employing the statutory machinery for levying execution against land. The proposed new sections, which are intended to replace section 105 of the Real Property Act, do not make for easy reading but, I am assured, provide for a modernized code that can be expected to operate in the best interests of judgment creditors, judgment debtors and purchasers at court-directed sales. I commend the motion to the House.

Mr DOWD: (Lane Cove) [3.25]: It is gratifying to see the Minister for Lands grappling so ably with the Latin phrases of the law. The Opposition will not oppose the introduction of this bill. We understand it to be along the lines of the initiative taken by the former Government, which went to some considerable trouble to set up a committee to examine this legislation. It is important that we understand that those who seek to simplify conveyancing and registration of title in this State frequently are attracted by other States' so-called simplistic systems. We have an ancient tradition of title transactions and it is important that it be simplified. The measures that the Government is introducing will, I hope, follow through the recommendations of the previous Government.

It is proper that the Opposition should pay tribute to the efficiency and qualifications of the holder of the position of Registrar General. He is a most efficient officer and his understanding of the law and feel for the need for change have been most impressive. He has added much to the understanding of the law in this area.

In the 1967 Act the previous Government brought in the qualified title, which has worked extremely well. Those in the legal profession who, before the legislation was introduced, were concerned at the number of problems that might arise have had their fears allayed. The profession itself has co-operated most commendably in making this important move towards the final elimination of the old system of title. Few problems have arisen, though previously difficulties were experienced from time to time.

There must be an end to litigation, and I am sure all non-lawyers will agree with that. Though we shall look closely at the bill, I believe the foreshadowed twelve-year period will be a sufficiently long period in which to solve any problems that might arise.

I believe that the Minister has overstated the effect of the High Court decision. I do not say that in criticism of his understanding of the judgment. It is important that the fundamental principle of the Torrens system be followed through, that is, that the register itself—the certificate of title—is the document to which people should have recourse. It is no criticism of the High Court to say that it came to the judgment it did on the law as presented to it. It is the function of the Legislature to make amendments to the law—for instance as it relates to the Torrens system, and I think it important that the Government take the action proposed. However, a couple of matters mentioned by the Minister call for comment. First, it is unnecessary under the old system title to examine every deed in the chain. It is that which follows from the establishment of the real title under the old system. Further, the effect of the present High Court judgment does not require the examination of all antecedent transactions, but I agree that with certain titles this is necessary.

Let me now discuss the notice required to be given to mortgagors and the question of default under a mortgage. We as legislators have an obligation to ensure the security of title, without creating other difficulties through technicalities, so as to protect borrowers. The Opposition applauds the Government for implementing these measures, which were foreshadowed by the previous Government.

Most of the problems caused by old system title are being gradually overcome, though a hard core still remains. It would not be too long before the Torrens system blankets the State. When it does, the high cost of conveyancing in New South Wales will be reduced and people will be able to transfer property without being put to unnecessary expense.

Mr LEWIS (Wollondilly) [3.32]: I welcome the measure on two grounds. I suppose I was the first member to worry about the implications of transfer to Torrens title. Second, I was born in South Australia, which is the home of Torrens title. Everyone will welcome the introduction of legislation that expedites transfer of titles. Like the honourable member for Lane Cove, I do not accept this measure as an immediate solution, and I should like to study it first. The former Attorney-General and I gave a great deal of thought to having old system titles automatically declared Torrens title when transfers were being made. Perhaps it could be written into legislation that a check on title need not be made beyond a period of two or three years. A check back over three years might well be sufficient. If lawyers and real estate agents had to research back over only three years, the title then being proved automatically, it would be a significant advance in the transfer of title, but it does not seem that this legislation will do that. My officers and I had in mind that an old system title, if not challenged, should be accepted on transfer under these conditions. A long search of title by a number of solicitors, back to the year one, is out of date. Provided the title is not challenged, it should be sufficient that an owner prove his title over a period of three years. Every person holding an old system title should have the benefit of such a provision. The property would then automatically come under Torrens title.

The Registrar-General has done a great deal of work in transferring old system titles to Torrens title, but the work has not been done fast enough. When I was Premier I transferred the Registrar-General's Office to the Department of Lands. I believe that Crown land titles, old system titles and Torrens titles should be amalgamated under the one administration. I believe, as perhaps do the Minister and the Registrar-General, that in the next ten years a registry of all titles should be set up. Perhaps this measure will lead to that end, but I do not think so. I shall study the bill closely. I know the Minister likes to simplify things. Like I am, he is trying to bring New South Wales into the 1970's, not keep it in the 1940's where we found it in 1965.

Mr MORRIS (Maitland) [3.35]: It appears from the Minister's introductory speech that this legislation was approved in August, 1975, when the honourable member for Dubbo, I think, was Minister for Lands and Minister for Forests. I commend the Minister for his ingenuity. I have read eight or nine of his press statements in the past three months, and six or seven of them were a rehash of decisions and announcements by the previous Government. He is in the honeymoon period that comes to new governments, and his statements are getting fairly wide publicity. If the proposals in the measure are the same as those in the two bills proposed by the former Government, they should not meet with much opposition from this side. I am grateful to the honourable member for Lane Cove for leading on these bills, which are fairly technical and complicated. I was Minister for Lands for a short time. I am sure the present Minister will join me in paying tribute to the Registrar-General and his staff for the dedicated and thorough way in which they go about their work. I await the bill with much interest and I look forward to the Minister's second-reading speech. I do not know how far the bill will go, but if, as it appears, it was approved last year it will have our support.

Motion agreed to.

Bill presented and read a first time.

CONVEYANCING (AMENDMENT) BILL

Introduction

Mr CRABTREE (Kogarah), Minister for Lands [3.38]: I move:

That leave be given to bring in a bill to amend the Conveyancing Act, 1919.

When introducing the bill amending the Real Property Act I outlined briefly the Government's policy of revising and, where necessary, reforming the laws relating to real property. This new bill, which I am about to outline, is a further step in implementing that policy; in fact, those of its provisions which deal with the relationship of mortgagors and mortgagees are similar in their effect to the relevant provisions in the Real Property (Amendment) Bill.

The first substantive provision of the bill will extend the facilities for executing deeds in the case of persons who, by reason of illiteracy or physical incapacity, are unable to sign documents. Next, the bill contains a set of provisions designed to modernize the law relating to restrictions created by agreement between owners of land and various authorities—for example, authorities concerned with conservation of the environment—where the effect of such an agreement is to restrict, in the interests of the community, the owner's use of his land. Then follow the provisions relating to mortgagees' exercise of their powers of sale in cases of default by their mortgagors. As I mentioned earlier, these provisions are, so far as the **different** contexts will permit, identical with the provisions considered in the Real Property (Amendment) Bill.

The bill contains a requirement that when land is resumed the resuming authority must, as soon as possible, take all steps necessary to have the resumption registered. Apart from matters of the nature of statute law revision, the last substantive clause of the bill deals with the practice of the Registrar-General in relation to what **are** generally termed official searches. These are documents issued by the **Registrar-General** in response to requests that he search his records relating to the title to land specified in the particular request. As the law now stands, the Registrar-General is

under a statutory duty to retain indefinitely a record of the result of every such search. In the interests of space-saving, the bill will authorize the Registrar-General in each case to destroy this collection of paper as soon as the time available for claiming compensation, should the official search contain an error or omission, has expired. I commend the motion to the House.

Mr DOWD (Lane Cove) [3.40]: I do not think I need add unduly to the remarks I made in relation to the previous measure, except that I might take matters in the reverse order. Questions of space bedevil all persons who deal with the law; members of this House and officers of Parliament have similar problems. I sympathize with the Registrar-General, who has to deal with a massive amount of material.

The number of cases that arise out of a deficiency in an official search would be absolutely negligible. The efficiency with which most of those I have seen are carried out is of such a high order that it is ridiculous to require them to be kept, other than those that the Registrar-General himself might deem necessary to retain in order to avoid the need to research similar areas again. In the execution of deeds, I take it this bill also will follow the initiatives of the previous Government. We shall look with care at all the provisions of the bill, because this is a very difficult field. All conveyancers know that to err is human, but that does not absolve any member of this Parliament from the obligation to be careful about the measures that are introduced.

An interesting matter raised by the measure is the attaching of the benefit of restrictions on titles to public land. People are beginning to realize more and more that particular contractual relationships between particular people, be they in the industrial or commercial field, are not, in line with the tradition of the nineteenth century, matters of concern only to those parties. This measure will cure a deficiency which I think has existed in the law. It is not just a matter between the parties and those upon whom the title devolves to regulate their interest between themselves; the public also is interested in any restrictions on title. This is an important move to give the public the rights of ordinary owners. Governments have as much interest as private individuals in what happens to land by way of attaching benefits to a reserve or some publicly-owned land. This is, of course, only one small aspect of the Government's role in the relationships of private owners.

The Opposition does not oppose the introduction of the bill, but we hope that the Government will allow a little time for these measures to be considered. It has taken some time for this problem to be cured, and the details of the bill will be in fairly technical terms. Therefore, I hope the Minister will allow some little time with this measure and the previous one so that members of the legal profession will have the opportunity to consider the specific provisions of both bills. I hope also that in respect of any submissions that are to be made to him he will allow time for a proper deputation. I think all honourable members realize that the legal profession of this State goes to a lot of trouble to improve and to co-operate in the improvement of conveyancing techniques. Some members of the profession have spoken to me and to other members of the Opposition about the matter, and they have stated that they would like the opportunity to assist in detailed drafting. Once they have seen the bill, I am sure that the Minister will get some interesting suggestions.

I do not suggest in any way that the Minister is likely to be unco-operative or unresponsive to any useful suggestions, but I ask the Government **and** the Minister that we be allowed a little longer to consider the provisions of the bill before the second-reading stage. I hope the Minister will give us that assurance today, I reiterate that the Opposition will not oppose leave to introduce the measure.

Mr CRABTREE (Kogarah), Minister for Lands [3.46], in reply: Although I am not giving an assurance at the moment, because of the programme before the House, I will use every endeavour to accede to the honourable member's request. I have been assured by the Registrar-General that both measures have been the subject of conferences between the Law Reform Commission, the Law Society of New South Wales and the Chief Justice of this State. A tribute has been paid before, and I know that my officers are most responsive to the approaches of the legal profession. I have been given the assurance that, if it is at all possible, we shall arrange sufficient time for an examination of the legislation.

Motion agreed to.

Bill presented and read a first time.

TOURIST INDUSTRY DEVELOPMENT BILL

Introduction

Mr BOOTH (Wallsend), Minister for Sport and Recreation and Minister for Tourism [3.48]: I move:

That leave be given to bring in a bill to provide for the development of the tourist industry; to constitute the Minister as a corporation sole with certain powers, authorities, duties and functions; to amend the Local Government Act, 1919, the Government Guarantees Act, 1934, the Capital Debt Charges Act, 1957, and the State Development and Country Industries Assistance Act, 1966; and for purposes connected therewith.

Mr SPEAKER: Order! I draw the Minister's attention to the fact that the purposes of the bill he has just read are not in accordance with the notice of motion. Perhaps the Minister could proceed if the notice of motion could be amended with the consent of the House.

Mr BOOTH: Yes, Mr Speaker. I ask that consent be given for the notice of motion to be amended in accordance with the terms I have just read.

Leave granted.

Mr BOOTH: I thank the House for its indulgence. I shall first pay a brief tribute to the late Director of Tourism in New South Wales, who had so much to do with the preparation of this measure. Last Wednesday saw the sudden, tragic and untimely passing of a personal friend of longstanding. I was associated with Rod Murdoch for twenty years. As an officer serving the Government of New South Wales over many years, his efficiency, knowledge and administrative ability were well recognized by everyone associated with him, both inside and outside government circles. He was most popular in the tourist industry, and I pay a sincere but brief tribute to Rod Murdoch as a person, a citizen, a father, a husband and as a man who served so well the Government of New South Wales.

Honourable members will be aware that tourism is a growing industry throughout the world. Unless New South Wales can continue to attract tourists, the industry within the State will obviously suffer. At present assistance is provided to the industry in rural areas from the country industries assistance fund which, of course, is administered by my colleague, the Minister for Decentralization and Development and Minister for Primary Industries. It would appear fundamental that the Minister responsible for tourism should administer funds expended on that industry. The bill provides for the transfer of that administrative control by establishing a tourist industry development

fund to be financed initially by the transfer of funds from the country industries assistance fund and from the Consolidated Revenue Fund. In subsequent years it will be financed from appropriations by Parliament, money borrowed by the Minister and repayments made from loan funds. It is desirable that the powers, duties and functions of the Minister for Decentralization and Development as a corporation sole be similarly conferred on the Minister for Tourism. The bill so provides.

As indicated earlier, the present scheme of assistance to the industry is provided from the country industries assistance fund and is restricted to rural areas of the State. The proposed bill, in addition to transferring administrative control of tourist development from the Minister for Decentralisation and Development and Minister for Primary Industries to the Minister for Sport and Recreation and Minister for Tourism, will provide also for the Minister for Tourism to be able to assist the development and promotion of the industry throughout the whole of the State. This means that tourist activities conducted in the county of Cumberland, the City of Newcastle and the City of Greater Wollongong, which hitherto could not be assisted from the country industries assistance fund, will be able to be assisted.

The bill will provide for aid to be given by way of grants, loans and guarantees along similar guidelines adopted under the State Development and Country Industries Assistance Act. It will be directed towards the development of tourist projects which are capable of attracting tourists to a region particularly those of an imaginative, unique or innovative nature; towards promoting the industry; and towards providing amenities and facilities for tourists. Emphasis will be placed on providing loans at attractive rates of interest and, if necessary, for a "holiday" from interest and principal repayments for a specified period until the project being assisted reaches a viable stage of development. I shall be pleased to give further details at the second-reading stage.

Mr BARRACLOUGH (Bligh) [3.52]: The Opposition supports the motion and will support the bill, for it was proposed by the former Liberal-Country party Government. As Opposition spokesman on matters concerned with tourism, I express on behalf of my colleagues our sadness at the sudden and untimely death last Wednesday of Mr Rod Murdoch. Mr Murdoch was regarded as a dedicated, loyal and efficient officer. He will be a great loss to the tourist industry in New South Wales. My colleagues join with me in expressing deepest sympathy to Mrs Murdoch and her family.

The idea of a tourist development fund is good, particularly as the money will be coming from consolidated revenue and not from the imposition of a tax. I must say, however, that the Opposition views with grave concern the economic plight of the tourist industry in New South Wales, especially in the accommodation sector. In discussing this problem with persons who are directly involved in the management of motels, hotels, guest houses, and even of houses that are let privately, it becomes obvious that the present high penalty rates for weekend work have caused such a rise in costs that many likely holiday-makers will not be able to afford accommodation. In the press today we read of the subdivision of the Crest Hotel into strata title units. Clearly, under the present high wage structure the management of that hotel could not continue to keep it operating. The motel known as Top of the Cross is being converted to a pediatric hospital. The Travelodge Motel in Bayswater Road, Kings Cross, is being converted into a Church of England old citizens home. I understand that in the United States of America the hotel and motel industry is booming and, because of an economic wage structure, there is no question of such places being converted to other uses. Unless the Government can offer a solution to the problem of continuing wage increases, the proposed bill might not be worth the paper on which it is written.

The tourist industry has become one of Australia's most important income earners, but it is facing rapidly rising costs. The Opposition is conscious of the economic problems of the industry. Alarming stories in the press recently have highlighted the lack of growth, and even the decline, in holiday and business travel in Australia. We on this side of the House will be supporting the legislation. We are pleased to note that funds will be available to assist the tourist industry in the metropolitan areas as well as in other places. We look forward to the introduction of the measure.

Mr HATTON (South Coast) [3.55]: I support the motion. The tourist industry is critically important to the South Coast of New South Wales. The key to its effectiveness is that it entails automatic decentralization and provides many jobs. It also opens up untapped opportunities for locally produced products. I should like to see a study made of the feasibility of promoting locally produced dairy products, such as cheese, yoghurt, sweet cream and sour cream, as well as milk and butter, particularly as the peak production of those commodities coincides with the tourist season. It seems to me that a great opportunity exists for selling locally produced products under local brand names to persons who travel from the city for a holiday in the country, or who come to this State from other parts of Australia or from overseas. These are the sorts of things the tourist industry is missing out on. In Europe it is common to find a great feature being made of locally produced products. A great deal could be done in this way to help the man on the land.

Revenue inputs from accommodation, caravan parks and camping areas can be significant, and one of the important decisions made by the present Government was not to close the coastal caravan parks and camping areas that were listed for closure. As the honourable member for Bligh said, the cost of accommodation is high, and it is important for the ordinary man to be able to have a holiday in such places. The craft industries, based on hides, leather and locally manufactured goods, as well as those concerned with the sale of meat, could be given a boost. I believe there is room for development also in the growth of the tourist farm. Persons who visit the North Coast get a great deal of fun out of visiting places where tropical fruit is grown. On the South Coast they should be able to visit dairies, ranch-style farms, and beef properties. Many farmers should be looking to this avenue of income, particularly in times of economic hardship for them.

Tourism, properly managed, can ensure a measure of growth and still preserve natural assets. In this respect there can be many problems. I refer to littering, vandalism, and the over-use of public facilities. One of the difficulties that faces country residents, **particularly** those who are retired, is the high capital cost of providing services designed for peak loading in holiday periods, but for the operation of which the local residents pay entirely. Other problems arise in relation to the cost of providing facilities specifically for holiday-makers, such as tourist roads and boat ramps. Many councils could look to the benefits to be derived from properly managed public caravan parks, especially in view of the low-interest loans that are available to local government for that purpose. The Shoalhaven shire council, for example, is making quite a good profit out of that activity.

I welcome the Government's decision to promote internal tourism. In the past we have tended to look at tourism nationally and to seek financial assistance from the Commonwealth Government on the basis that international tourism should be attracted. The establishment of a tourist industry development fund is a step in the right direction. I am not altogether happy about the use of the country industries assistance fund to promote tourism in Sydney, Wollongong and Newcastle. Those centres already are magnets for growth, and that fund should be restricted to areas other than the major

cities. In addition to what the State Government does, there is a national obligation to be concerned with tourism, particularly as areas with great tourist potential have tremendous problems caused by their having to maintain at high cost facilities, for example, in and through reserves and national parks. Those high costs result partly from a need to cater for peak traffic in the summer months, and partly because much of the land is unrateable.

If large areas of land are to be preserved in their natural state as national parks, they should be nationally funded. The Commonwealth Government should be made to recognize that recreation areas close to Sydney effect a tremendous reduction in the tension of everyday life of the community and this in turn reflects directly upon the cost of social services and health services. The Commonwealth Government would **enjoy** an enormous spin-off from any assistance it provided towards the preservation of recreation areas close to Sydney and the encouragement of tourism along the coast and on the tablelands near to the big cities. I welcome this **bill** as a progressive step forward. I hope it is the first of many the Government will take in this direction.

Mr ARBLASTER (Mosman) [4.1]: I join with the Minister and my colleague the honourable member for Bligh in paying **tribute** to the former Director of Tourism, Rod Murdoch. Unfortunately, I knew him for only a short time. However, during the period I worked with him and after, I was able to perceive his involvement in the community, in his church and with his family. No one who knew him would think he was anything but a man's man, a genuine chap and a totally dedicated officer of the Crown. He had an outstanding flair for marketing. Everyone he knew in the tourist industry and in other walks of his life held him in great regard. I express my sad regrets to his wife and children in the loss of this man long before his time, when probably he was at the peak of his career.

When I first saw a press statement relating to the bill the Minister intends to introduce I thought it meant an extra \$3 million for the tourist industry. Apparently my thoughts were wrong. What the Opposition will be looking for in the bill is a genuine attempt to attack the real root cause of problems in the tourist industry. I refer, of course, to costs. This bill, to be effective, will need to contain provisions to eliminate penalty rates in the tourist industry. Throughout the world this industry is regarded as a twenty-four hours a day seven days a week industry in which penalty rates are not applicable or are applicable to only a minor degree. Generally in other parts of the world the tourist industry is regarded as ideally suited for the multiple hiring of labour. In country areas overseas, particularly in motels, men, women and school-children earn pocket-money by working at the local motel.

I envisage a rotating system where one person works on Monday, another person on Tuesday and so on, through the week. This type of employee should not be regarded as what I might term a straight-out casual and should have the opportunity to work on weekends and holidays without penalty rates. In many areas of this State penalty rates have forced motel proprietors to dismiss staff. Inevitably this has led to a **reduction** in the service offered. Unless penalty rates are eliminated from this industry nothing that might be done to attract tourists from within Australia or from **oversea** countries will succeed.

Every year an endless stream of Australians take their holidays overseas simply because it is cheaper to do so than to holiday at Surfer's Paradise or in the north of Queensland. It is cheaper for Australians to go skiing in Hutt Valley in New Zealand or to surf in Noumea or Suva than it is to do these things at the principal Australian resorts. This bill, in order to get to the root cause of problems in the tourist industry, must attack high penalty rates. The tourist industry in Australia carries a burden of

penalty rates which does not encumber other countries. Whatever else the bill may contain, unless it provides for the elimination of or a severe reduction in penalty rates, it cannot succeed.

Mr R. J. CLOUGH (Blue Mountains) [4.6]: I support the bill. Tourism is obviously important to the Blue Mountains. My electorate boasts many tourist attractions including the Zig Zag Railway, Jenolan Caves, the Three Sisters and other attractions at Katoomba, Govett's Leap and bush tracks through the mountains. My electorate will obtain immediate benefit from the bill the Minister seeks to introduce.

The honourable member for South Coast touched upon the cost of tourism that is borne by the local ratepayer, a problem that affects my electorate also. Expensive maintenance work is required for the upkeep of tourist attractions and usually this work is carried out by the local government authority or the regional tourist association. This financial year the Blue Mountains City Council has guaranteed the Blue Mountains Regional Tourist Association a sum not exceeding \$12,000 to ensure that tourist facilities in the Blue Mountains area are kept up to standard. That is an allocation out of the ratepayers' money. I hope that the provisions of this bill will readily recognize the involvement of local government in tourism and will offer ratepayers relief from the burden of maintaining what is in effect part of our national estate. The Blue Mountains Regional Tourist Association is of the view that private enterprise is capable of performing tourist development work in the area. That association has sought assistance from the State Government to catalogue properly the many attractions of the area and to develop those attractions further.

I should like the Parliament to consider the role of the National Parks and Wildlife Service in its responsibility to preserve historic sites. The historic village of Hartley is located in Hartley Valley, near Lithgow in my electorate. Tremendous interest has been generated in the preservation of this village as an historic site. At a recent discussion in Hartley it was pointed out that, though the National Parks and Wildlife Service does a magnificent job in discharging its responsibility for looking after national parks, it appears to have some problems in maintaining a national site such as the Hartley Village. It has been suggested that a special section of the Department of Lands might be set up to look after historic sites. Whether that will happen is a matter for the Minister. I support the introduction of this bill in the belief that it will be of benefit to the electorate of Blue Mountains.

Mr SCHIPP (Wagga Wagga) [4.9]: I should like to say a few words on behalf of country areas located on the western side of the Blue Mountains. I hope the Minister is aware that these areas, too, have a tourist potential which needs developing. Centres such as Wagga Wagga, which I represent, should share in the development of tourism as an industry and thus realize some of the business potential that is available.

Most people who have been to Wagga Wagga know that it is one of the best examples of decentralization in this State. Moreover, it is a natural growth area. Wagga Wagga already has a reasonable tourist trade although it could be developed more. The area has many features that city people like to visit and share with the locals. For these reasons the area needs its share of tourist funding. I support those honourable members—particularly Opposition members—who have spoken on behalf of tourists and the need for lower cost accommodation. If we can provide lower cost accommodation for families, they will be encouraged to see Australia first. I await with interest the second reading of the bill.

Motion agreed to.

Bill presented and read a first time.

OMBUDSMAN (AMENDMENT) BILL

Second Reading

Debate resumed (from 9th September, *vide* page 786) on motion by Mr Wran:

That this bill be now read a second time.

Mr MADDISON (Ku-ring-gai), Deputy Leader of the Opposition [4.11]: I am glad that I have been asked to lead for the Opposition on this bill; I had the privilege of introducing the original legislation—now the Ombudsman Act. I welcome the bill—as the Opposition does generally—for it is in accord with the policies of the Liberal Party and Country Party as announced during the recent State election campaign. I was a little surprised that at the introductory stage and the second-reading stage the Premier made some remarks of a cute political nature. In his speech at the introductory stage, the Premier made a gross error when he said that the bill brings the powers of the Ombudsman into line with the original recommendations of the Law Reform Commission.

The Law Reform Commission specifically recommended against the inclusion in the Ombudsman's jurisdiction of a right to look at complaints made by citizens in regard to administration at the local government level. Indeed, that report set out fairly clearly the reasons why the commission felt that it was inopportune in the first instance for the Ombudsman's jurisdiction to be as wide as is now contemplated by the bill. Part of the Law Reform Commission's report reads:

We see practical difficulties arising if the initial jurisdiction of an ombudsman in New South Wales includes local government authorities. State government activities are in the main controlled from Sydney but local government activities are controlled from many different cities and towns. Access by an ombudsman to senior public officials, files and information in Sydney should be easy. The same access in country areas must, however, give rise to problems which the Ombudsman should not, in our view, be asked to face at the outset.

The Government of which I was a member took the view that the Law Reform Commission was being practical and realistic in recognizing that, in setting up for the first time a new institution in this State—the office of Ombudsman—it would be unwise to overburden him at the outset with problems that would arise in respect of complaints made by citizens in terms of local government administration.

It is important that when we are debating this bill, which rightly extends the jurisdiction of the Ombudsman, we should reaffirm our belief in the value the office of Ombudsman gives the citizens of New South Wales. Indeed, I am certain that throughout the State there will be great endorsement of this measure which will enable a citizen to complain to an independent source about the way in which he or she has been dealt with administratively by a local council. One other criticism one heard voiced prior to the introduction of the Ombudsman legislation was that the public servant—and presumably now the local government official—would fear the intrusion of an outside body into the affairs of government or the affairs of local government. It is probably true to say that during the time that the Ombudsman Act has been in force in New South Wales the public service has come to accept the office of Ombudsman as a useful independent check of the efficiency, decision-making skill and prowess of individual public servants. I believe that this will be the same with local government authorities and their respective staffs.

Throughout the records of Ombudsmen in this country, New Zealand and other places, a large number of complaints have been found to be completely unjustified. It has given a great deal of satisfaction to administrations, whether in government

or local government, that those complaints have been unjustified. But it is the independence of the office of Ombudsman that is of importance to citizens; they realize that the authority that originally made the decision has had that decision reviewed by somebody other than the authority itself. The Premier, in his second-reading speech, said that because the measure did not embrace local government when it was introduced into this Parliament, citizens were deprived of avenues of redress. He said that the jurisdiction of the office had been limited.

The bill provides that it will not be possible for a grievance to be raised with the Ombudsman before the date proclaimed for the coming into operation of the measure. If the Premier is really serious about giving some right of redress to citizens who have a grievance about some administrative act that occurred, say, in the past twelve months, there is no reason why the bill should not so provide. It will be recalled that in the enabling bill special provision was made for it to go back for a period of twelve months so as to pick up these people who, now it is said by the Premier, are aggrieved as a result of not being able to make use of the Ombudsman in pursuing complaints against local government authorities. To use one of the phrases that the Premier is so wont to use—enough of this humbug. The Premier could correct what he has complained about by making an appropriate amendment to the legislation. I am certain that the former Government was right in its initial stand to see first how the investigatory procedures engaged in by the Ombudsman worked out before moving into the local government area.

The extension encompassed by the bill will probably add threefold to the Ombudsman's workload. Extra investigatory, legal and clerical staff will be needed. I have no doubt whatever that the Government will feel obliged, and rightly so in my opinion, to appoint a deputy ombudsman and, certainly, special officers who are provided for by section 10 of the Act. It is interesting to look at the experience in Western Australia where the Ombudsman, right from the start, has had the power to look at local government complaints. It is of no use trying to compare the situation in New South Wales with that in Western Australia, because of the small population there compared with the population of New South Wales, but if one looks at the report of the Western Australian Ombudsman for the year ended 30th June, 1974, one finds that he reported that 151 complaints which he received in all his fields of jurisdiction were justified. Of that number, 24 related to complaints about the administration of State government departments; 51 to administrative acts of State instrumentalities and 76 to complaints related to local government authorities. Therefore, in the year ended 30th June, 1974, the Western Australian Ombudsman found that 50 per cent of the complaints he considered justified were in respect of local government authorities.

For the year ended 30th June, 1975, there is a somewhat similar picture in Western Australia. In his report covering that year the Ombudsman shows that of 160 complaints that were found to be justified, 15 related to the administration of State government departments; 73 related to State instrumentalities and 72 related to local government authorities. The local government authority complaints found to be justified in that year represented 45 per cent of all the complaints found to be justified. In that same State in the year ended 30th June, 1975, of a total of 828 complaints that were dealt with by the Ombudsman in one way or the other, 32 per cent related to local government authorities.

Until recent times the New Zealand Ombudsman had not been given jurisdiction to inquire into complaints relating to local government authorities. The last report available to me from the Parliamentary Library is for the year ended 31st March, 1975. Presumably by now another report is available for the year ended 31st March, 1976,

Mr Maddison]

though it is not yet in the Parliamentary Library. When the report for the year ended 31st March, 1975, was being written there were amendments in the New Zealand Legislature to extend the powers of the Ombudsman to look at local government complaints. The report is interesting because the New Zealand Ombudsman was projecting forward to what the increase in his workload would be as a result of the extension of his jurisdiction. In his report he said that he assessed that twice as many man-hours would be necessary to investigate complaints against local government authorities as were required for complaints against the Government. He said that the workload would be three times the present load, and that it would be necessary to set up regional offices and to have a further nine investigating officers, with the necessary back-up staff. He pointed out that he thought the personal influence and involvement of the Ombudsman would be diminished.

One of the most important features of an Ombudsman is the regard in which he is held by the community. He gains that regard often as a result of his personal activities. Once the office is extended and further investigatory officers are required, the citizen is removed a little further away than he is from a small, confined office. That is not to say that if the jurisdiction is extended the necessary work can be undertaken with the required skill by the same staff. It will be interesting to see what the New Zealand Ombudsman reports for the year ended 31st March, 1976, following **the** taking up of the extended jurisdiction. Undoubtedly there will be an increased workload for the New South Wales Ombudsman—it could not be otherwise. Citizens should not be critical of the small increase in the Ombudsman's budget; the advantage all round to them and to local **government** will be substantial indeed.

I do not want it to be thought that I am expressing a critical view of each and every local government authority in New South Wales. Honourable members know of the special efforts being made by many councils to produce a better relationship between the council and citizens. Some councils have appointed officers to try to sort out complaints **made** by citizens about administrative procedures and acts of councils. As I said earlier, I think when the Ombudsman's jurisdiction has been extended by this bill a great deal of satisfaction will be experienced by staffs of councils in the large number of complaints that will be found to be unjustified. Experience round the world is that between 20 per cent and 30 per cent—usually closer to **20** per cent than **30** per cent—of complaints made by citizens are justified; the rest are unjustified.

I am not satisfied with the terms of the extension of the definition of public authority merely to include any local government authority. I direct attention to that in the bill. It does not seem to go quite far enough. It will be seen from the bill that local government authority means a council within the meaning of the Local Government Act, 1919, a county council, within the meaning of that Act or an urban committee constituted under part XXVII of that Act. That is all right as far as it goes but I suggest to you, Mr Speaker, and to the Premier, that employees of councils should be included in the definition of public authority. The decision of a council is not the only act that should be examinable by the Ombudsman. As far as administrative acts are concerned we should be looking at the decisions of people in the service of the council, such as the town clerk, engineer, health inspector, the clerk at the counter and so on down the line.

Section 5 of the Ombudsman Act is the definition section. I shall not go through the full range of people and authorities that are covered by the definition public authority but it is important to observe that by and large it is directed at persons. For example, public authority includes any person appointed to an office by the Governor; any officer of the Public Service; any person in the service of the Crown or of any statutory body representing the Crown; any person in relation to whom or to whose function an account is kept of administration or working expenses,

where the account, among other things, is required to be kept under the provisions of the Audit Act; and any holder of an office declared by the regulations to be an office of a public authority for the purposes of the Act. In general terms the kind of inquiry that the Ombudsman will be asked to make will not be into a decision of a local government authority as such; he will be asked to look at the decision made down the line from the council.

The bill will amend the schedule to the Act by deleting paragraph 11, which contains the words: "Conduct of the Council of the City of Sydney and of the Sydney County Council and of the officers and employees of those councils." Section 13 (3) of the Western Australian Act giving the Ombudsman his jurisdiction in that State provides:

For the purposes of this Act—

- (a) references to a government department or authority shall be construed as including references to each of the members, officers and employees thereof.

I know of no rule of construction which can be said to imply that where one is looking at a local government authority or, as in this case, where the Ombudsman is given power to look at the decision of a local government authority, it embraces decisions that are made down the line by senior officers of a council, middle-ranking officers, or even junior officers. Therefore at the Committee stage I propose to move an amendment which will put the matter beyond doubt.

My experience has been that when one is examining a complaint about an act of administration it is a person, an officer or an employee who is involved and is responsible and not the governing body or authority. It may be the governing authority, but that is not usual. I do not exclude that on some occasions a local government authority will be making decisions in regard to administration, but the general decisions made would be related mainly to policy matters which in many instances, if not in most, give rise or can give rise to an appeal to a tribunal. Under the provisions of the bill the House is discussing, these matters will be outside the examinable field of the Ombudsman.

I ask the Premier to look closely in Committee at the proposed amendment to determine whether he can accede to it. Without it the bill is seriously and substantially deficient by not giving the Ombudsman the complete jurisdiction which it would be hoped he would have on the passing of the bill. I do not wish to delay the House any longer. I believe the bill is a **forward** move and that the citizens of New South Wales will be considerably advantaged by the expansion of the Ombudsman's jurisdiction. Further, I believe that local government administration will be improved as the result of the oversighting of council decisions by the Ombudsman following complaints from citizens.

Mr HATTON (South Coast) [4.35]: When the Ombudsman Bill was introduced by the previous Government I congratulated it. I should like to add to those congratulations that in my opinion it was one of the most progressive pieces of legislation I have ever seen come before a parliament. I say this as one who holds as important the protection of the rights of the individual. I accept that the extension of the powers of the Ombudsman to include local government matters will greatly increase his workload and may require the establishment of regional offices and increased staff. This will have many advantages, particularly for country people who should have easy access to the Ombudsman on all matters with a minimum of trouble. One should have the opportunity to approach personally the Ombudsman rather than merely to speak to him or his representative by telephone.

I was interested to hear that 50 per cent of all justifiable complaints lodged in Western Australia came from local government matters. This is another reason why New South Wales should expand into that area. I served for nine years in local government, including in the offices of president and deputy president of a shire council and as a member of the executive of the Shires Association. During that time I observed that emotional atmospheres can surround council decisions. When one looks at a decision some months after one supported it one may not then adopt the same approach to it. When I was deputy shire president I was called to give evidence before the Land and Valuation Court in a test case on a local loan rate to finance flood mitigation works. The case ultimately set a precedent for New South Wales. As a young councillor I was in the witness-box for two hours under cross-examination by two Queen's Counsel as well as questioning by the judge. I assure the House that it was a most sobering experience, and one that has influenced me ever since. After having to justify a decision in front of an independent arbitrator one thinks twice about one's reasons for a decision.

The bill will help to ensure that councillors and aldermen adopt a mature approach to problems placed before them. What I am saying is not meant to belittle them in any respect. One must acknowledge that aldermen and councillors perform their tasks in their spare time, which may be limited. That is another reason why the Ombudsman will be important in oversighting local government decisions. Obviously aldermen and councillors must rely on senior council officers for advice. As well, the policy decisions made by aldermen and councillors are based upon their experience and the time they are able to give to their tasks. Mistakes may be made, especially when a decision required more consideration than could be given it. Sometimes citizens are unnecessarily put through the wringer, as it were. For these reasons a citizen ought to have access to the Ombudsman to seek his assistance to sort out any problems related to local government.

My experience has been that the New South Wales Ombudsman is a careful, independent, conscientious and thorough person, but because local government is close to the people one would think that wrongs in local government should be righted. Generally speaking, that has not been so. Decisions taken at local council level have a real, personal effect on citizens. Hardships may be inflicted in many ways upon the individual, the family and community organizations.

The proposed amendments to section 5 of the Act should be extended to include council officers. In my experience in local government some of the most painful local decisions are made by council officers. Many people spend a lot of money on the say-so of a senior officer of a council, only to find later that it has been wasted. There is, I understand, a decision of the House of Lords that a citizen who has acted in good faith on the advice of a senior officer of a local government authority, despite the fact that that officer may not technically have had the authority to act as he did, may claim damages from the authority. I believe this should be so. Many people, particularly when dealing with town planning matters, place a great deal of faith in the advice of a council town planner or, when handling building matters, in the advice of the council surveyor, only to find later that they have incurred additional and unnecessary expense and have been put to unnecessary hardship. It is important that officers of councils should be embraced in the definition of local government authority.

Despite the fact that the Local Government Act is prescriptive, many councils lay down their own rules. For example, the Shoalhaven shire council requires a bond to be entered into to ensure the completion of a building. Also, that council has laid down a minimum size for a dwelling which I am sure is at variance with the ordinance, but unless the council's rule is tested in court, a person may go to the additional expense of building to the council's minimum requirements, even though they have

been imposed in a quasi-official manner and may not stand up in court. Many councils are said to impose exorbitant charges for sanitary services where no service is provided. Some councils in New South Wales are adopting what I consider to be clandestine methods of raising funds. They include an enormous increase in fees for development applications, building applications, sewerage connections and so on. I object to these methods of raising revenue.

Some areas in which the citizen is able to avail himself of an avenue of appeal are not covered by the bill. I am sorry about that, but I can see the science in that approach. For example, circumstances affecting the use that can be made of land, is one area where tremendous hardship is inflicted. I have in mind here the nuisance caused by a service station or a motel constructed in a quiet residential area.

I could cite many incorrect town planning decisions. The present appeals system does not work as well in the citizen's favour as an approach to the Ombudsman could prove to be. Other examples of hardship to landowners include the rating of land where zoning forbids building and the use of that land for certain purposes—for example, as a water catchment area or for subdivision into small blocks where there are 25-acre or 100-acre minimum areas, or for ribbon development or areas where there has been premature subdivision. Many thousands of landowners throughout New South Wales are paying rates and getting no benefit except the general one that is very carefully looked after in the unimproved capital value. These deficiencies in town planning indicate that many thousands of people will be protesting to the Ombudsman and that there will be a rapid escalation in this work. Often the inaction of a council would need to be taken up with the Ombudsman. Delays in building approvals, development applications and approvals for subdivisions cost a fortune. A lot of people are involved in those decisions. The relocation of a small industry from one side of a street to the other can take six months, twelve months or even years. Sometimes the delay makes the proposition uneconomic because of the additional expense. I know that the present Minister for Local Government is concerned about these delays and is looking after them.

I believe that following the implementation of this bill the Ombudsman will be available to councillors and aldermen who are in a minority on a major council decision. They might be able to take a matter such as that to the Ombudsman on behalf of the people whom they represent. This is good. Councillors who are dismissed, as recently happened at the Mumbulla shire council, whether they are innocent or guilty will be able to look at the report of the inspector and challenge the points that he has made and the reasons for his recommendation. This is to be applauded.

The compulsory acquisition of land by councils is an area to which the Ombudsman will be able to bring justice. Problems arising over mistakes in billing for water, gas and electricity charges and the recovery of moneys, the fixing of minimum rates, have a very wide application in New South Wales. I have asked the Minister for Local Government to look into those aspects. In the Shoalhaven shire 75 per cent of ratepayers pay the minimum rate and in the Eurobodalla shire almost 90 per cent of ratepayers are eligible for the minimum rate category. This has a tremendous impact when people are being confronted with a minimum rate bill of \$2, \$3 or \$4 a week.

I shall be disappointed if the Government does not honour what it promised when in Opposition, that it would bring the activities of the police under the Ombudsman. This is a matter for which I will be pressing. Either the police should be brought under the umbrella of the Ombudsman or other legislation should be introduced to provide for proper avenue of appeal to an independent authority. It is a truism that a few bad police can give the police force a bad name.

Mr Hatton]

I should also like to see a provision written into the Act to ensure that the Ombudsman should not be required to consult the Minister. I should prefer the Ombudsman to be able to report direct to the Parliament. Government members when in opposition expressed keen support for this proposal but now that they are in government they may not be so keen about it. Let us face facts. The Local Government Act is an obsolete, hotch-potch mess of additions and subtractions. I wish the Ombudsman a lot of luck.

Mr FISHER (Upper Hunter) [4.48]: I wish to rise briefly to speak in support of this bill. As indicated by other members on this side of the House, it is not our intention to oppose the extension of the powers of the Ombudsman into local government. The Leader of the Opposition has pointed out that in the recent election campaign the policy of the Liberal-Country parties included the proposal incorporated in this measure. During the debate on the original bill in May, 1974, the Opposition moved an amendment that sought to extend the powers of the Ombudsman into local government. As was mentioned this afternoon, quite rightly and properly that amendment was rejected. It was felt at the time that the office of the Ombudsman should be established, the staff should be recruited and that initially the Ombudsman's powers should extend only to State Government instrumentalities and departments. That has now been in operation for some two years. Mr Kenneth Smithers, Q.C., has carried out his task with a great deal of success and credit to himself and his officers.

In an age when government regulations, by-laws and ordinances are becoming increasingly complex, many decisions by governments and local councils are made by servants of those bodies and it is inevitable that people affected by them sometimes wish to lodge an appeal. The extension of the Ombudsman's role into local government will be welcomed by the community, and local government generally will have no objection.

The honourable member for South Coast and other members have pointed out that with 270 councils in New South Wales, the staff of the Ombudsman will have to be increased substantially to cope with the additional work. If the services of the Ombudsman are to be readily available throughout New South Wales, it will be necessary that his office be decentralized and branches set up in all major centres of population throughout the State. I trust the Premier will not overlook the need to give adequate service to the many people in the country areas of New South Wales. The cost of the Ombudsman's services in local government matters will initially be borne by the State Government. I trust that no additional burden will ultimately be thrust upon ratepayers. When the Ombudsman's workload is considerably increased, the Government may consider imposing the cost of his services on ratepayers. I hope it does not.

One aspect of the legislation that causes me some concern has relation to the individual's privacy. Section 17 of the principal Act makes due provision that any investigation shall be conducted in the absence of the public. Consequently, the interests of the individual are protected. This is right and proper. However, section 26 prescribes that the Ombudsman shall give a report to the responsible Minister. Recent experience indicates that if the person concerned is a political opponent of the Minister he may well disclose private and confidential information that comes into his possession. The public will want to know to what extent an individual's private affairs are to be protected. The Premier is aware that recently a senior Minister of his Government disclosed confidential details affecting certain members of this House. That information could have come before that Minister only from the files of a statutory authority.

Will the same position apply when a responsible Minister receives a report from the Ombudsman? The privacy of the individual could well be gravely affected. The people of New South Wales will want an assurance from the Premier and the Government that if the Ombudsman's reports to a responsible Minister disclose private and confidential information, they shall not be made public. The great respect that the Ombudsman has earned is due in large measure to the confidentiality of his reports. With that reservation, I believe that local government generally and the people of New South Wales will welcome this extension of the powers of the Ombudsman into local government. I and my colleagues hope he will continue to serve his office in local government with the same distinction as that which he has displayed in the past two years in dealing with problems affecting State government departments.

Mr McGINTY (Willoughby) [4.57]: I want to be associated with this bill for many reasons. First, there is no doubt whatsoever that the previous Government made a progressive move when it brought down legislation to set up the office of Ombudsman some two years ago. That action has given private citizens an effective and inexpensive means of appealing from decisions made by Government departments. There is no doubt that the legislation, which was introduced following a recommendation by the Law Reform Commission, is a worthwhile step forward in the interests of the people. A few years ago the Attorney-General and I, when attending the Commonwealth Law Convention in Delhi, were privileged with other delegates to study the role played by ombudsmen in other parts of the world. We were told that the first ombudsman took office in China before the time of Christ. The office has gone a long way since then. The Attorney-General agreed that the system introduced in this State is a good one. The former Government studied the office of ombudsman in other countries throughout the world and profited from its shortcomings in some of them. Having seen our Ombudsman in operation in New South Wales, we of the Opposition are satisfied with the system.

The Government is now having the legislation amended to extend the work of the Ombudsman to local government. We of the Opposition should have liked this aspect to be included in the original legislation, but as the honourable member for Ku-ring-gai explained when introducing it, he acted on the advice of the Law Reform Commission to proceed slowly and take it in stages. This method has worked in other fields. I refer particularly to the Builders Licensing Act, which at first was confined to the registration of builders but has since been extended to include the licensing of sub-contractors throughout the building industry.

We felt at the time—and I believe it is true—that if we encompassed all tradesmen and builders under the licensing provisions we would kill the industry. I am sure, also, that had we extended the Ombudsman into local government from the start, we would have killed the Ombudsman. He is hale and hearty now, and is ready to take on this job. He estimates—and I agree that this is so—that his workload will almost double.

In his second-reading speech the Premier suggested that we made this promise only at the last election, for election purposes. There is no doubt that delaying the introduction of this extension of this benefit to local government has enhanced the system and its operation generally. The Premier suggested that we referred to election promises being valid only during election campaigns.

Mr Wran: That is what Mr Fraser said.

Mr McGINTY: It is not a bad sort of a reference. The Leader of the Opposition did not get a chance to prove it one way or the other. But a constituent of mine, Mr Campbell Egan, has a few words to say about what was promised to him in respect

of legalized casinos. I support the view expressed by the honourable member for Kuring-gai, that the definition of public authority should be extended to include staff, officers and members of councils. I realize that this is not in dispute between the Government and the Opposition, and I know that we all recognize that by far the greatest number of complaints will be from the true administrative side of the council—from its officers who are interpreting and administering policies of council and other matters referred to it. These things are not in dispute.

It has been said that the present definition of public authority might or should cover, or could be said to cover, members, officers, staff and employees. I have had a good look at the definition of public authority in the Act, and I suppose it could be said that paragraph (e) covers a wide area when it refers to any person in relation to whose function an account is kept of administration or working expenses where the matter is subject to the Audit Act and so on. But there is a doubt. I know that the Premier's intentions are the same as ours, and I exhort him to place this matter beyond doubt, by enlarging the definition in the proposed addition to paragraph (g) (ii) of the definition of public authority to cover the people we believe this legislation will affect most. Therefore, I shall be supporting the Opposition in Committee when we attempt to do that.

Mr ROZZOLI (Hawkesbury) [5.3]: I join with honourable members on this side in stating that I am not opposed in any way to the principle of extending the powers of the Ombudsman to local government. However, a few aspects are giving me considerable concern. I do not know whether it is possible at this point to draft legislation to overcome these problems or to determine whether the problems I envisage will eventuate. Certainly I should not oppose the legislation on the possibility that these problems might arise.

I am concerned that the cost of this extension of the operations of the Ombudsman's office, especially if the intention is to apply the same high level of diligence to the investigations in local government as have hitherto been applied to the areas at present under his jurisdiction. The principle of being able to go to an ombudsman with a form of appeal at a low cost is quite commendable, but it is incumbent on any government that sets up forms of appeal to examine the balance between the provision of a service to the community and the total cost that has to be borne by the community. One can take it through to the ultimate degree, and say that the maximum provision should be made for people to test and contest decisions that affect their daily lives. But in all things there must be some balance.

If honourable members were to add up all the local-government authorities, county councils, flood mitigation authorities, electricity authorities and other special-purpose councils in New South Wales they would finish with an extraordinary number. I do not particularly envy the Ombudsman the onslaught of work he will obviously get as a result of this legislation. We shall be proposing an amendment to the area the Ombudsman can examine. I speak not so much of the subject of our amendment, but the area at present included in the bill. I refer to the possible erosion of the rights of councils, as representatives of the local people, to make decisions on behalf of their communities.

It is often said that local government is the tier of government closest to the people. I do not always see local government as strictly a tier of government, in the same sense as are federal and State governments. Nevertheless, it is an area of representation that is close to the people, and because of that it has connotations not found in other fields. For example, the people have far greater access to their local council representatives than they have to their State and federal members. In the

country and the outer-suburban areas the people know their local government representatives on a much more personal basis, and therefore have a greater capacity to approach councillors or aldermen to put a view directly.

The decisions made in the council chamber are made on a consensus, guided by each councillor expressing his opinion as an individual. If they choose, members of the public have the right to attend the council chambers and to witness the deliberation of their council, viewing the taking of votes on various subjects, and seeing whether their aldermen are supporting or opposing an issue. They can take lobbying action accordingly.

Mr Quinn: But the council probably goes into committee, and they cannot see what happens there. The public is excluded.

Mr ROZZOLI: Yes. But no matter what is decided in committee, at some stage it has to come to open council for ratification.

Mr Quinn: Yes, when it is unanimous.

Mr ROZZOLI: If a council decides a matter unanimously, then the public may take appropriate action, but I agree that it is deplorable that in some cases the more interesting debate takes place behind closed doors. Nevertheless, ultimately the point of decision must be observable by the public, which knows that Councillor A or Councillor B voted in a certain way, and might frame further action in the light of that knowledge or, if the matter has not been brought to finality, seek access to those councillors before a subsequent decision is taken.

I speak from my experience in local government when I say that many of the issues that lead to the loudest complaint are parochial. It is surprising how major decisions of councils, sometimes involving expenditure of hundreds of thousands of dollars, or even millions of dollars, go through with little argument. It is the smaller, more personal issues that generate the greatest heat in council debate, and subsequent controversy in local newspapers. It seems to me to be difficult to ask somebody such as an ombudsman, who does not know the district, to determine whether the council has done the right thing, especially as members of the council are the ones with a good knowledge of the local circumstances. I certainly do not envy the Ombudsman that role.

On the other hand, there is an obvious case for action to be taken by the Ombudsman in relation to decisions, perhaps, of council officers made in the day-to-day administration of council business. Such matters might include inspections of shops selling foodstuffs, or the manner in which applications for building approvals are processed. In respect of those matters, I say all the more power to the Ombudsman's arm. He should be able to inquire into many complaints of that sort, which at present come before honourable members and are not within their specific jurisdiction. I have no doubt that most honourable members would prefer the Ombudsman to sort out these problems even though we, as members of parliament, deal with them willingly.

In looking at the rights of the individual to contest or to test through the office of Ombudsman the decisions or actions of local councils, one must keep in mind that members of the public do not always make full use of remedies already available to them, and on this aspect one comes back to the subject of the costs involved. I repeat that I have no objection in principle to providing the widest opportunity for persons to safeguard their own interests. However, it is necessary to keep in mind the cost involved in having the Ombudsman discharge these functions, and to relate it to the need. There are many ways in which citizens can make their views known to local councillors and to achieve what the Ombudsman could do, provided those

citizens are willing to take the initiative. Perhaps it would be far easier for them to go to the Ombudsman and ask him to attend to their problem. Nevertheless, channels are already available to the public to have these matters looked at.

I believe that all local councillors should be regarded as ombudsmen, much as members of parliament find that role coming within the ambit of their duties, and perform it gladly. However we should not overlook the functions of citizen action groups, for example, which perform similar tasks. Citizen action groups are a phenomenon of recent years. I am all in favour of them, for they are using their initiative and doing things for themselves. That is to be commended. I wonder whether one of the by-products of extending the authority of the Ombudsman into local government will be to break down the role of citizen action groups when the public will have available easier ways of having problems examined. The easier solution of problems might seem commendable, but equally it is commendable for the community to be involved in its own affairs. Citizen action groups give a meaningful expression of community views, and I hope that this bill will not reduce their motivation or limit their effectiveness. If it does, it will compound the effect of other legislation foreshadowed by the Government. I refer to the proposal to reintroduce compulsory voting in local government elections, which in my view will strike one of the sorriest blows at the citizen action movement.

We must look at these proposals on a cumulative basis and decide whether their total effect on the community really is what on the surface it appears to be. We know the view of the Premier on the character and ability of local-government representatives. When he was Leader of the Opposition, the Premier made several extremely derogatory remarks about the quality of local government representatives, and although I should not like to attribute anything contained in this bill to a motivation of that type, I cannot help but wonder as these matters build up. One must bear in mind always that the present Government does not really like local government any more than it likes State governments, believing as it does in the ultimate centralization of all power in one government in Canberra.

Mr Quinn: Not now.

Mr ROZZOLI: That is good to hear. I should like to think that the assurance was genuine, and that at least we shall have a stay of execution for the term of the present Government. The honourable member for South Coast made the interesting statement that the role of the Ombudsman will lead to greater maturity among aldermen and councillors. Obviously he believes that as local government representatives will be under the threat of some sort of surveillance, they will approach their deliberations with greater conscientiousness, greater thoughtfulness, and perhaps with a greater sense of responsibility, knowing that they might have to account to someone else for their actions. I already attribute to most local government representatives the qualities suggested by the honourable member for South Coast as being necessary. I hope that this legislation is not used in some way to bully or to intimidate local government representatives in their deliberations. The men and women involved are volunteers. They receive a small amount of remuneration for their services—a maximum payment of \$500 a year for attendance at council meetings. That figure is due for revision, and the Minister for Local Government might well bear that in mind, for I am sure all honourable members would be glad to see those fees increased. As I was saying, most of the people involved are volunteers—amateurs working on behalf of the community they represent. They come from, and are part of, that community.

There is perhaps a possibility that should they sense that the shadow of the Ombudsman is too heavy upon them they will make the safe and unimaginative decision that the status quo will remain for fear they might be called to account by

an outside body. These are areas of concern to me. I do not say that these things will necessarily happen. I should not say that the legislation ought not be brought in on the offchance that they may happen. However, I invite the attention of the House to these matters now so that as the role of the Ombudsman expands we might examine its effect.

On this question of appeals by the public from decisions of a council, we must look closely at third-party appeals. There is in existence a reasonably adequate system of appeal for persons who want to do something but are refused permission or placed under stringent conditions applied by the local government authority. The citizen affected by a proposed development should be considered. This is a difficult and complex field. There may be a more satisfactory way of dealing with many of these local government matters than by referring them to someone of the nature of an ombudsman.

Finally, the workload that will fall upon the Ombudsman will increase enormously. The Ombudsman has been the subject of extensive publicity and quite a deal of attention from the public. No doubt many matters that might be taken to him now do not come forward. With the extension of the Ombudsman's powers to local government many more people will become aware of the Ombudsman and will learn how to approach him, what he can do and what he cannot do. Naturally, the extension of the Ombudsman's powers into local government, by making more people aware of his existence, will increase a number of matters in the general field of administration which are taken to him. Parallel with the great build-up of workload will be the **loss** of personal contact of the Ombudsman or even his immediate representatives with the people.

In local government matters the Ombudsman will be called upon to travel widely throughout the State. He will have to assess and discuss matters on site with people involved. It will be too expensive to bring to Sydney all the people involved in an ombudsman inquiry; obviously the Ombudsman will have to go to the people. This will necessarily involve his spending a vast amount of time travelling. In effect, the Ombudsman will consider one complaint a day. It will take him half a day to get to the location of a particular complaint; the hearing will take an hour or so; and he will spend the remainder of the day travelling home again. Though this will not be **a** problem in theory it will create a problem in logistics with regard to the number of people involved with the Ombudsman and how much work he can get through.

I shall conclude on the point I mentioned when I began my address and refer again to the increase in costs. If statistics relating to the Ombudsman are reasonably correct it would appear that between **20** per cent and **30** per cent of complaints are valid and the remainder invalid, involving a heavy cost to no avail. The role of the Ombudsman in local government should be reviewed from time to time and the nature of matters coming before him pruned. Trivial matters that could be easily resolved in another arena might have to be referred to an efficient department. The essence and purpose of **the** office of Ombudsman is to provide a facility to people who have a real need for it.

Mr **WRAN** (Bass Hill), Premier [5.26], in reply: This has been a good and thoughtful debate in relation to a bill which is of a particular, and I hope, lasting **significance**. Nobody would disagree with the observations of the honourable member for South Coast that the Ombudsman Act which resulted from a bill introduced by the present Opposition when it was the Government was a most important piece of legislation and one which, by virtue of the person who was chosen to be the Ombudsman, has

worked satisfactorily in the interests of the administration of justice as was contemplated so many years ago by the Law Reform Commission when it made this recommendation.

I wish to thank all the honourable members who took part in the debate for what I think were in the main constructive suggestions and contributions, though at times somewhat misguided. The only slightly prickly comment in the debate was the remark by the Deputy Leader of the Opposition that when at the introductory stage I referred to this amending bill, in effect, giving force to the original recommendations of the Law Reform Commission, I was in error. That was really engaging in an exercise in semantics. What I intended to say, though I did it somewhat clumsily, was that this amending bill gives effect to the general intention of the Law Reform Commission that although local government was to be excluded originally it would be introduced later on. This circumstance was referred to by the honourable member for Willoughby. Indeed it was dealt with in terms—for those members interested—in paragraph 42 of the Law Reform Commission's explanatory notes to the bill as originally drawn. Nit-picking aside, the most important issue that has been raised in the debate is whether the legislation as proposed goes far enough.

There seems to be some fear on the part of the Opposition, and indeed it is shared by the honourable member for South Coast—though I hope we can disabuse his mind of that fear—that the bill as presented to the Parliament does not cover or apply to employees of councils. Indeed, the Deputy Leader of the Opposition has foreshadowed an amendment designed to state in terms that any particular officer or any employee of local government authority will be subject to the purview of the amending legislation.

If there has been any misfire in the drafting of the bill, let me make it clear at the outset that the Government's intention is—and has always been—that employees and officers of local government authorities would be covered by this measure. Indeed, it was a matter that was directly the subject of concern by the Parliamentary Counsel and the Ombudsman. I do not think I am saying anything untoward when I mention the fact that the Ombudsman was consulted on this most important extension of his jurisdiction. It was felt that there was no reason for any doubt that the bill would cover employees of councils by virtue of the words and reasoning used. If honourable members will turn to schedule 1 of the bill, they will see that paragraph (2) (c) provides:

(c) Section 15 (1), definition of "public authority"—

(i) From paragraph (g), omit "and".

(ii) After paragraph (g), insert:—

(g1) any local government authority;

From that point onwards it was considered that paragraph (h) embraced officials and employees of local councils. Section 5 (1) (h) of the principal Act provides that public authority means "any person acting for or on behalf of, or in the place of, or as deputy or delegate of, any person described in any of the foregoing paragraphs". Then one has to go to the Interpretation Act. Section 21 (c) of that Act provides that the words person and party shall include bodies politic or corporate as well as individuals. If one transposed that definition to paragraph (h) of the definition of public authority set out in section 5 (1) of the principal Act, it would read: "Any person . . . or deputy or delegate of local government authority, it being a body corporate"—and possibly politic.

I do not want to resist the amendment in the sense that I do not want the legislation to misfire. As the Deputy Leader of the Opposition has been good enough to take this attitude—and I say this sincerely because this is a serious matter and words mean a lot in legislation, as we all know—between now and the time the bill gets to the Legislative Council I shall take much more positive advice from the Crown Solicitor on the point. If there is even a slight ambiguity—since we all have a common purpose in endeavouring to achieve the same end as to the scope of the amending bill—the Opposition can be assured that the amendment will be attended to in the Legislative Council.

At present, the advice that I have had—this very question being part of the terms of reference given to the Parliamentary Counsel—is that the bill is wide enough to cover employees of councils. That being so, I prefer to leave it as it is. If it has misfired in the drafting in some way, it will be attended to in the upper House. The Opposition and this House has my assurance on that. As a matter of interest—and I only thought in passing of the point almost by way of argumentative invention, and it does not derogate from the argument put forward by the Leader of the Opposition—I point out that paragraph (g) of the definition of public authority confers a regulation-making power. That paragraph reads:

(g) any holder of an office declared by the regulations to be an office of a public authority for the purposes of this Act;

I do not pretend for one moment that the making of a regulation defining who shall or shall not be employees covered by the Act should be the proper way of going about it; it should be defined in the Act itself rather than by way of regulation. I suppose that if one wants to be pedantic, there might be a case for keeping out rodent exterminators and some others from the otherwise overburdened duties of the Ombudsman. However, that was not our intention.

There is no doubt, as a number of honourable members have said, that this measure will unquestionably increase the workload of the Ombudsman. The honourable member for Hawkesbury seems to have one foot on the wharf and one on the ship; on the one hand, he seemed to be approving the measure, but on the other he seemed to be giving it a good kick in the belly by saying how costly it would be and that he does not envy the task of the Ombudsman. The honourable member said he hopes that these poor innocent aldermen and shire councillors will not be bullied or intimidated. I have yet to meet one of those persons. They must be in the Hawkesbury area; they are certainly not in the places I visit. The honourable member for Hawkesbury foresaw that the Ombudsman would be worn out by travelling about the State, holding court, as it were, in far and distant places from which objections and complaints could come. That argument fails to recognize that at the present time the Ombudsman receives complaints from all over New South Wales and he deals with them in the way in which his capacity and that of his officers permit.

As I have said, there is no doubt that the work of the Ombudsman will be increased immeasurably, but I direct the attention of honourable members—in particular the honourable member for Hawkesbury—to section 9 of the principal Act. It provides:

The Ombudsman may, with the concurrence of the Minister, appoint an officer of the Ombudsman to be a special officer of the Ombudsman.

Section 10 goes on to provide that the Ombudsman may delegate to a special officer of the Ombudsman the exercise or performance of any powers, authorities, duties or functions of the Ombudsman. Therefore, if the Ombudsman has a complaint from the back of Bourke—or Wagga Wagga or another of those famous places—and he does not have the time to go there personally, he would send his special officer to the spot

Mr Wran]

to collect the material and further investigate the complaint. He would then make his decision in the ordinary course of events. There is provision for the Ombudsman to have other special officers. It is ~~the~~ Government's intention that the Ombudsman will be assisted by the appointment of more special officers after the bill has received Royal assent. Also, the Government is giving consideration to appointing a deputy ombudsman, in accordance with the provisions of the Act. Honourable members may be assured that although we have a most diligent, honourable and capable Ombudsman in New South Wales, he is not in fear of imminent exhaustion, despite the fact that his workload will be increased immeasurably.

Mr Rozzoli: I am concerned about his remoteness ~~from~~ complaints.

Mr WRAN: The special officers will go to areas that are remote and far-flung and they will perform their duties there. Also, as I have said, the Government is contemplating the appointment of a deputy ombudsman to relieve the Ombudsman of some of his additional duties. One of the other substantial arguments put forward was that in some way or other the Government was not serving the public as well as it should by not making retrospective the effect of the extension of the Ombudsman's powers. This was an aspect that attracted the Government's attention when it came quickly to carry out its election promise, but the Government was persuaded that by reason of the large volume of additional complaints expected, notwithstanding the appointment of additional staff for the Ombudsman, the staff would not be able to handle the complaints if the clock were turned back for twelve months.

It was interesting that the Deputy Leader of the Opposition, by way of illustration and comparison, relied on and drew support for his argument from the New Zealand experience. Since the report of the Law Reform Commission the New Zealand Government has extended the power of the Ombudsman to local government, but when that Government did so, it did not allow for retrospective operation, and for the very reason, as all honourable members are aware, that the influx of complaints would have been of such an order that they could not possibly be handled. The House has had a full and useful discussion on the question, but I should like to mention one or two other matters.

The first, raised by the honourable member for Hawkesbury, is a proper and wise observation. He suggested that after the amending legislation has been in operation for twelve months or so we shall have the benefit of a report from the Ombudsman. If any wrinkles or difficulties emerge that we cannot foresee at present, the legislation could be brought back to the House for re-examination. This legislation is beyond party politics and no honourable member is trying to score political points from it. Both sides have been merely endeavouring to provide the best field available for the airing of these sorts of complaint.

I could not altogether follow the arguments advanced by the honourable member for Upper Hunter who talked about the privacy of individuals. I know that he was not imputing any lack of confidentiality to the Ombudsman. I imagine that he is still smarting from what happened a couple of weeks ago, but a select committee has now been appointed to put all that in order. In a few months' time there will be a register for the listing of all the directorships, shareholdings, milk quotas and so on, depending, of course, on what the select committee recommends and on what the House adopts.

Mr Rozzoli: You are pre-empting the committee's findings.

Mr WRAN: I said it would depend on what the select committee recommends. I can understand that sort of thing annoying people, but it is a little unjust to intrude that element into this debate. Returns from milk quotas were a bad example to introduce in the debate. Incidentally, that whole subject had been a question of public

debate for months. In the way things had developed, the Minister for Decentralisation and Development and Minister for Primary Industries would have been derelict in his duty if he had not brought the subject to the boil—it certainly did come to the boil in more ways than one—and give the facts in relation to the interests of members. That is the sort of case that is an exception to the general rule. I do not think that honourable members on either side of the House need be too concerned about any invasion of privacy or any breach of confidentiality about matters within the jurisdiction of the Ombudsman. I thank honourable members for their contributions. I realize the significance of the amendment foreshadowed by the Deputy Leader of the Opposition. If the Crown Solicitor thinks there is any ambiguity, it will be cured.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Page 3

20 (c) Section 5 (1), definition of "public authority" —

(i) From paragraph (g), omit "and".

(ii) After paragraph (g), insert :—

(g1) any local government authority;
and

Mr MADDISON (Ku-ring-gai), Deputy Leader of the Opposition [5.47]: I move:

That at page 3, after line 24, there be inserted the words

(g2) Any member, officer or employee of any local government authority; and

I am grateful for the remarks of the Premier in his reply to the second-reading debate and I do not intend to press this amendment to a division. I simply want to emphasize what I said during my earlier remarks, that it seems to me that the bill as drawn may be deficient. If that is so, for heaven's sake let us not throw on to the Ombudsman a problem that he may have, of seeking some authoritative or declaratory order from the court on whether or not he has jurisdiction in a particular matter. We are agreed on both sides of the Chamber that we want to make the legislation effective and that there should be no attempt to score political points on the basic issues.

I do not think the Premier can derive any comfort from his reference to the Interpretation Act. If the matter rests on that point alone, there is no comfort to be gained from that Act. I emphasize that the definition of public authority in the principal Act refers to persons, with two exceptions. One exception is "any statutory body representing the Crown". Now any local government authority is suggested as being included in the definition of a public authority. In all other respects the paragraphs in the definition of public authority in the principal Act relate to a person and do not relate to an authority, body, corporate body or any other association of people. The Premier has pointed out that section 5 (1) (h) of the definition of public authority reads:

any person acting for or on behalf of, or in the place of, or as deputy or delegate of, any person described in any of the foregoing paragraphs.

The Premier made some mention of relying on the Interpretation Act to give a special meaning to the word person, but section 5 (1) (h) refers to a person "acting for or on behalf of, or in the place of, or as deputy or delegate". I submit that a servant or an employee or an officer of a local council, is not a person acting for or on behalf of, or in the place of, or as the deputy or the delegate of another. Subsection (h) does not afford much support for the individual involved as a member, officer or employee of a local-government authority. That is the crux of my amendment. Notwithstanding what the legal advice may be from a technical point of view, I trust that for safety's sake and for the better interpretation of the legislation the Government will consider it desirable to move in another place my amendment or an amendment with the purport of what I seek.

Mr WRAN (Bass Hill), Premier [5.51]: There is no issue between the Government and the Opposition on the amendment. Again I reassure the House and give an undertaking that if there is the slightest need the amendment or, as the Deputy Leader of the Opposition has suggested, an amendment to that effect, will be made in another place, as it is euphemistically described.

Amendment negatived.

Schedule agreed to.

Adoption of Report

Bill reported from Committee without amendment, **and** report adopted on motion by Mr Wran.

PRINTING COMMITTEE

Third Report

Mr **Jones**, as Chairman, brought up the Third Report from the Printing Committee.

INDUSTRIAL ARBITRATION (AMENDMENT) BILL

Second Reading

Mr **HILLS** (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [5.55]: I move:

That this bill be now read a second time.

As I indicated at the introductory stage, the bill **will** amend industrial legislation to give effect, in their entirety, to the recommendations made by the President of the Industrial Commission to extend the powers of industrial tribunals to deal with industrial matters affecting public servants, teachers, and members of the police force, other than the senior officers of police. The proposed legislation will give effect to a policy undertaking contained in the Premier's policy speech for the May elections.

Honourable members will be aware that under the law as it stands industrial tribunals may make awards for public servants, teachers and police in respect of certain matters, including, for example, salaries, allowances and overtime rates, but they are precluded from making awards determining other matters, for example, hours of work and most conditions of employment. The inquiry conducted by the President of the

Industrial Commission was instituted for the purpose of determining whether the limitation on access to industrial tribunals for these public servants was appropriate in this day and age. The president reported that, in his opinion, it was in the public interest, and, naturally, in the interests of the public servants themselves, that with limited exceptions the powers of industrial tribunals be extended to enable them to make awards for public servants to the same degree as awards can be made in respect of employees in private industry. I again emphasize that the bill will give effect, completely, to the commission's findings. I shall now detail the provisions of the bill.

Clause 1 gives the short title of the proposed Act. Clause 2 details the amendments to the Industrial Arbitration Act which are contained in the bill and set out fully in schedule 1. Clause 3 amends the Teaching Service Act to give effect to the recommendation that nothing contained in the Teaching Service Act shall be capable of being held to amend or affect the provisions of the Industrial Arbitration Act. Schedule 1 of the bill contains the necessary amendments to the Industrial Arbitration Act as recommended by the Industrial Commission.

Paragraphs 4 (c) and (d) of the schedule amend the Industrial Arbitration Act to delete from it those provisions which at present limit the jurisdiction of industrial tribunals in relation to public servants, teachers and police and, in association with paragraph 4 (j), amend the Industrial Arbitration Act to provide access to industrial tribunals for such persons entirely in conformity with the recommendations made by the commission. Paragraph 4 (j) provides certain limitations to the **extension** of the powers of industrial tribunals in line with the commission's recommendations. These exceptions are: (a) an award affecting or relating to a decision or determination in respect of which public servants, teachers and members of the police force have a right of appeal to the Crown Employees Appeal Board or a Promotions Appeal Tribunal under Part **IIA** of the Public Service Act, 1902; and (b) an award affecting or relating to the discipline, promotion or transfer of members of the police force.

Further exceptions relate to an award affecting or relating to certain provisions of the Police Regulation Act, 1899, dealing with: (i) the appointment of sergeants and constables—they have a right of appeal to the Crown Employees Appeal Board—by the Commissioner of Police; (ii) the appointment of women police; (iii) the taking of the oath of office by a member of the police force and the effect of taking that oath; and (iv) extended leave, that is, long service leave for members of the police force. As there was agreement on this matter at the inquiry by the Industrial Commission it should not be included. Also, the resignation of members of the police force and an award affecting or relating to police superannuation come within the provisions of clause 4 (j). This final matter was the subject of agreement at the inquiry. The remainder of schedule 1 simply clarifies certain existing provisions of the Act relating to the definition of employees of the Crown, as suggested by the commission and, at the same time, also effects some necessary revision suggested by the Parliamentary Counsel.

That completes my resume of the contents of the bill. The Government is pleased to be able to introduce this legislation to afford that most worthy section of the community, namely public servants, teachers and police, the opportunity through their respective unions of having their industrial affairs brought before and determined by the appropriate industrial tribunals. I am sure all honourable members will accept that this is a desirable measure. I commend the bill to the House.

[Mr Speaker left the chair at 6 p.m. The House resumed at 7.30 p.m.]

Mr DOWD (Lane Cove) [7.30]: The Opposition does not oppose the second reading of the bill, for several reasons, the principal one of which is that the Government is carrying out the policy announced by the former Government. I should like

to advert to several questions that arise in the drafting of the legislation and several problems that might be foreseen in its implementation. The Opposition does not intend to move any amendment; it is clearly the policy of this Government, as it was of the previous Government, that this bill should be introduced.

Sir Alexander Beattie in his report, as is his fashion, made a thorough and capable assessment of the problems involved. His report has been followed closely by the amendment before the House. However, there are some matters which raise question marks, and I shall deal with several of them at the second-reading stage rather than in Committee. The first thing that the amendment does is remind members of this House, as it reminds the people of this State, that no industrial award can be looked at in isolation from another. Every condition of service that applies to any public servant—and I use that term in the widest sense—has an effect on the employment of every other public servant and every private employee. I know that it is the wish of the trade unions involved in the provisions of the bill that they should be brought under the jurisdiction of the Industrial Commission. I applaud that wish because the Industrial Commission has shown a commendable commonsense in its approach to industrial awards. We in this State tend to have too legalistic an approach to many measures. Every time we set up some sort of tribunal to deal with matters of evidence or law it tends further to entrench the habit of a legal approach, resulting in unnecessary problems in implementing the law. But the Industrial Commission has shown a remarkable commonsense in dealing with matters that have come before it. The solution of the problems that have arisen would lead this State to the realization that it is that approach to the solution of problems which should be preferred to the more conventional time-consuming adversary system—not in all legal proceedings, but in as many jurisdictions as possible—to reduce the confrontation that occurs in many legal proceedings.

I should point out a rather curious and unfortunate matter which arises from His Excellency's Speech, to which this House replied. It is not a matter that I detected at the time. It is unfortunate that His Excellency should have been advised that it was the intention to amend the Industrial Arbitration Act to grant to public servants, teachers, officers of Parliament and certain other employees full access to industrial tribunals. I do not know whether this caused a thrill of pleasure or of horror to go through the officers of this House, first when they found out they were getting special provision, second when they found out, as some indeed have, that they were not.

Whether it was a typing error or a change of Government attitude since His Excellency's Speech, I do not know, but it is unfortunate that in a fairly important matter such as this there was such a degree of carelessness in the way His Excellency was advised. I have not canvassed the views of the officers of this Parliament—I think it is probably better if I do not, because I might find some degree of disagreement about it. However, clearly the officers of this Parliament are not included but are excepted by the Act. I am sure this House apologizes to those officers, as indeed I hope the Government will apologize to them, for the incorrect reference to them in His Excellency's Speech. I cast no reflection on His Excellency; he spoke as a result of advice tendered to him by his Ministers.

This measure brings into line police, public servants and teachers, with necessarily certain fairly important exceptions, because of the very nature of their role. The police have a series of exceptions from the provisions of the Industrial Arbitration Act which this bill seeks to bring in. However, I should like to sound a warning note. Although I applaud and understand their desire to become one with so many others

in the work force in terms of conditions of employment, I wonder whether they realize that it attacks the special role of teachers, police and public servants. Levelling down does not always suit the interests of the community.

I wish to pay tribute to the professional dedication of the public service, which is so oft maligned—and unfairly so. The system in our State and in Australia would not work if it were not for the incredible integrity of the public service. Those of us who have had the opportunity to see public services in other less educated parts of the world and in countries with less integrity cannot help but be impressed with the level of competence and integrity of our public service. I pay a tribute also to this State's police force. Who here has not had occasion to remark on the efforts of its members over and above the call of duty? Everyone recognizes the importance of the special role of members of the teaching profession. I simply sound the note of warning that the diminution of that special role which is partly involved in this measure might later cause concern.

However, the Opposition understands the reasons for the amendment. Even though police, teachers and public servants occupy a special position, it is important that they feel there is no discrimination in the way in which they are dealt with. The exceptions dealing with the Police Regulation Act retain some of that special position of the police force and, as I said, rightly so. However, it is important that they feel that they have access to the tribunals to which the ordinary employees of this State have access.

Clause 3, which amends the Teaching Service Act, is an inevitable amendment of the report. It is gratifying to see that the Parliamentary Counsel has taken the opportunity to tidy up some fairly untidy drafting in the 1940 Act which brought forward some provisions from early legislation. Many of the amendments in the bill are in fact drafting corrections and, indeed, conceptual corrections which needed to be introduced. The definition of public authority is an unfortunate definition to intrude into legislation such as this. The definition of public authority is a body or person specified in schedule 2. It adopts as a term of art a word which is used in common parlance. Public authority as defined in schedule 2 lists a series of public authorities as we know them, but it is a mistake to insert in a definition the term public authority, which can be used in common parlance for all of those and a lot of semi-public and other public authorities as well. A definition ought to be more precise. The use of those two words will only create confusion. Indeed, the very error in the advice tendered to His Excellency about the officers of Parliament points up how unfortunate is the confusion from this definition of public authority. Some officers who think they are employed by a public authority might be shocked to find that they are not.

Proposed subsection (4) of section 5 provides that the Governor may, by order published in the *Gazette*, amend schedule 2 by inserting therein the name of an employer. I do not think the Government should have the power, on advice tendered to the Governor, to add any employer to that schedule. That goes back to the original definition of employer, which covers both public and private authorities. The Opposition will not oppose the measure. It understands the problems that it is designed to solve. It is unfortunate, however, that a government should have the discretion to include an employer arbitrarily in that definition for any purposes of the Act. As I read them, without entirely understanding the provisions of the Superannuation Act that apply to them, the provisions covering conciliation commissioners are unexceptionable.

Proposed new subsection (1d) of section 20 will, quite properly, confer some benefits that Crown employees and the police already have. However, it is rather curious that a government which proposes to introduce sex discrimination legislation should

Mr Dowd]

fail in one of its earliest measures to deal with this aspect. This new subsection, when implemented, will mean that the provisions of section 6 of the Police Regulation (Appeals) Act shall be retained. That section still has the anachronisms which Parliament wishes to remove as far as is practicable as it distinguishes between male and female employees. This way of treating women is no longer acceptable to the community. It is a pity that the Government did not rectify this, for it has expressed an intention to eliminate inequality between the sexes. I think this failure underlines the danger of the Government's blanket approach to legislating in its attempt to remove discrimination between males and females. From my nineteen years' experience in the law, women police have done remarkably good work with children and others. They have looked after females and children in a way that we males cannot do.

The Premier has said that anti-sex-discrimination legislation will be introduced, but is not easy to legislate away the distinction between males and females and the different roles that they play. It is to be hoped that the Government will keep this in mind. Leading as I am for the Opposition on the measure, I say that we shall not oppose it. I ask the Government, when looking at the effects of this legislation and when drafting sex-discrimination legislation, to consider the effects of an attempt to remove these special provisions. I ask the Government to reconsider the inclusion of the definition of public authority, which will add to confusion in the public mind. This is a complicated piece of legislation. People do not always have the advantage of the services of a trained lawyer to work through the maze of this legislation and to explain its inter-relation with various Acts such as the Public Service Act, the Police Regulation (Appeals) Act and the Industrial Arbitration Act, which deal with the same people. It is unfortunate that the Government has not done this for people who are excited at the prospect of getting the conditions that they have wanted for years. As I say, their prospects may not now be realized.

Mr QUINN (Wentworthville) [7.47]: I never cease to be amazed at the attitude expressed by the Opposition members when legislation is introduced to amend legislation that they themselves put on the statute book a few years ago. My mind goes back to 1964 or about that time when Sir Robert Askin, who was then Leader of the Opposition, went out into the public service and other fields in an endeavour to obtain political support and was willing to promise anything. He agitated so much among public servants that they held mass meetings throughout the metropolitan area of Sydney and other regions. The outcome of those meetings was a resolution that public servants should have the right to go to arbitration on any matter whatsoever, that they should be taken away from the direct influence of the Public Service Board and given access to the industrial courts of this State. Arising from those meetings, Sir Robert Askin promised that if he were elected to government he would immediately legislate to give public servants access to the industrial courts for any reason whatsoever.

During the first term of the Liberal-Country party Government which was elected in May, 1965, Premier Askin, who had been elected in large measure by the public servants to whom he had made that promise, did nothing towards that end. As spokesman on labour and industry matters for the Opposition at that time, I recall severely criticizing Sir Robert for his failure to honour promises that he had made during the 1965 election campaign. Ultimately an amendment was brought forward to give public servants restricted access to the Industrial Commission. In defending that legislation, supporters of the Government of the day, of which the present Opposition parties made up the numbers, put up great arguments in this place on why they could not go further, to the extent this legislation goes.

The Opposition is hypocritical when it claims that the bill is good but does not go far enough. That was the import of the contribution by the honourable member for

Lane Cove, who led for the Opposition on the bill. He criticized aspects concerning women police and others, claiming that the bill does not go far enough. As a member of the first Labor government for eleven years, I completely support this legislation.

Mr Pickard: So does the Opposition.

Mr QUINN: Yes, but it claims that the bill does not go far enough, even though honourable members opposite had the opportunity to make the amendments.

Mr Dowd: I did not say that.

Mr QUINN: The honourable member has not said why when his party was in office these matters were not incorporated in the legislation. I ask him why members of the Opposition waited for the first term of Parliament to expire when they were in office before anything at all was done in relation to the promises they made in 1964 and 1965. For three years they had the power and authority to fulfil their promises, but finally they put on the statute book a watered-down version of the promises, much to the dissatisfaction of officers of the public service.

Why should these employees be the only ones in this State who are deprived of access to the Industrial Commission on matters relating to hours of duty and other aspects of direct industrial relations between employee and employer? They were deprived of this by the Askin–Cutler Government, which introduced the legislation the Government now seeks to amend. This is a great step forward. I regret that it has taken eleven years for a Labor government to be in office in this State so that it can give to the people industrial conditions that were not only promised by Sir Robert Askin but also accepted by his Government during the election campaign as being desirable for public servants in this State.

The public servants in New South Wales are justified in being dissatisfied with what was given to them by the Liberal–Country party Government during its eleven years in office in this State. They will welcome this amending bill. I look forward to the day when they will be placed on an equal footing with every other employee in the State. There are certain exceptions, which were spelled out by the president of the Industrial Commission, Sir Alexander Beattie, who believed that, in the interests of the State generally, certain matters should not be taken into the industrial court but should be retained where they are at present. I support the bill, but I regret that we have waited so long for it. I congratulate the Minister on bringing forward this measure so early in the life of the new Government. I am sure that it will be accepted whole-heartedly by members of the public service.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [7.55], in reply: The honourable member for Lane Cove, who led for the Opposition, criticized the bill, particularly in relation to the definition of public authority. This definition applies only to this piece of legislation, and refers to the bodies and persons specified in schedule 2. He criticized the ability of the Government to increase the number of authorities in the schedule by providing in the legislation that it be done by order published in the *Government Gazette*. Obviously this is a much more simple way than bringing forward amending legislation. For instance, if it were thought appropriate that the officers of the Parliament should be included, it could be done by merely publishing a notice in the *Government Gazette*.

Mr Dowd: What about regulations?

Mr HILLS: It could be done by regulation, but the Government considers that it is one of those matters that can be more simply dealt with by publication of a notice in the *Government Gazette*. That method has been acknowledged by the Opposition in

debates in this House. As members of the Opposition have no objection to the bodies spelt out in schedule 2, they obviously would not oppose the inclusion of officers of the Parliament, for example. This is a simple way of getting over the problem.

In regard to officers of the Parliament, I regret that the Governor's Speech indicated that it was proposed to include them. I assure the House that this was never the intention of the Government, and that it was a typographical error in the Speech. I know it was referred to by the Leader of the Opposition at the introductory stage, but at the hearing before Sir Alexander Beattie the question of officers of the Parliament being included in the legislation was never raised. Accordingly, he made no recommendation in respect of them. As I have said from the outset, the proposal of the Government was to accept completely the recommendations of Sir Alexander Beattie.

Though for a considerable number of years the unions involved had been writing to the previous Government seeking an amendment of the law in respect of the rights of their members before industrial tribunals, it is interesting to note that at the hearing officers of the Public Service Board, the Department of Education and the Commissioner of Police all opposed any increase in the rights of the employees under their jurisdiction. However, Sir Alexander Beattie, in his wisdom, came down with the recommendations we are considering tonight. If it had been left to the senior officials in the various departments, we would not now be amending the law. I am sure that not only honourable members but also employees in the various departments set out in schedule 2 will welcome this change. I am convinced that this amendment will lead to better industrial relations in the employing authorities representing the Government.

Motion agreed to.

Bill read a second time.

Third Reading

By leave, bill read a third time, on motion by Mr Hills.

TEACHING SERVICE (AMENDMENT) BILL

Second Reading

Mr BEDFORD (Fairfield), Minister for Education [7.59]: I move:

That this bill be now read a second time.

Honourable members will recall that when I introduced this bill I referred to the grave industrial trouble that followed the 1975 amendment to the Teaching Service Act. Honourable members may recall also that the Leader of the Opposition, when Minister for Education, urged this House to support the 1975 amendment, saying he was concerned that it should always be possible to staff the public schools of this State in such a manner that the efficiency and effectiveness of this great teaching service are not impaired, and that the highest welfare of the children of New South Wales is assured at all times.

I should like to bring to the notice of this House exactly what the impact of that amendment was, and show how the Minister's hopes were crushed by his Government's own actions. It was not long before the real purpose of the bill became clear to the New South Wales Teachers Federation. A special executive meeting was called at the

time and the federation made it clear to the members opposite what the mood of teachers was, and what industrial turmoil could be expected should this legislation be enacted.

The facts of the matter, from the point of view of teachers, were quite clear and were straightforward. The Teachers Federation, at the conclusion of the hearing for their award, asked the Industrial Commission to insert in the award, in terms of section 129B of the Industrial Arbitration Act and in line with accepted practice, a clause granting the usual preference in employment to their members. What the Teachers Federation sought was neither new nor unusual. Indeed, since 1959 the New South Wales Industrial Commission has been inserting the preference clause in industrial awards in this State. When the Teachers Federation sought the inclusion of the clause in the 1974 award, the Public Service Board did not object in any way. Why did the board not object? Because what was sought was not special or unusual or improper. It was, in fact, a common request, absolutely proper and within the law, and it was granted unopposed.

What I am saying can be put simply but clearly. It was the law that preference in employment had to be given to members of the New South Wales Teachers Federation. That was something the Director-General of Education was legally obliged to do from that time on in accordance with the law. But what happened? Honourable members opposite, when in government, said: "This is no problem. If that is what the law says, we will simply change the law". They were not concerned that at the time hundreds of qualified teachers, members of the Teachers Federation, were seeking employment in our schools. Honourable members opposite took no notice of the feelings of teachers and parents who were clamouring to have these unemployed teachers put to work to reduce oversize classes, to help pupils and teachers in disadvantaged schools, and to implement the plan the previous Government announced it would introduce to reduce class sizes.

None of these advantages for pupils, for teachers and for the teaching service was granted. What did occur was the introduction into this House of a bill to amend the Teaching Service Act in such a way that the director-general could disregard the preference provisions in the award entirely. What we saw was the spectacle of a government deliberately bypassing the law; and doing this in a manner which anybody would have guessed could do nothing other than disrupt the teaching service.

Despite all the warnings, all the signs, all the pleas, the Government went ahead. Let us have a look at what happened. First there was a strike by the executive of the New South Wales Teachers Federation on 19th March, 1975; then there was a strike of councillors of the federation and this was followed by a state-wide strike of teachers on 25th March, 1975. What teachers were showing through such concerted industrial action was an expression of alarm as well as anger that a government could so easily and unconcernedly bypass the law in respect of this one union. The attack was purely and simply a discriminatory one against the New South Wales Teachers Federation.

There had already been a long history of discontent in the teaching service up to this point. Since 1968, when the first strike by teachers occurred, there had been a growing wave of discontent that should have alerted any reasonable government to the fact that all was far from well, and indeed that morale had drastically deteriorated. As evidence of this I need only say that in 1974 alone, strikes of various sorts occurred on sixteen occasions. On that record one would have thought the Government would have rejected any move which was absolutely certain to increase teacher unrest, and was not designed to offer any betterments for anyone. Apparently,

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the intention of the Government was to ignore stability in the service. Therefore, all that came about was that teacher feeling was inflamed, schools were further disrupted and industrial relations between the Department of Education and the federation reached an all-time low. To make things worse, not only did that Government reject the law in regard to preference to unionists; indeed, it closed its eyes to the mass of teachers seeking employment while it continued to bring in teachers from overseas, even though there was a large number of so-called surplus teachers in our schools. Of course teachers were angry, and of course, there had to be industrial unrest.

I repeat for honourable members some of the remarks of Mr Justice Dey when these preference matters became an issue before the Industrial Commission and before the 1975 amendment was introduced. His Honour said:

Preference to unionists is a matter which is notoriously of fundamental and emotive concern to both unions and their members and it is a subject which one may assume is often used as an argument in recruiting members.

It is accordingly not surprising that the federation is concerned that the preference provisions are strictly applied . . . it seems to me that it would be desirable to emphasize also that there is a legal obligation to give absolute preference of employment to members of the federation whenever a choice has to be made between federation members and non-members.

That legal obligation was broken by the government of the day, and it must have been planning to do so even while the negotiations to which I have referred were taking place before the Industrial Commission.

How can good industrial relations grow in a climate like that? And if honourable members opposite thought that they would divide or weaken the federation by such legislation they were wrong. But it was another try. They tried when they stopped deducting union dues at source; they tried when they refused to carry out their promises to introduce an education commission; they tried by deliberately refusing to listen to reason and sound common sense in regard to their amendment to the Teaching Service Act. They tried, but failed. Today, the Teachers Federation is larger and stronger than it ever was, and today it is this Government's task to rebuild co-operation and industrial harmony so that education can prosper and not be smothered by argument and torn by disputes. This Government is determined to bring to schools the stability they need.

The intent of the Government in regard to these desperately serious matters was made clear in its policy speeches. We said then that we would set out to heal these breaches and repair the damage of recent years. What we were saying, in effect, was that we would talk to teachers, not at them; that we would listen to reason and be reasonable; that we would recognize the massive needs of education in this State and set out positively to meet them. We mean to keep our promises. We said that we would employ those unemployed teachers who would accept a reasonable appointment. Already in our few months of office hundreds of these teachers have received their appointment notices and there is a new wave of optimism in our schools.

We said we would legislate for the establishment of an education commission. Unlike the previous Government which merely gave lip service to such a promise, we have already established a working party to inquire into public education in this State and to make recommendations about such a commission and what it should be designed to do. I am pleased to announce that the working party has already had its first meeting and the public has been invited to make submissions to it. We

promised that we would reintroduce the deduction of teachers' union dues from salaries, and this is well under way. Deductions at source will recommence before the end of this year.

This is already firm evidence that the Government will achieve what it set out in its policy promises, but it will achieve far more because teachers need no longer hold the Government's policies as suspect. Already there is a marked change in teacher aspirations for their schools and their pupils. Next term teachers will see in their schools many oversize classes dramatically reduced in numbers. Principals in class-2 schools will be released from class teaching so that they can devote their energy and professional expertise full time to the educational development of the whole school. Next term teachers in many disadvantaged schools all over the State will see their staffs increased and their many professional and social burdens reduced. These are the proper outcomes for a government that shows the leadership it should show in the governance of education. This is the Government and a great teaching service working together in the interests of the children of this State.

We are about to remove and repeal from the Teaching Service Act the amendments that the previous Government introduced in 1975. It added nothing to the quality of education in New South Wales; but it caused continual unrest and disharmony among teachers. We are restoring for teachers the full and proper provisions of their award. The repeal of this section will provide a wider base on which the firm and sound industrial relationships I have sought can continue to grow. The bill will remove and repeal section 24A of the Teaching Service Act. The purpose is to remove a discriminatory law against one particular trade union. I commend this measure.

Mr PICKARD (Hornsby) [8.10]: For the information of the Minister I am leading on behalf of the Opposition in this debate. I should have hoped that the Minister in his remarks would have been more honest and would have commenced his historical recital of difficulties in the teaching service by going back to what must be regarded as an iniquitous piece of legislation, the 1959 amendment to the Industrial Arbitration Act. On that occasion section 129B was added. It decreed that when any trade union made an approach to the court for the inclusion of a preference clause within its award, that request should be granted. The new section did not say that the request may be granted. It did not say that the judge had a discretion and could consider the pros and cons of the matter, taking into account the industrial difficulties and the effects that the application may have on the quality of that industry or profession. The new section clearly said that the application must be granted.

Going even further back into history, to the mid and late 1950's, we find ourselves in a period when there was a concerted attempt to introduce compulsory unionism. That proposal was rejected by the people of New South Wales. Then we saw a sleight-of-hand trick, the use of numbers in this Parliament to enforce another process of unionism under the guise of a preference clause, although as His Honour Mr Justice Dey, who was quoted by the Minister, has said, it was really an absolute preference that was put forward. It is the 1959 amending legislation that we should be discussing. The inclusion of section 129B in the Industrial Arbitration Act brought the argument to a head. The government of that day did not face up to the real issue.

When we talk about the freedom of the individual to make a choice and to find work without being forced either by physical or psychological means to belong to an association, a political party or a trade union, we must seek the root cause and disregard the branches that grow from the tree. We should look at the whole question of individual rights, the freedom of the individual and the declaration of human rights.

[Interruption]

Mr SPEAKER: Order!

Mr PICKARD: It is easy for honourable members opposite to say that some people merely mouth words but when human rights are referred to in this place the greatest scream comes from members who sit on the Government benches. I should have hoped that those members, at least once in the life of a Parliament, would be willing to consider basic freedom as it is accepted at world level. All of us have committed ourselves to uphold and to do all in our power to maintain human rights. We have committed ourselves to it and we committed ourselves before 1959 to do it. Bearing in mind that we did these things in 1959 it seems to me that when we come to a consideration of legislation of this nature we should look at the implications of our prior commitment. I do not wish to take honourable members on a Cook's tour of education, as such. I wish to concentrate on this amending bill and to return to the basic principle that underlies it. No matter how we wriggle or what we say or what problems may arise because we on this side of the House take the stand that we do, it is something that we must do.

If we give to the people of the world our word with regard to human rights, when it comes to doing something about it in the Parliament and putting our words into action we must not let the people down. We cannot, for expediency, or party reasons or the representations of pressure groups, surrender our principles. This applies to members on both sides of the House. When we, not just as a people and not just as a parliament but as a people and a parliament, have given our sacred word on a principle we must stick to it. If we give our word and subsequently go back on it when we come into this House to consider the enactment of legislation, that is denying the rights that have been declared and to which we have given our word. In that situation we have given the lie to our word. We have failed to respond to those human rights that we say we uphold. Therefore we have failed the people of New South Wales.

First and foremost I ask the House to try to look at the basic principle. In the world of today it is no exaggeration to say that democratic freedoms and the freedoms of the individual to express his point of view are being lessened greatly. Almost daily we see a contraction within our world of the right of people to stand up and speak their minds and the expectation that they can find a job without pressure being brought upon them because they are not card-carrying members, functionaries, or saluters of dictators of a fascist regime.

[Interruption]

Mr SPEAKER: Order! **Any** honourable member wishing to speak in this debate should jump when the question is put and I shall see that he gets a call. The honourable member for Hornsby has the call at present.

Mr PICKARD: Social changes that may be incorporated in the budget that is to follow in this sitting of Parliament will not matter one iota in the long run if we treat lightly the basic freedoms upon which our system stands. We live in an age when people are crying out for less restriction and compulsion. We live in an age when people say they want to be free but in that freedom they do not want to be denied the opportunity to work if they wish and to support their families. Flowing from this debate is a responsibility for this House that is probably greater than that involved in any other debate to be undertaken in this present session. Real basic freedom upon which our whole democratic system stands is at risk. It was not put at risk last year; it was put at risk in 1959.

It is common for people to refer to the Universal Declaration of Human Rights by name without understanding what it means and the things in it that they are supposed to support. I doubt whether any honourable member would be able to quote any part of the Universal Declaration of Human Rights. For that reason I believe it is necessary for me to read some aspects of that declaration. Part of the preamble to the Universal Declaration of Human Rights reads:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Though we hope that we can always enjoy those three things—freedom, justice and peace—it is not always possible. The prologue to the declaration made by the General Assembly of the United Nations and adopted and proclaimed in 1949 reads:

On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights, the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions . . .

It is tragic that honourable members are now being asked to consider an amending bill based on an amendment made to the law in 1959. By this measure the New South Wales Teachers Federation seeks to have a clause inserted in its award to give its members absolute preference over other teachers. Moreover, it seeks to introduce a form of compulsion—whether it is physical or psychological does not **matter**—requiring people to belong to the federation, or else. An institution that the United Nations asked to be a principal exponent of its Declaration of Human Rights has now come forward and asked that that principle be ignored. The Government's attitude is that as this provision was inserted in the Act previously it will ignore the Universal Declaration of Human Rights and seek to **reinsert** that provision even though that action denies the declaration in the charter.

The Universal Declaration of Human Rights and our attitude towards the United Nations cannot be broken down at one point and supported at another. We must stand by the United Nations and its attitude to human rights. This is a basic question. It goes to the root of what the argument in Rhodesia and the suppression practised by Idi Amin are all about. It is the same basis upon which one third of the European continent has been swallowed up since World War II. We are concerned about a question that is as basic as is our attitude to what happened in Czechoslovakia and Hungary; it is a question of human rights and the freedom of the individual to be able to earn his living without being forced to belong to any organization. That is the question above all other questions that is at stake here, and it is the one about which we should be so much concerned.

To ignore that question and to indulge in a glamorous Cooks tour about this, that and the other is to ignore the real challenge. I believe the real challenge is not to a trade union but to a people and a concept that is accepted on a worldwide scale but practised only in those areas that are the scorn of the extreme socialist world. It is strange that the part of the world that we hear so glibly criticized in this House is where these freedoms are held. When one of the principles to which I refer is under attack, they are all under attack; when one of them is weakened, they are all weakened.

People often talk about the International Labour Organization and the Socialist International, and I shall be surprised if they are not referred to in this debate. Only last Saturday I heard on a radio programme that Lee Kwan Yew has decided to

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withdraw from the International Labour Organization while the Australian Labor Party remains a member of that body. It may be that some honourable members will suggest that the decisions of that organization should be accepted and that they are superior to those of the United Nations. I disagree with that type of attitude. Australia is committed to the United Nations and its charter of human rights. The decisions of the United Nations must take precedence over other universal though sectional organizations. Article 2 of the Universal Declaration of Human Rights reads:

Everyone is entitled to all the rights and the freedoms set forth in this declaration . . .

Article 20 (1) reads:

Everyone has the right to freedom of peaceful assembly and association.

Paragraph (2) of that article reads:

No one may be compelled to belong to an association.

The declaration states further that all people shall have the right of access to work without the fear they will first have to belong to an association. People ought to have the right to form a union without fear or favour and this right should be upheld along with all other rights. Such a declaration adds to the dignity of man. The first question we should ask ourselves when dealing with the bill is whether the enactment of an amendment in 1959 should take precedence over our prior commitment to the Universal Declaration of Human Rights. This is a matter upon which honourable members should have a free vote. We ought to know where each honourable member stands on this whole question. It is easy for people to mouth words but it is a different matter when they are asked to translate those words into some action on the local scene. Let none of us criticize the Idi Amins of this world if we are willing to deny people their basic human rights as set out in the United Nations charter.

[Interruption]

Mr PICKARD: I know Weethalle and I have ridden through it many years ago. I know quite a number of people out there. I should have expected the honourable member who comes from that area to have brought this down in the **first** instance to Weethalle. Is it not a pity that in considering important issues in this House the Minister for Conservation and Minister for Water Resources, who represents the people around Leeton, does not declare that he stands for the Universal Declaration of Human Rights, but instead laughs, ridicules and belittles those matters. I ask him to declare in this debate where he stands on this issue and whether in his mind human rights take priority over all others. Surely the Universal Declaration of Human Rights must come before an amendment, sought by the Cahill Government in 1959. That Government could not get compulsory unionism accepted by the Parliament, so it brought it in by this back-door method.

What is the preference clause all about? What is its purpose? What is the purpose of the measure before the House? The Minister used the words, absolute preference. Let honourable members note the Minister's own words. The Minister quoted from what was said by Mr Justice Dey. I believe that absolute preference means what it says. If the Minister does not mean that, will he tell the House: at some other stage or have another member on the Government side tell us what it does mean? Does it mean that regardless of all other circumstances those carrying union tickets or receipts of membership in the federation will be given absolute preference in any jobs that are available? If that is so I ask the rank and file members—

not the executive of the Teachers Federation of New South Wales—to tell us what they are thinking. We cannot always depend upon the screams we hear from union leaders.

I ask teachers to consider the threat that such a clause will be. It is, without qualification, an absolute preference clause. There will be some who say, "Ah, but there is a conscience clause; if anyone has a conscience on the matter he may make out a case before a court and may be allowed, on the basis of conscience, not to belong to the federation, but pay his money to charity". That is totally wrong. First, freedom is denied; the person is told that he must prove why he should not be compelled to do certain things. He is asked why he should not suffer discrimination on the basis of a union ticket. If that is not a complete denial of the Universal Declaration of Human Rights, many in this House, in the academic world and in the United Nations, do not understand the charter.

Mr Rogan: The honourable member would not be here if he did not hold a Liberal Party ticket.

Mr PICKARD: I am defending this because I hold a Liberal Party ticket. I am defending our position because we are so different from the Labor Party on this point. The honourable member for East Hills ought to stand up and say where he stands on human rights. Does he intend to deny freedom to teachers?

Mr Petersen: The honourable member for East Hills intends to speak in the debate.

Mr PICKARD: It will be interesting to hear what the honourable member for East Hills has to say on this one issue. This question does not involve a Cooks tour of the whole world of education. The whole concept of human freedom is involved, but the Government will not admit that. Its supporters cannot see that freedom is the real issue. The bill is concerned not with the amendment of last year, but the amendment of 1959 and approval of the Universal Declaration of Human Rights. If honourable members do not believe in those principles they should stand up and say so. Apparently honourable members on the Government benches cannot understand that that is the real, basic principle of the debate. Even if it is recited again in three years' time or fifteen years' time that will still be the real basis of the debate. It was intended that people would be frightened by Mr Rennie, who was then a vice-president of the Teachers Federation of New South Wales, into joining the federation. Last year, Mr Rennie said:

If teachers do not join the federation then there must be guerilla warfare in our schools.

The vice-president said that; then field officers began calling at the schools and reciting the disadvantages that would accrue to anyone who did not belong to the federation. I do not know what that is if it is not compulsion. If it is not a fear tactic, and a denial of the whole concept of human freedom, I fail to understand what human freedom is about.

Mr Petersen: I think you do.

Mr PICKARD: The honourable member for Illawarra thinks that the principles of the declaration of human rights are totally wrong. He is saying that he does not understand them.

Mr Petersen: I shall answer you.

Mr PICKARD: The honourable member for Illawarra was the one who suggested that Arafat is a great protector of human rights. The Palestinian issue is **an** important issue. Will the United Nations Charter be quoted on that aspect? In the *Daily Telegraph* of Thursday, 16th January, 1975, the Teachers Federation of New South Wales had an advertisement carrying the imprimatur of its president, Dr E. Pearson.

Mr Quinn: Can the honourable member vouch for its accuracy?

Mr PICKARD: This advertisement, authorized by Dr Pearson has previously been read in the House and was not challenged then by the Labor Opposition. The advertisement read:

The N.S.W. Teachers' Federation has been informed that hundreds of teachers have been refused employment by the Department of Education.

Today during the Cooks tour the House heard much about those who were refused employment. The Minister in answer to a question today told us of fourteen of the 2 300 unemployed teachers—not the 3 000 that the Teachers Federation had claimed. That figure of 3 000 was accepted by the Labor Opposition. Nevertheless the federation is saying that those teachers were refused employment not by the Minister but by the Department of Education. The statement by the Teachers Federation then continues:

You should be aware of two facts:

1. The N.S.W. Teachers' Federation cannot help you until you contact us.
2. The current Award handed down by the Full Bench of the Industrial Arbitration Commission (1974) provides that,

Then follows a quote, which is not the full text:

Absolute preference of employment shall be given to members of the N.S.W. Teachers' Federation.

It says further:

The New South Wales Teachers' Federation will insist on the strictest application of the clause to all **teachers**——

Mr Petersen: Good on them.

Mr PICKARD: The Attorney-General says, "Good on them".

Mr F. J. Walker: I did not say it, but I endorse that remark.

Mr PICKARD: I repeat: the statement says, "The New South Wales Teachers' Federation will **insist** ——"

Mr F. J. Walker: Will insist on upholding the rule of law.

Mr SPEAKER: Order!

Mr PICKARD: The statement asserts:

The New South Wales Teachers' Federation will insist on the strictest application of the clause to all teachers **including**——

And note this:

——teachers returning to the service, ex-students ——

So it includes every student leaving university and hoping to take up an appointment, They must be more frightened when they realize that bonds will be dropped retrospectively.

Mr O'Connell: That sounds like something to do with underpants.

Mr PICKARD: It is interesting that the honourable member should refer in such a light-hearted way to the livelihood of student teachers. The guarantee of jobs to 20 000 students is the other side of the bond. He refers to it as dropping garments and doing a streak. That is what he is implying. It is interesting that he should make those comments about 20 000 students who at this stage are bonded and at some stage in the future will be leaving university. Some have left to take up their positions and are already under threat. The statement by the Teachers Federation refers also to teachers from overseas. In effect the federation is saying that any person wanting to enter the service must make sure that he is a member of the federation or he cannot be sure of having a job when he applies. Unless he is a member somebody less qualified, with less distinction, academic background and practical teaching experience may be employed in preference. A person poorly equipped for a teaching position but with a ticket will be appointed in preference to the most educated and experienced person who has no ticket. This is laughable until one looks at the whole situation. This concept will be forced upon the Director-General of Education by the federation. No longer can the Minister or the director-general assert that quality is the standard that will prevail. There can be no argument that the clause provides that a union, ticket will come first if it comes to a choice between that and quality.

Mr Doyle: That is right; a lovely test for school teachers.

Mr Petersen: The best teachers are unionists.

Mr SPEAKER: Order! The honourable member for Hornsby has the call.

Mr PICKARD: It follows that if there is to be this absolute preference, one must have regard to other reports such as the Borrie report. Indeed, the information that is becoming available indicates that the Borrie report was conservative in its estimate of the decrease in fertility within Australia and in its contention that in fifteen years there will be a severe decrease in school population. If one takes that assessment into account and also the tremendous surplus of teachers in the whole of Australia, with the exception of specific, specialized areas for which our university system does not seem able to cater, we shall be dropping a bond that would have given to the Government and to students a contract agreement that would have provided a number of people to fill the various specialized areas within education.

If the Borrie report is correct and the bonding system is dropped, at a time when we do not have sufficient persons available to fill specified teaching areas within our schools, and we have a surplus of teachers without the specified skills necessary to equip them to teach, the Government will run into a tremendous problem. The Minister must be aware of the difficulties that will be inherent in all these matters I have mentioned, yet he will say to those who apply for employment as teachers, regardless of their quality, of the surplus and of the fact that there is no agreement, "Show us your union ticket—your absolute preference ticket—and you have the first job". What will be the situation if there is, as there will be, a surplus of teachers? No government has a bottomless purse. The Government has said already that money is scarce and insufficient to do what it wishes. The Government was told this but it would not listen. When it realizes that the money available is limited and that there is a surplus of teachers, what will happen to those teachers already in positions in our schools who are without a ticket?

Mr R. J. Clough: Tell us what will happen.

Mr PICKARD: Under the absolute preference clause it is quite simple: if they ask for a job they must get it. Absolute preference must be given to unionists. Teachers fear that because they do not have a ticket they may be out of a job or in a position one day where, regardless of their standard, quality or the attributes to give to the teaching profession, they will be refused a job. I know many teachers who, for fear of that position ever arising, have become members of the Teachers Federation.

Mr Petersen: That is not such a bad idea.

Mr PICKARD: That means that the honourable member for Illawarra is opposed to the human rights charter. Why does he not stand up and say so. He is honest in most things. Why does he not be honest about human rights?

Mr Doyle: The socialists eat them for breakfast.

Mr PICKARD: That is what the socialist world has done to half of Europe. When the Western World was giving human rights and trying to uphold them, the socialists were building a socialist empire—their socialist mates of the east.

Mr Petersen: They are not socialists.

Mr PICKARD: They are socialists except that they have the guns to go on with it, so they call themselves communists but they build on a socialist philosophy. What we have really is a compulsion by whatever means we arrive at it. We have compulsory unionism. It does not matter what the standard of teaching is going to be like.

Mr Viney: As long as they can smoke pot, the Government will be happy with them.

Mr PICKARD: It does not matter what type of product they turn out. Yet at the same time the Teachers Federation has been talking about the shortcomings within education—remedial teaching and the quality of education. That was its greatest concern, just as, I suppose, the executive officers said they believed in the Universal Declaration of Human Rights, and that was their great concern. The Minister may say it, too, but the teachers' actions deny it. If they are interested in the quality of education, the care of children and the end product, they would not want this amendment to go through and put this artificial pressure upon education at a time when it is under enough pressure as it is. I wonder what the teachers of this State—not just the federation executive—think about what is involved. Do they know what they are letting themselves in for as a profession, when they accept this clause? Let us remember that the teaching profession was the first professional group within the public service to ask for this clause. When this amendment was brought in by the coalition parties, that was the problem we were facing. This was a noble profession, seeking to be involved in a great and noble concept of human freedom; to look to excellence in terms of their own standards and the product that they turned out; to be fair and just; to believe in human freedom and to prepare their children socially to accept these human freedoms. Now the teachers completely contradict everything that they have said or done or tried to have enacted. It means, in effect, that the teaching profession is saying: "We will accept mediocrity. We will not strive for excellence". Absolute preference brings just that. Neither these people nor the Government understand. It means that unless the best teacher—a former student, a teacher from overseas, or an ex-student coming back to the service—with all the qualifications, highly regarded and loved, and able to do an expert job has a union ticket he will not be accepted. If a mediocre person comes along with a ticket he will get the job. It is most enlightening to

notice the people in this Chamber and in the gallery who laugh when I say that. I believe the teachers and the profession ought to be asking their union leaders: "Are you placing us in a position where, at any point, we are going to put in jeopardy the scholastic standards of any child in our care?" That is what **will** happen **if** a person, simply because he has a ticket, is to be given precedence over everyone else. That is what the Minister said—absolute preference. That will, at certain points, place scholars and students at risk.

Mr Petersen: The man is mad.

Mr PICKARD: I may be mad in the honourable member's opinion.

Mr F. J. Walker: We have no doubts about that.

Mr Pickard: In the Attorney-General's opinion I may be mad. He is a worthy man who thinks that he has good opinions and is most trustworthy.

Mr Doyle: Of himself.

Mr PICKARD: Of himself. I wonder whether the teachers of this State are prepared to accept the situation when the bill is enacted and coupled with a teacher employment authority which is to be established, as the Minister says. Though there is to be a committee of nine, I believe at first there was to be a committee of five but the federation would not accept that. So the Minister went back to the drawing board and came up with a committee of nine. Of the committee of nine, four names were given to him and he was told by the federation that he must accept them or the teachers would not co-operate—they would take their bat and ball home. Then there was the independent chairman, who had no relationship with the federation—or no love for it. He was quite independent and without prejudice. Then there were the other people who were supposed to represent the community. There were two. One was Mrs Cohen, who represents the parents and citizens organizations, a worthy group.

Mr Petersen: On a point of order. The honourable member is dealing with the education commission. That has nothing to do with the bill and I ask you, Mr Speaker, to direct him to return to the bill, which concerns preference to unionists.

Mr Coleman: On the point of order. It is obvious to anyone who is listening that the honourable member for Hornsby is referring to this only in passing, as an illustration of the influence on the Minister exerted by the federation. He is not giving a speech on the advisory committee on education; he is referring to the power of the Teachers Federation.

Mr Pickard: May I bring to your attention, Mr Speaker, that the very issues that I am now touching on were raised by the Minister in his speech? I submit that he has opened up the subject, and it would be most unfair if I were not permitted to pursue this matter.

Mr SPEAKER: Order! The question concerns the teaching profession. The Minister covered a fairly wide area in his speech. The honourable member for Hornsby has the call and I should say that he too is covering a fairly wide area. I ask him to give some consideration to coming back to the bill and to avoid, as far as possible, tedious repetition.

Mr PICKARD: I refer to the commission because it will be responsible for doing certain things, one of which is to set up a teaching employment authority. On that authority the federation will have two of the five seats. One is supposed to be an independent chairman acceptable to the federation and this could mean—I hope it does

not—that not only will the federation have an absolute preference clause now but also a say at the point of the industrial hiring and firing and industrial agreements. The instrument for applying this preference clause will now be, as I understand it, the teacher education authority once it is established, and it is quite relevant for me in this speech to speak of that in relation to this clause.

Who will administer the clause? Who will be responsible for the discrimination? Who will be responsible for applying the absolute preference clause if it is not the teacher employment authority? I bring this to the attention of all teachers in this land. I believe parents will not look happily at this situation. Many of them are disenchanted about the excesses of some teachers and their union leaders, who have at times led the teachers into strike action that has not been beneficial to schools, children and education generally in this State. I believe this legislation will be a further cause of conflict and will create distrust between the teaching profession and parents.

The federation is unwise to want such a clause. It should want to build up confidence in teaching as a profession, rather than try to force people out of their profession if they refuse to pay \$54 a year to belong to it. The federation is interested in reaping the financial harvest. What other purpose is there? It is the only one. The Teachers Federation is the only union that represents teachers. What other purpose could there be for its wanting to force teachers into joining the union, if it were not to challenge the freedom and philosophy of teachers and to harvest their money on the basis of fear?

The initial Act of 1959 was an intrusion upon a decision by the courts. It attacked the basis of the freedom of our democratic systems—the judiciary, the executive and the legislature. There should be checks and balances. Instead, the Labor Government used its numbers to enact a provision that forced the judges of this land away from the principle of making decisions on the evidence before them, and to follow a law that constricted rights and freedoms. All they could say was: "We can do nothing about it. We must give you the absolute preference you desire because the law compels us to do it." I conclude with the words of Mr Justice Dey who, when talking about the federation and employing authorities, said, "They will find some mode of expression which makes it clear that preference to unionists supersedes superiority."

We are entering the day of mediocrity where a noble profession, under the influence of the federation, is willing to accept second best; where parents who pay all the money but have very little say cannot question the standards of teachers; and where the students themselves a generation from now may rise up and declare that the teachers are an unholy race for doing what they have done, and bemoan the fact that the excellence that should be part of their programme is being denied to them. But there is a more important issue. The 1959 Act, on which all the arguments have been based, was quite contrary to the Universal Declaration of Human Rights. Of all professions, I should have expected the teaching profession to have upheld the freedom of the individual.

Mr PETERSEN (Illawarra) [9.5]: After listening to the honourable member for Hornsby, honourable members will agree that it is time we got back to the exact principle of the bill, namely, that preference to unionists in the teaching service should be restored. There is nothing new or unusual about this proposition. This applies in virtually all fields of employment in New South Wales. As was indicated in the debate, it applies to all employment in the Broken Hill Proprietary Company Limited works at Port Kembla, where preference is given to unionists.

One of the reasons why the members of the Liberal Party and the Country Party are objecting to preference to unionists is that it is being applied at a time when there is unemployment. The principle is more difficult to enforce in times of full employment. It is most important that the Labor Government should have brought in this legislation to enforce preference to unionists in the teaching service, for this is a part of the whole programme and policy of the Labor Government. It is also part of our policy to establish an education commission, with which the honourable member for Hornsby dealt at length, and quite irrelevantly to the subject under debate. The Minister for Education explained at length during question time today that part of our programme is to employ unemployed teachers and to allow deduction of union fees from salaries. A former Labor government introduced this concession to teachers, but in a fit of petty spite the previous Liberal-Country party Government took it away. We are concerned with unionism. We support it because we are a party that depends on the union movement.

The honourable member for Hornsby took us on a Cook's tour all round the world. For reasons that I find difficult to understand, he took us to Rhodesia, Czechoslovakia, Uganda and Malaysia. He also referred to the Borrie report on population, though what on earth that has to do with restoration of preference to unionists is not at all clear. It is amazing to hear such casuistry on such a simple issue, that is, that preference should be given to members who belong to a certain organization, whether it be a trade union or professional society, in order to protect their profession or trade. After all, a lawyer cannot practice unless he belongs to the Law Society, but strangely enough we do not hear any opposition to this principle from the Opposition benches. Perhaps it is because the law is a conservative profession.

The important thing is that the Opposition does not understand the whole principle of unionism. This was indicated recently when a survey was taken of members of the Liberal-National Country party Government in the Australian Parliament who were members of unions. It was found that very few of them belonged to unions and that those who belonged to a union were book members only. They are quite unable to understand the situation, which is well understood by members of the Labor Party, that there is a historical tradition in Australia that workers belong to unions and that some unionists will die for their union, making all sorts of efforts and sacrifices to ensure that their union continues to grow. They have the unselfish concept of being part of a class that is united against the exploiters in our society. This attitude was expressed particularly well by Henry Lawson when he wrote in a poem towards the end of his life:

I don't care if the cause be wrong
Or if the cause be right—
I've had my day and sung my song
And fought the bitter fight.
In truth at times I can't tell what
The men are driving at.
But I've been Union for thirty years,
And I'm too old to rat.

That is what we stand for. The Labor Party believes that, no matter what a man's age, he is too old to rat.

Mr Coleman: To what union did Henry Lawson belong?

Mr PETERSEN: The Australian Workers Union. Article 22 of the United Nations Declaration of Human Rights states that everyone has the right to freedom of association with others, including the right to form and join trade unions for the

protection of his interests. We can only say, hear hear. But we have a certain reservation about the Declaration of Human Rights, which was a declaration essentially put together by the governments of two countries—the United States of America and the Union of Soviet Socialist Republics. Two countries, one of liberal capitalism and the other of state capitalism, got together to put forward a declaration that no man may be compelled to belong to an association. The Government of the United States does not want its workers to belong to trade unions; the Government of Soviet Russia wants its people to belong to fake organizations which are closed trade unions but are very far from being voluntary organizations. We in the Labor Party believe that if a man is working in a certain industry, it is his duty, right and responsibility to belong to the union of that industry.

In the debate on the legislation that abolished preference to unionists I could not help noticing the particular exchange of views which I think were summarized by the honourable member for Vacluse when he said, "If they do not join the union, do honourable members opposite suggest that they be cast on the garbage heap of unemployment?" The honourable member for Wentworthville replied, "Yes, if they are scabs." That exactly summarizes the view of the Labor movement and the trade union movement. It is about time that we gave a piece of class content to the debate on this bill, and time that we stopped talking in abstract terms about rights and freedoms, and talked instead in terms that workers understand. The honourable member for Hornsby speaks about the right of a person to work without being required to join a particular association. I should like to take him down my way, where a lot of my constituents would be glad to have the right to work, without capitalism demanding that they go on the dole and be unemployed because the capitalist class is not getting the rate of profit that it thinks it is entitled to.

It is time we started putting some class content into this discussion. It is worth saying that the Liberal-Country party Government did not abolish preference to unionists for the reasons outlined by the then Minister for Education, who is now the Leader of the Opposition I have just reread his statement. It impressed me as a particularly indecent bit of casuistry which is so typical of the Liberal and Country parties. I congratulate the honourable member for Hornsby on at least being honest when he spoke on the bill in 1975. In his speech the Minister for Education at the time, now the Leader of the Opposition, falsely gave the reason for the amendment as the necessity to provide flexible planning. He was concerned with flexible planning only when the New South Wales Industrial Commission had inserted an absolute preference clause on 9th December, 1974. Apparently he did not know that the Broken Hill Proprietary Company Limited has found no difficulty with flexible planning with regard to its employees. Even that company gives absolute preference to unionists. But the former State Government needed to abolish preference to unionists in order to have flexible planning. I suppose that indicates that State governments, and in particular the former Liberal-Country party Government, are less efficient than private enterprise and private capitalists. What absolutely ridiculous nonsense.

The important thing to state about the Teachers' Federation is that it is not an exclusive union. Teachers were not caught in the catch-22 situation, which is sometimes found in certain occupations. In such a situation, a worker cannot get a job if he is not in a union, and he cannot get into the union if he does not have a job. I am not condemning this. In some unions it is vital that they operate a closed shop. For example, in the Waterside Workers Federation and the Miners' Federation a closed shop is a vital necessity. It is worth talking to some members of the Waterside Workers Federation who worked on the wharves in the depression days of the 1930s, and who tramped the hungry mile. The employers on the waterfront would like to get back the open shop, when men literally fought one another for jobs.

It is indicative of the solidarity of the waterside workers that they have destroyed the concept that men should fight one another for jobs. Their union now has a closed shop. If it had an open shop, as in the 1930's, there is no doubt at all that their members' present living standards would decline to what they were forty years ago. At that time their living standards were abysmally low. Medical reports taken during World War II indicated that the workers had been worked beyond their physical capacity. The same thing applies to the Miners Federation, whose members would not have their present standard of living if it were not for a closed shop—if they did not have the concept that a man could not work in a mine unless the federation approved his joining the trade union.

I say bluntly that the Teachers Federation is not operating a closed shop. It even has a provision in its rules—with which I totally disagree—that conscientious objectors to unionism may donate the equivalent of their union fees to charity. What could be fairer than that? As a matter of fact, it is more than fair. I am reminded of the story of the non-union schoolteacher who died **and** his widow was asked, "Who would you like to have as pallbearers?" She replied: "I want to have the officers of the union carry him to the grave. After all, they have carried him for the past thirty years. Let them carry him now." Obviously members of the Opposition do not understand what I **am** talking about. They believe in the exploitative society, in which every citizen fights every other citizen, as the workers fought one another along the hungry mile down on the waterfront in the 1930's. The Teachers Federation is asking that there be no non-unionists. It asks that certain teachers be not allowed to bludge—or should I use that dreadful word?—that they should not be allowed to scab on their mates. Jack London defined scab in these terms:

After God made the rattlesnake, the toad and the vampire, he had some awful substance left with which he made a "**scab**". A scab is a **two**-legged animal with a corkscrew soul and water-sogged brain and a combination backbone made of jelly and glue. Where other people have their hearts he carries a tumor of rotten principles. When the scab comes down the street honest men turn their back, the angels weep tears in heaven, and the devil shuts the gates of hell to keep him out.

[Interruption]

Mr SPEAKER: Order! The honourable member for Illawarra has the call. If any other honourable member wishes to seek the call later, he may do so.

Mr PETERSEN: Jack London continues:

No man has a right to scab as long as there is a pool of water deep enough to drown his body or a rope long enough to hang his carcass with. Judas Iscariot was a gentleman compared with a scab, for after betraying his master he had enough character to hang himself, and a scab has not. There is no word in the English language that carries so much hatred, scorn, loathing and contempt as the term scab.

The Liberal–Country party Government's sole purpose in introducing the amendment to the Teaching Service Act was to give certain employees in the teaching service the right to scab on their workmates and to divide the workers. I note that during the second-reading debate on that amending bill I accused the Minister of the day, by interjection, of being in the nineteenth century and I was called to order for being disorderly. However, I am unrepentant. I was dead right.

I think the honourable member for Hornsby was at least honest. The purpose of the Liberal–Country party Government's legislation was to reverse what a **Labor** government did in 1959. The honourable member for Hornsby wanted teachers to be

judged on their merit as teachers. He talked tonight a lot about being against mediocrity. The honourable member wanted teachers to be free to associate or not to associate without fear of losing their jobs. What he meant was that the Teachers Federation should be a tame-cat union, a bunch of crawling sycophants grateful for crumbs that fell from the table. Quite bluntly, the members of the Labor Party, who represent the great majority of the people in this country, believe that without strong trade unions the workers of this country will be reduced to being, in Marx's words, "degraded wretches beyond salvation". The previous Government's decision on teachers was a dangerous one for all workers in this State. Unless it is repealed all trade unions that operate under State jurisdiction must fear that they will be next.

In repealing the previous Government's legislation and in restoring preference to unionists in the teaching service, the Government is giving trade unionism the respect it deserves. When we read that the Liberal-National Country party Government in Canberra is engaged in union bashing and when, in the Address-in-Reply debate in this House, we hear one speaker after another in the Liberal Party and Country Party ranks indulge in union bashing, I can only say that I am proud to be a supporter of a government that is willing to stand up and be counted on the vital issue of support for trade unionism and for the rights of workers, and respect for the overwhelming majority of dedicated men and women in the Teachers' Federation whose stand safeguards the rights of all unionists. Such an attitude is essential to the well-being of the New South Wales teaching service.

Mr DUNCAN (Lismore) [9.30]: I deplore the comments by the honourable member for Illawarra, and particularly his reference to the definition of a scab. What has been said can only confirm the feeling I have had for a long time that this country would be a lot better off if we could abolish from the English language words like scab. I am sure the reason for industrial unrest in this State among so many hard-working Australians is that they will support a strike in preference to being called scabs, which they detest.

The honourable member for Illawarra said that he intended to introduce a touch of class into this debate. The reason why we on this side of the House oppose the amendment is that we are afraid that the measure will touch only those who are in classrooms, young persons throughout the State of New South Wales whose future should be of paramount consideration in any legislation that comes before Parliament. There is a basic difference between the approach of members of the Liberal Party and Country Party and of those who occupy the Treasury benches. We believe that the Labor Party is telling the people that the criterion for the future engagement of teachers is that they be members of the Teachers Federation. Despite the fact that the honourable member for Illawarra refers to us as union bashers, it is to be emphasized that the Liberal Party and the Country Party are not against unionism. My colleagues and I believe that any person should be entitled to join a union six times over if he or she wishes. However, we believe also that when it comes to education and the engagement of teachers, in the interests of students the teachers should be selected on the basis of merit and qualifications.

Tonight not one reference was made by the Minister in his second-reading speech—or in the speech of the honourable member for Illawarra—to the fact that teachers would be selected on merit and qualifications. The tenor of the Minister's speech was that the former Government's amendment sparked industrial unrest. When the former Government introduced the 1975 amendment the present Minister for Sport and Recreation and Minister for Tourism led for the Opposition. The present Premier and the honourable member for East Hills also took part in the debate. They used the

same argument. As the Minister said, on 25th March last year the teachers in this State called a State-wide stoppage. I challenge Government supporters to say when there has been a strike on this issue since then. The teachers struck because they were misled. They were told that the former Government's legislation was vicious and that it would victimize them. That was not the fact because there has been no complaint since.

I was one of the supporters of the government of the day who criticized in the local press my own local teachers' association for calling a strike. I was challenged by the president of the association to a public debate. I spoke to about 300 people and the only argument that the federation representative was able to put up was that the legislation was vicious and would victimize teachers. In taking the line that I believe teachers should be appointed on merit and qualification, I said in summing up that if any one teacher could come to me and prove he had been victimized by our legislation, or hindered in seeking appointment or promotion. I should like to hear from him. Today, almost eighteen months later, I have yet to receive a complaint from a teacher.

What are we talking about tonight? I have here a document entitled "Memorandum to Teachers", issued by the Director-General of Education, Mr J. Buggie, on 9th April, 1975. I know that Government members as well as Opposition members have great respect for the public servants who administer the various departments of government in this State. I should hope that all Government members have respect for Mr Buggie. In his memorandum, the Director-General said, in part:

I wish now to set in perspective a somewhat technical matter that has been grossly distorted. The amendment to the Teaching Service Act is not a matter of the Government overriding the Industrial Commission. In 1959 the Government had made it mandatory for the Industrial Commission to insert, on request, the preference clause in an award. By its amendment of the Teaching Service Act, the Government has now qualified its direction to the Industrial Commission in respect of the Teaching Service because of the special problems to be overcome in the task of staffing all schools.

It is relevant to consider some of the situations, including the threat of prosecution, with which I was being confronted through the demands for uncompromising application of the preference clause. The Federation's demands were made in Court and in other discussions with myself and Departmental officers. For example, the Federation's stand was that a member, not competent to take senior high school classes in a subject, should be appointed before a more highly qualified and more experienced non-member; in short, membership was to outweigh any other consideration.

Again, a member seeking employment, however restrictive as to area of service, was to receive preference over any teacher, member or non-member, seeking transfer to that area. I could not subscribe to a situation that threatened the legitimate rights of existing staff.

It was also stated that I could not enter into a contract with an overseas teacher for future appointment while there were Federation members yet awaiting appointment. I could not permit such denial of my responsibility to plan ahead so that Statewide needs could be satisfied as and when they occur.

Were I to meet the Federation demand to appoint all members seeking employment to schools in their chosen districts, irrespective of the areas of their subject expertise, I would be placed in a situation where I would be **Mr Duncan]**

forced to leave vacancies in other localities and subject areas or to transfer teachers already in the service to meet the specific interests of the new appointees.

I am certainly disappointed that our present Minister for Education and other Government supporters intend to put the Director-General back into that same situation. It is untenable. We heard the honourable member for Illawarra say that the Director-General of Education is being put back into that situation because the unions support the Australian Labor Party and so the Australian Labor Party does what the unions ask. I have respect for unions, the Teachers Federation and teachers generally. Tonight the Minister told us over and over again that his legislation was utterly and solely for the benefit of the federation. In my view in recent years the federation has made one great mistake. That mistake was that it has been interested in industrial matters rather than professional matters aimed at improving standards for the people whom we should be considering now, the students in the classes and the students of tomorrow. In my view, that is where the Teachers Federation has gone wrong.

I am totally opposed to this legislation which proposes to take away from the Director-General and the Department of Education the opportunity to engage people on merit. I cannot claim to have education qualifications equivalent to those of the Minister, who was a teacher, the honourable member who led for the Opposition and others who have a teaching background. But, in my early years I attended a little one-teacher school near Lismore where I was taught by a teacher for whom I have greater respect than any other person outside my immediate family. For some time he taught fifty-two children in one classroom, at levels from first class through to super primary. The point I raise is that that teacher did not have only the qualifications to teach the three r's, which he taught well; he taught outside school hours, he taught students to swim in a nearby creek, he took them to festivals, he took them to recitals and involved them in all sorts of things. He was motivated not by qualification but by ability, dedication and conscientiousness.

Mr Bedford: He was probably a federation member, too.

Mr DUNCAN: If so, he was not worrying about the preference to unionists clause; he was dedicated to the cause. We have been told by the Minister in his second-reading speech that he intends to establish an education commission and a working party is now considering this matter. I would suggest that that commission will become the employing authority of teachers in New South Wales. If the Minister were fair dinkum he would not foreshadow what the commission's attitude might be. He would leave this legislation until he received considered advice from the commission he intends to establish.

In my view this legislation will place the Director-General and officers of his department responsible for the engagement and employment of teachers in the untenable position referred to by the Director-General in his memorandum of last year. In fact, an education commission will place the Director-General in an even more unenviable position than that envisaged in the memorandum. I challenge members on the Government benches, teachers and parents and citizens generally to prove to me that as far as teachers are concerned the best means by which they may be employed is other than by merit and qualification. By adopting and continuing to apply a policy such as I have outlined we as the Parliament of New South Wales will be enacting legislation of long lasting benefit to the people in whom we should be most interested, the citizens of tomorrow.

Mr McGOWAN (Gosford) [9.40]: I have been a member of the Teachers Federation—

Mr Brown: Now we will get the official **commo** line.

Mr SPEAKER: Order!

Mr McGOWAN: I thank the honourable member for his ejaculation. I hope he will be so **kind** as to allow me to continue, otherwise I will tell him how it comes about. The basic question here is whether a registered trade **union**——

Mr Brown: Tell us about the **commos** in the federation.

Mr SPEAKER: Order! I call the honourable member for Raleigh to order for the first time.

Mr McGOWAN: The basic question before the House is whether a registered trade union shall have the right to preference in employment for its members, and specifically whether the Teachers Federation shall have that right. Under our system registration as a union imposes rights, obligations and duties upon both employer and employee. That is a civilized method of solving disputes. I would not expect the Opposition to be in favour of that method, because I know that its members are in favour of individual anarchy, about which I shall say something later. In our society there is a **conflict** between order as put forward by Government members, and anarchy as put forward by the Opposition. **An** order of collective association, rules and regulations and methods of engaging in industrial disputes has grown up historically in our society over a long period of time. On the other side there has grown up a method of anarchy and individual rights. In our society we restrict the rights of individual human beings according to the rules, habits and customs of that society. As countries are different, so are the rules and regulations of this country different from those of Canada and India. Our customs are different from those in other places.

It so happens that people have come together in a general way to bring about a universal declaration of rights. Of necessity, that declaration is a broad generalization; it is so wide that it must cover the customs and habits of a large number of countries. In this debate we are not dealing with the customs and habits of other countries; we are debating our customs, our habits, our preferences and our way of going about things. We are a law-making body that restricts the rights of individuals. We tell people that they shall not drink and drive; we tell them that they must wear a seat belt when they drive a motor vehicle and that they shall not drive on the right hand side of the road. We restrict the rights of individuals according to the way we see what is best for the general good of our society. To give preference to unionists may be a restriction of the rights of the individual, but it is one that accords with the historical development towards a solution to industrial disputes in our society.

I intend to argue not only the general principle but also the specific one. The **Act** we are now seeking to repeal applies only to the teaching service. If the Opposition really believes what its members have been saying about the universal declaration of human rights, why did this Act not apply universally to all unions in this State? Though I shall give only a brief answer to the question at this stage, I shall expand upon it later. The answer is that the Opposition did not intend to apply the provisions of the Act universally; it was willing to take on only one particular union. The reason for this attitude is clear, and I shall go into it in detail later. First, I propose to deal with the basic question of what brought about this situation, and I shall deal with this matter as impartially as I can.

In 1965 a new government came to office in this State. That Government had insufficient money to cater for the education of children in New South Wales; it had

insufficient teachers, buildings and other facilities. That Government was in a bad state as a result of the lack of federal funding for education in New South Wales. The Teachers Federation had recognized that lack of federal funding since 1957 or 1958. The low priority given to education in our society at that time came about because the public also gave education a low priority. At that time Australia had a federal government that brought migrants to the country, but it did not provide sufficient services, schools, roads, sewerage and the many other services that are needed for an expanding society. That Government brought in migrants, willy-nilly. Though we welcomed these people because they were good for our society, we recognized that they were good for the private sector and not for the public sector, which did not have the capital investment necessary to be able to provide adequate services for them. That is an adequate description of the bad situation in Australia between 1965 and 1972.

The breakdown in relationships between the Teachers Federation and the Liberal-Country party Government came about because there was not enough money available for education. There was no federal funding for education. The Teachers Federation campaigned for adequate federal funding in education and it aimed its attack at the federal Government. However, the State Government of the time was not willing to admit the simple, sensible fact that it just did not have the money. However, that Government attempted to defend a federal government that was neglectful. This situation was reversed in 1972 when the Labor Government came to office in Canberra. That Government provided a great increase in federal funds for education. At that time I did not see any members of the New South Wales Liberal-Country party Government refusing that money; they were not too proud to accept it, for they recognized the problem. However, in those eight years the industrial situation had become so sour in this State that it seemed probable that there was no hope of its solution. It seemed that the only solution that could come about would be by a change in government—and that happened.

The attitude of the Liberal-Country party coalition was that the Teachers Federation was factious and militant, that it consisted of stirrers, that it was communist-led—and it put forward all the usual old stories. From within the Teachers Federation it was a different story. The situation became so exacerbated that a breakdown occurred with the advent of a Minister for Education. That Minister decided to take a hard line. His attitude was: if you cannot beat them, destroy them. That Minister, who is now the Leader of the Opposition, set about the systematic destruction of the Teachers Federation. He ceased the payroll deductions of union fees; he deliberately provoked the members, executive and council of the federation into acts that would cause it to be deregistered. He fought the federation in the New South Wales Industrial Commission—and he lost consistently. Having lost there on the question of preference to federation members, he introduced a special, punitive, discriminatory Act of Parliament which he used as an instrument against teachers, and that is the Act which we now seek to repeal. In the process of doing all those things the former Minister for Education politicised the public service—probably one of the greatest faults a Minister can have. I am sorry that the honourable member for Lismore raised the letter from the Director-General of Education. [*Quorum formed.*]

The Minister for Education at that time, now the Leader of the Opposition, politicized the public service and did it first in his choice of a director-general who would carry out his demands. That may well be the role of a public servant but when these demands are political it is not the role of the public servant who is the permanent head to act as a political instrument of the Minister. I maintain that is what happened at that time. One can feel sorry for the director-general. He was chosen as a strong

man, as a person who would take the union on, head on, and do battle with it. He did that and, having done battle with the union, he had more than 300 charges under section 37 of the Act out against teachers.

But, unhappily and sadly, the director-general was then faced with the prospect of a Minister who chickened out behind him and who was not willing to go on with those charges. The Minister left the director-general as a Patsy and this brought him into some degree of contempt. That left the odium on the director-general who was made to look as though he had vacillated. Consequently the director-general got the sulks, went into his office and stayed there, making few decisions. The stick to beat the Teachers Federation was broken by the political cowardice of the Minister. It is no wonder that the relationship between the director-general and the Minister broke down. The Minister went out and bought himself a new stick to beat the Teachers Federation when the old one had been broken: he called this stick the Ministry. On my estimate it cost the people of this State \$500,000 just to set up a new advisory body to the Minister.

The Act being repealed is only one facet of the political paranoia which at that time infected the present Opposition and eventually became endemic to the Government at that time. The Leader of the Opposition, in his first-reading speech on the 1959 legislation, appealed to basic philosophies. He said that members on his side of the House espoused the principle of all possible freedom and allowance for people to choose their own way of life and to decide with whom they shall associate and for what purpose. He espouses individual rights but attacks the collective rights of people, for he attempted to destroy the Teachers Federation in a planned, calculated way. He attacked it with every weapon he had; he provoked it; he had individual members threatened with regulatory action for following the decisions of that organization.

By means of the Act that the Government is repealing the Minister separated the Teachers Federation of New South Wales from all other registered trade unions. Yet he said that his party supports the right of people to decide with whom they may associate. Once they have done so, the Minister then maintains his right to penalize, restrict, harass and burden that association because the people who belong to it have the temerity to fight for the betterment of education. He does it because people have the temerity to fight for their rights of association and to fight for the very right to exist.

The Leader of the Opposition has said that the repeal of this Act will bring about compulsory unionism. Let us consider that most hasty of generalizations. Is it true? The preference applies only at time of joining and upon retrenchment. Therefore, teachers who become disaffected once they have joined the teaching service may resign from the Teachers Federation but they maintain equal rights within the service provided they are not retrenched. They have equal rights to job continuity, promotion and so forth, and this has always been the position. Moreover, provision is made for conscientious objection. Furthermore, the Act does not apply to all categories of teachers.

I was fascinated to hear the contribution of the honourable member for Hornsby who is a former Minister for Education. Even though he was Minister for only a short period what he said reveals that he does not understand the process of employment within the Department of Education. It has been said that the repeal of the Act will bring about compulsory unionism, but it has not brought about compulsory unionism in any other union that has sought the protection—I am quoting the Leader of the Opposition's first-reading speech—afforded it by section 129B of the Industrial Arbitration Act. This is all the Government seeks in the repeal of this Act: it seeks to give

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to the New South Wales Teachers Federation the same rights as those enjoyed by any other registered trade union. With his customary bravado and gasconade the Leader of the Opposition says that the Teachers Federation believes that it should determine who should get the jobs as school teachers in this State, that it alone should have the right to say whether people should be employed by the director-general. What nonsense.

The Teachers Federation, if it were to say anything, would claim that it desires to be treated under the Industrial Arbitration Act, in the same way as all other trade unions. It would say that it desires the protection of section 129B, which all other unions may apply for and have extended to them. It would say also that it desires, not to determine individually who should get jobs as school teachers in State schools, but rather that it should be protected collectively in that its members will receive preference at the time of employment. The Teachers Federation does not have the power to reject suitably qualified teachers from membership of the federation. If it did such a thing, without good and sufficient reason—I am sure that it would not—the person concerned would have the protection of the equity jurisdiction of the Supreme Court. Such cases have occurred and the court has ruled that a person who is suitably qualified and is not of poor character and so forth may become a member of the Teachers Federation. When this Act is repealed the equity court is even more likely to rule in that way.

Suitably qualified teachers have a right to join the union. Who determines whether teachers are suitably qualified? The Department of Education does, not the federation. How then can the statement of the Leader of the Opposition be true? How could it be the Teachers Federation that wants to determine who should get jobs as school teachers? It is arrant sophistry or, to use the delicate phraseology for which the honourable member for Fuller is famous, it is footling blather. Given that the Teachers Federation is now relieved of the burden of a Minister whose attitude towards them was paranoid, given that the federation should have the right to stand as equal in the ranks of proud unions, for it is the eighth largest union in this State, given that the spokesman for the Opposition wished to destroy unions while not denying citizens the right to associate with each other—an Orwellian piece of double-thinking which emphasizes their ability to hold to two or more completely contradictory ideas at the one time—then it may be, as I say, that these spokesmen wish to attack the whole concept of preference in employment for all unionists.

The protection of section 129B is there as part of the privileges, rights and duties which devolve upon a registered union. In New South Wales we do not have collective bargaining. Rather we have a system of conciliation and arbitration by which to seek settlement between the disputant parties. The union is bound by the decision, the award, and so are its members. One of the rights of a registered union is that it, and not other, may speak for its members. This is commonsense. It is also sensible that as employees give up their right to individual action, individual conciliation, individual bargaining directly with the employer, the Industrial Arbitration Act should give certain rights to the members of the union which will encourage—but not force—new members to join.

If Opposition members wish to do away with the Industrial Arbitration Act let them say so; if they wish non-union employees to have a private right to negotiate conditions and pay with the employer, let them say so: and see how quickly they will be disowned by the employer associations and the employee associations. Let them say also whether they support the system of conciliation and arbitration that has evolved in New South Wales. If they do, they must support the rights, duties and obligations that are imposed on both parties. These rights, duties and obligations should

be equally available to all unions that participate. The Labor Government is acting to give public servants and teachers the same right of access on industrial conditions as other participating unions have. There will be no more second-class unions. When that is done and this discriminatory Act is repealed, the New South Wales Teachers Federation will stand before the bench of the Industrial Commission of New South Wales on a basis of equality. It will fulfill its obligations, and its members will perform their duties and maintain their rights. One of those rights will be, in common with all other unions, the right to gain preference in employment for federation members.

It is argued that because of its militant behaviour the Teachers Federation has put itself outside the privileges of section 129B of the Industrial Arbitration Act. If this were so, one would expect the Industrial Commission to have acted against it. In this case the Industrial Commission extended the right to the union and the government of the day maliciously decided to take it away. I agree that the Teachers Federation has been active but I would not agree that it has been militant to the point where it has attempted to subvert the State. It has been militant because it faced provocative Ministers. The promise of an education commission was not fulfilled, class sizes were too large and the children in the care of teachers have not received a fair go.

The case put forward by honourable members opposite is that teachers are misled by communists into militancy. This is the Opposition's easy answer to everything. They argue that price fixing is a communist conspiracy; yet they support fixed prices for the base market quantity farmers. They argue that strikes are a communist conspiracy; yet they support the refusal of the Senate to consider Supply. Anyone who is opposed to them in any way is part of a communist conspiracy. The Teachers Federation has been opposed to them. The Opposition argues, therefore, that the federation is a communist body. These arguments are shallow, baseless and worthless. They are a cop-out. They avoid the issues. When in Government the Opposition did not have people with the ability to face the issues and find reasonable answers.

The Act that is being repealed was an expression of paranoia. Unable to understand the wish of teachers to gain a place in the sun for their pupils the previous Government retreated into a mental instability which eventually wrought its destruction. Madness in great ones must not unwatched go. Nor has it been. In their anti-communist paranoia the Opposition—to borrow from Hamlet—fell into a sadness, then into a fast, thence to a watch, thence into a weakness, thence to a lightness, and by this declension into the madness of the Act that we now seek to repeal. The Opposition's crazed story is that all the disputes, arguments, disagreements, quarrels and strikes between the Teachers Federation and the previous Government were caused by one side—and that one side because it was communist inspired. It is an easy argument. I would not maintain that the Teachers Federation has always been right or sensible. At meetings and councils of the federation I have argued against strikes. I lost the respect of many of my colleagues for doing so. However, I believed that the previous Government was deliberately provoking the Teachers Federation in order to bring about its deregistration as a union.

I maintained it was foolish to respond to their provocation; that changing the Government is a legitimate, political aim of any group in society; and that eventually, faced with an intransigent government, a paranoid government, it is better to take one step backward so that two steps forward can be taken later. The answer to paranoia is not an equal and opposite paranoia; in our society the answer lies in taking your case to the people. The teachers did that, and here we are repealing an Act that did little except to show that the Leader of the Opposition was unbalanced when faced with a profession that wanted a better deal for itself and the voiceless children in the care of its members.

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One wonders how fair dinkum the whole game was. I have before me a news release dated 14th May, 1975, from the **Minister** for Education, then **the Hon. Sir Eric Willis**, C.M.G., M.L.A., in which he says:

However, Cabinet was prepared to agree that where all other things are equal (e.g. where in the opinion of the Director-General two or more applicants for appointment are equally qualified and equally suitable), preference in appointment will be given to Federation members as a matter of administrative policy.

The government of that day was willing to give preference to trade unions, all other things being equal, as a matter of administrative policy. I have already explained that the argument relating to all other things being equal is answered by the fact that the Department of Education decided upon the qualifications of teachers before they become members of the Teachers Federation. A teacher cannot become a member of the Teachers Federation unless he has the imprimatur of the Department of Education. The department judges the academic standards of a teacher before he can become a member of the federation. Therefore, the Government was willing to give preference as a matter of administrative policy, but it enacted legislation to take away the right at law, the protection; and then it did that very thing. How can members opposite be believed?

I wish to refer briefly to the invasion of privacy argument. The disciples of **Adam Smith** would like to believe that employment is a matter between one man and another man. That is not so. In our complex society it involves people, complex organizations and complex qualifications, and in my opinion one of those qualifications should be membership of a trade union. The **Act** that we are repealing was introduced in breach of an undertaking given in haste, and it was the **product** of spleen on the part of the government of that time. It was **discriminatory** in that it separated teachers from the rest of society. It was bad law; it was anarchistic in principle; it was the product of a decadent government that had frightened itself into action through fear of militancy, a militancy which was induced by its own **bloody-mindedness**.

That legislation was a disgrace to this State and I welcome this opportunity to speak in favour of its repeal because I am concerned about industrial peace in schools, and about whether teachers, pupils and principals are able to get on with their jobs. They have not been able to do that for the past four years. I want them to be able to concern themselves with literacy, abilities and intellectual development without having to fight, wrangle, strike and agitate. Peace in our schools is my aim and the aim of my party and Government and I believe the removal of this discriminatory legislation will do much to achieve this desirable end.

Debate adjourned on motion by Mr Doyle.

ADJOURNMENT

Hunters Hill Bus and Ferry Services

Mr BEDFORD (Fairfield), Minister for Education [10.10]: I move:

That this House do now adjourn.

Mr COLEMAN (Fuller) [10.10]: I want to raise a matter concerning the Public Transport Commission which affects my electorate closely. Although it is a parish-pump matter at close range, like all transport matters, it raises the wider question

of the Government's transport policy. This week the Hunters Hill Bus Company Pty Ltd, one of the biggest private operators in the State, is cancelling its bus services that serve the evening ferry services on the Balmain-Longueville-Hunters Hill runs. **All** people in the general area served by these buses and ferries—not only the Hunters Hill area but the whole of Ryde and beyond, as well as the areas around Longueville and Balmain—are disappointed at the decision, but it is not hard to understand as the bus service, as distinct from the ferry service, is extremely poorly patronized. These bus services have been running hour after hour, night after night, with one or two passengers. It would be cheaper for the bus company to give each passenger who wanted to catch the bus a taxi ride home, so it is not surprising that the company has taken this action.

The people of my electorate and many people outside it but near it who use the ferry services are fearful that the Government will take advantage of this decision by the bus company and cancel the evening ferry services, which have always been the subject of controversy. They were cancelled for a period during the administration of the former Government, but after considerable agitation and reasoned argument by people in my electorate and other electorates, the services were reintroduced. The Minister for Transport and Minister for Highways may recall the press reports of extremely large public meetings in my electorate. The local people argued for restoration of the services and expressed satisfaction when they were restored.

However, since the change of government there has been considerable dissatisfaction about irregularity of these services. Several times they have been cut out at the last minute. Passengers have arrived at the wharf and only to find that there has been no ferry. Buses have arrived at the wharf and found no ferry. At times the bus company was advised that the ferry service was off and transferred drivers to other buses. It was then telephoned and told the service was on again, but later telephoned again and told that it was off again. Naturally this led to confusion. The Minister will be the first to agree that this sort of thing leads not only to dissatisfaction but also to a decline in patronage.

People get sick of ringing up the Public Transport Commission to learn before they drive down to catch a ferry whether the ferries are running at night. The feeling is abroad that the Public Transport Commission or the Minister is determined to cancel the ferry service. Patronage has been affected. It is feared that the decision by the bus company to stop sending buses to meet the ferries will give the Minister an excuse, if he wants one, to cancel the ferry service altogether. This fear is strengthened by the suddenness of the cancellation of ferry services and the unconvincing reason given for this action. The reason is said to be lack of engineers. I do not know whether this is due to bad planning, ill-health or what-have-you. It is true that there is a shortage of engineers, but the Minister did not take advantage of the obvious way of continuing these services, by using private ferry operators, who have a dozen vessels on the harbour, with engineers, ready, especially at night time, to help out by giving the patrons and residents of my electorate the service that was timetabled. It is not uncommon for the Public Transport Commission to co-operate with the private operators; indeed, this is a matter of routine.

The suggestion that these private operators be used is not radical or revolutionary. It could be done easily. In some cases they would be standing by waiting for a call from the Public Transport Commission, ready to go on the Balmain to Hunter's Hill run. The commission did not make the call, and the suspicion is that the Government is gradually getting around to closing down these night-time services. They are good services, for use by people who do not have motor cars, whether they be

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students, pensioners or other people. They are important to Thursday night city shoppers. They generally add significantly to the amenity of the area, and they are a convenience that is much valued.

The poor patronage of the buses is not an indicator to the patronage of the ferries. The people who use the ferries use cars also. I admit that this is unfortunate from the bus company's point of view. The ferry passengers who live near the wharf can walk to their homes. The failure of the bus service, commercially speaking, would not justify the termination of the ferry service, but for all the reasons I have mentioned this fear is widespread. It would be a retrograde step. We have been through this before. I admit that it happened once with the former Government but, after an examination, the ferries were reintroduced by the former Government. I hope that the Minister and the Government are not considering the retrograde step of cancelling these services. If they are cancelled this time, I feel that they will never be restored. This is what the people in my electorate fear. I ask the Minister to give me and the persons who value and use these ferry services at night the assurance that he is not contemplating abandoning the services.

Mr COX (Auburn), Minister for Transport and Minister for Highways [10.18]: I should have thought that the honourable member for Fuller would have brought this matter to my notice earlier today so that I could have a detailed report for him.

[Interruption]

Mr SPEAKER: Order!

Mr COX: But he elected to raise this matter tonight on the adjournment. I do not know whether he has done so to get some sort of cheap publicity in his electorate. It came to my notice today that the Hunters Hill Bus Company was cancelling bus services. I contacted the department because the company had to get approval to cancel the services. I asked the Department of Motor Transport to give me a full report in relation to the Hunters Hill Bus Company, and in relation to the ferry services that were cut out previously. After great play was made of this within the month before the State election, the services were reintroduced. I think local residents might have had a champagne party when the ferry services were restored, but the fact is that it was done within a month of the election.

The honourable member for Fuller mentioned the problems associated with engineers. That problem was with the former Government, on the basis that the union would not accept the medical examinations set by the Public Transport Commission. I wish to tell the honourable member that I settled that dispute and made suitable arrangements so that the engineers have now accepted the terms and conditions laid down by the Public Transport Commission. I was interested in the matter and had discussions with the chief commissioner, Mr Alan Reiher. After I had those discussions, the union accepted the terms and conditions.

One problem facing us is that there has been a shortage of engineers. We are now getting engineers approved under the medical scheme, and they are now coming into the system. Do not blame me for that delay; it was the former Government's delay. It went on for month after month, and the former Minister did not tackle the situation. This problem came to me within a fortnight of my taking over as Minister for Transport. After having had discussions with the chief commissioner, Mr Alan Reiher, I managed to solve that problem to the satisfaction of the trade union. We are now getting that problem resolved.

The honourable member for Fuller says he is now concerned that the Government is about to cancel ferry services. He wants me to give a clear undertaking tonight that there is no such intention. Let me say to the honourable gentleman that I am quite willing to have a thorough look at the situation and to give him and the House a detailed reply in due course, but I should hope that if he wishes to raise a matter like this on the adjournment again, he will at least pay me the courtesy of approaching me before doing so. When I was Opposition spokesman on transport I never raised a matter on the adjournment without giving the Minister notice of my intention. I assure the honourable member for Fuller that his constituents will get a far better deal from the Labor Government than they got from the Liberal-Country party Government which, a month before the elections, restored ferry services as a gimmick to attract support.

Motion agreed to.

House adjourned at **10.21 p.m.**
